



**NEW PERSPECTIVES
ON ECONOMICS AND BUSINESS STUDIES**

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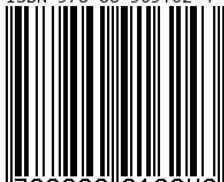
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Compatibility of Management System and Ethics in Public Administration (Albanian Case)

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Abstract

Over the past 20 years, Albania has undertaken important reforms in public administration. The new constitution from the beginning has sought to build up a system of public services, from a totally hierarchical system, in a modernized system, bringing more and more questions and ambiguities in terms of ethics. In Albania, are unclear the inquiries in terms of ethics that has come with changes in the system of public administration. Many countries of the region of East, as Albania also, have integrated the code of ethics within the law, giving well-defined ethical aspects, but it is suspected that this process was very quick and unexpected. The main question is; should or should not be "The code of ethics" a natural process that binds to the development of a society? The paper will make a brief presentation of the various models of ethical approach, used in public administrations from the countries of region and Western Europe. Then will be analyzed in detail the Albanian public administration, identifying in this manner the problems of this administration, in conclusion to arrive at the finding such as, would be better to use an ethical model that can also be associated with the actual administration and its characteristics?!

Keywords: Public administration, ethics, law, civil servant

Introduction

If we discuss for a suitable public service, in terms of realizing the "common good", we can never separate a very important and vital part of its process, which is exactly the ethics in public administration.

If we talk about ethics of public service, we can raise a general question about the role and function of this ethic in reaching the common good, which is articulated "the good of people (legal category of human rights) and the social good (legal category of the general interest)". It is important to emphasize these concepts when it comes to ethics, since precisely these elements stay on the basis of ethics.

What is functional, it would be to find a recipe exactly ready to put in use by a defined model for a particular public administration of a specific government.

The only thing that can be done is to adopt the right perspective with the reality and the condition of a specific government.

In the various ethical perspectives, greater attention has been paid to deontology, teleology / utilitarianism, and axiology, which are quite common in a philosophical discourse of professional ethics. Philosophical-geographical approaches, does not provide many recipes for public administrations: According to Neil Brady:

"Especially in the public sector, where issues are large and complex, it must be clear that not only one ethical perspective is adequate and no prospects should be ignored"

The public management theory and practice, offers two directions, often opposed to encourage the practice of professional ethics in government - "the high road" and "low road".

. "Based on the moral character, this path relies on managers of ethical thinking, decide and act individually. Individual responsibility is a beginning and an end point in the path of integrity in public service".

If the road to reality rejects high integrity resulting from administrative responsibilities, then the "low road", addresses the ethical issues almost exclusively in terms of adherence to rules.

The "low road" of compliance is to encourage obedience to the legal minimum standards and prohibitions. Here there is a formal respect for the rules, rules which are legally obligatory and legalistic.

"The low road of conformity does not matter that most people want to take good decisions, but only that most people meet minimum standards of behavior".

It's quite obvious that in practical life we cannot find pure examples of these approaches and that are usually combine e complementari a vicenda. combined and complement each other. Lewis and Gilman offer a third option, a two-front, which incorporates compliance with formal standards and the promotion of the ethic of individual responsibility.

The ethics of management used in various countries.

The reporter of the Council of Europe Giovanni Crema highlights: "The ethics of public service varies greatly according to the history, culture and European values in each country, also influenced by other factors such as level

of economic development and democratic maturity". Countries with a long history of democracy had to conform with new requirements, but at the same time wanted to maintain the identical idea of public service. While new democracies in Europe, have asked the best possible system, ready to take in their public services. In some countries like Finland, the general ethics required for civil servants is externalized through the explanation of the meaning and operation of shared values, which form the foundation of the public administration. Values are an operational part of the personnel policy of the government. Similar characteristics can be found in Denmark. Portugal is a representative group of countries in which the ethical requirements for public service are expressed in a legal document as the "Code of Administrative Procedure". In Great Britain there is a strong frame of administrative law. There is a tradition of strict rules to conduct the behavior of public administrators.

Germany and France are examples of countries that have not a code of ethics like a value code. In these countries, "In the public sector, rules of conduct comes from the law, regulations and circulars, to some extent, judgments and professional guides to good practice.

Although, there is no code of conduct or ethics as such mention above, for all public administration, in the countries of Central Europe, several models of ethical management have been adopted. An interesting fact emerges that these countries have actually started the first attention to the ethical codes of many countries in Western Europe. Codes of ethics for public services have been adopted in Estonia in 1999, Bulgaria etc...

In Central and Eastern Europe tend to create codes of behavior with disciplinary methods. Until now, there have been several attempts to draw parallels between the types of systems of public administration, and the amount of ethical issues in public service.

In administration, there are two main traditions, the management "of the Old Public Administration" and management "of the New Public Administration". The pure ethical management models or theories of public administration do not exist in practice.

We can only follow the general trends that occur in reality, and each government must define its own path. The historical roots and socio-cultural play an important role in shaping the operational details of the management incentive of an ethical framework.

Analysis of Study Findings

For the first time we can speak of an Albanian state law, the Civil Servant in Law nr. 21/03/1996 8095, "The Civil Service in the Republic of Albania". This law could not be applied, and after three years was replaced by another law, whose object was the same.

The current status of civil servants is governed by the law nr. 8594 year 11.11.1999. The Civil Service Act is a law that provides a set of rules, designed to ensure the stability and professionalism, not politicization, but also the maintenance of the career.

Despite these rules, the modalities of their implementation and interpretation in the space they create, have produced a series of problems in relation to this Act and the lack of law enforcement, since, as has been observed that the currently does not cover all problems of public administration. "For this reason, the Council of Ministers, with the decision nr. 1017 del 09.18.2009, adopted a strategy for public administration, which has a professionalism, vision, strategy, efficiency and transparency for this administration".

The fact that I dwell so much in terms of rules for public administration, has importance in the regulation of labor relations and the sustainability of public administration.

Characteristics of Ethical Public Service in Albania

The need to define ethical standards against Albanian public administration is caused by:

Ethical and moral decline in Albania, following a transition not to economic success in recent years.

Politics has still a lot of pressure on the activities of the Albanian authorities. Public service in Albania encounters neither the social status prestige nor respect.

Professional public service may be regarded as an innovation in Albania.

All these conditions and characteristics, makes necessary the use of ethics in the Albanian public administration, as a fundamental mechanism for the administration.

Ethical issues are involved in the Albanian legislation, specifically in the lawnr. 9131 of 8 September 2003, "On Standards of Ethics in Public Administration", based on Articles 78 and 83, paragraph 1, of the Constitution. 7 The purpose of this law is to define rules of behavior of civil servants, according to the required standards.

In chapter two of this law, we talk about conflict of interest and all the' Article Five of this chapter on the prevention of a conflict of interest, of the benefits, and many specifications where many officials should take into account.

As a result, the legal framework includes a wide range of ethical issues defined in Albanian law.

There is no doubt that this is a step forward in this transition period, ethical issues, should be protected by a legal force. But is this the only solution? Usually this is not enough, and it was shown very well in the negative evaluation that took place for Albanians in the administration report on the relationship of progress that has made the European Union, and this was one of the strongest points of criticism.

Corruption in Albania as a violation of ethical conduct in the performance of public services.

According to the poll - conducted by IDRA with support from USAID, May 5, 2010, traces the perceptions of citizens, public officials, and judges regarding the corruption in Albania, and their experience with corruption. According to the general public, corruption among public officials is common. 91.8% of respondents believe that corruption among public officials is "widespread" or "fairly common". As it can be analyzed from this study, it is emphasized that corruption is not perceived as a phenomenon only present, but also very evident, and this not only by citizens, but also from various government officials.

While Transparency International lists 87 place among Albania in corrupt countries. The factors that contribute to amplify corruption are:

The difficult economic situation that Albania has passed through the years

The personal interests of civil servants

Lack of professionalism and politicization of officials

Irresponsible officials

Weak internal and external controls, etc...

Corruption cannot be combated only with the enhancement level of awareness of personal of the public administration, not only from a strict legal framework, but with the creation of an ethical infrastructure.

The way to limit the level of corruption includes the improvement of economic situation in the state, the implementation of legislation aimed at combating corruption, the introduction of a code of ethics that serve to the public behavior, the moral climate and recreation psychological assessment of personnel in public administration, transparency and accountability of public authorities.

To reduce such phenomena as corruption, and ethics is necessary building an adequate infrastructure. As with any set of management tools, the effectiveness of the ethical infrastructure depends on the fact that is implemented and applied consistently.

Ethics should be connected to public management. If there is too much control, nothing will happen, but if there is little control, bad things will be done. In a country the infrastructure of ethics must be consistent with its approach to public management.

The training of civil servants as the ethical way to improve their performance and the approximation to the European Union.

A key priority in the implementation of administrative reform is to provide high quality specialist for the effective work in the central and local government agencies in terms of changing society.

According to the decision of the Council of Ministers on the reform of public administration, in Section 2.2 of Chapter II, it is considered to establish a school of public administration. Estimates of establishing a school for public administration are also a positive step, itself remains to be seen how this school will be placed relative to the training of civil servants. The effectiveness of government depends very much on how officials should handle various forms and methods of ethics. In the process of administrative reform, a very obvious problem is the lack of experience of public officials and official structures.

Changing attitudes and values, is a very delicate and complex, long-term process that requires special psychological approaches, and therefore requires highly specialized academic training.

What we can say, is that a very good and fast solution will be winning the membership in the European Union, because only this way we will really be pushed to comply the ethical standards that are requested by UE and our government will offer a better service for citizens.

The candidate countries for accession to the European Union face a complex and urgent task of building administrative institutions to meet the Copenhagen criteria.

Referring to Article 110 of the Stabilization and Association Agreement, the objectives of the Albanian Government regarding the reform of public administration, include creation of a transparent management cycle, open, accountable and consistent public administration. Strengthening institutional capacity, ensuring fair recruitment procedures, human resource management, career development, training, promotion of ethics in public administration, development of information technology in government, these are the real challenges we have to go through.

What is needed for the process of accession to the European Union is the sustainability, capacity building and strengthening the rule of law.

The European Commission believes that the "corporate social responsibility", should be practiced by the government, therefore, it must indicate a socially responsible, so that their practices must include social and environmental factors. It should be emphasized that sustainability and efficiency of public administration is

required by another document prepared by Ombudsman, "Code of good administrative behavior", which has to be integrated into our national law. This includes the fundamentals, such as, transparency, institutions should work in an open transparency, participation, quality and effectiveness of policy depends on ensuring wide participation.

Here are mentioned some obligations that the Albanian state has signed in the agreement of Stabilization-Association.

Indisputable that the monitoring and external control plays a decisive role in strengthening public administration, and if the membership in the European Union happens, would be something very positive for the Albanian public administration.

Conclusions

Referring to the ethical approaches and the characteristics of the Albanian government, I can say that Albania is not yet ready to customize the ethics of public administration, based solely on personal awareness, and laws are needed for the implementation of ethical principles. But once again, experience has shown that, even if laws exist, this is not sufficient. According to Neil Brady: "Especially in the public sector, where issues are large and complex, it must be clear that not only an ethical perspective is adequate and no prospects should be ignored"

The best solution would undoubtedly use the experiences of different countries to adapt better to a mixed model of ethics. In conclusion I would express the idea that there is no universal approach to ensure regulatory standards for ethical behavior of public administration. Must be a complex system of legal mechanisms, administrative and moral force of a public servant to do the right things and make them well. Today, the Albanian society is at a critical time where it is necessary

to strengthen the public administration because it is a fundamental criterion for winning the membership in the European Union.

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Inter-Institutional Collaboration - Challenge and Important Way in Improving the Management of Local Government Units in Albania

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Abstract

The organization of local government in Albania is characterized by a large number of local government units, division of territory in very small units and three government levels that often can not divide clearly the competences between them. Local government faces challenges every day that are becoming ever more complex due to increased public expectations in terms of offered quality of services, employment opportunities, possibilities to solve faster and efficiently the emergent needs and opportunity to absorb as many funds as possible, especially funds of IPA which provide the opportunity to implement larger and long-term projects, etc..In the paper will be given information on concrete examples of inter-institutional collaboration among local government units, legal spaces and the limits of the law in this regard, legal instruments used for these collaborations, funding mechanisms and incentives, the fact that they have been successful, identification of the barriers and opportunities for the community benefit. It will also provide ideas for a new collaboration possibility such as the management of human resources. So far, inter-institutional collaboration in Albania has been focused only on the area of public services, but for the first time, the New Law of the Civilian Employee creates the possibility that this collaboration can be extended also in the field of human resources. Until February 2014, month in which the new law began its effects of civil servants in Albania, the local government does not fully benefit from the legal regulations in the field of civil service. With the entry into force of this law, now the three levels of local government are included in the field of civil service and will be able to manage human resources according to principles laid down in the law and take advantage of the civil service system as a unique system.

Key words: quality of services, new collaboration possibility, management of human resources, unique system, legal instruments, barriers, opportunities.

Introduction

The vision of the organization of local government in Albania is in accordance with the Constitution, the principles of the European Charter of Local Autonomy and the goals of the country for development in the context of European integration.

The vision of the organization for local government in Albania takes into consideration the fact that decentralization and local authorities represent the basic principles of consolidated democracies.

Under the Constitution, the local governance in Albania is organized in two levels of districts and communes/municipalities, which are local public decentralized and autonomous authorities responsible for delivering and distributing the public goods and services.

Relations between them are characterized by their cooperation, complementarities and a clear division of tasks within a coherent legal framework.

Albania's territorial division is based on Law no. 8652/2000 "On the organization and functioning of local government" and Law no. 8653/2000 "On the administrative and territorial division", which brought the creation of 373 local units of the first level (65 urban municipalities and 308 rural communes) and 12 local units of second level or districts.

A municipality is an administrative-territorial unity and a community of residents mainly in urban areas and in special cases it includes even rural areas. The territorial space, the name of the municipality and its city center are defined by law.

The commune represents also an administrative-territorial unity and a community of residents mainly in rural areas and in special cases in urban areas. The territorial space, the name and the center of the commune are defined by law.

The districts are the second level unit of local government. The district represents an administrative-territorial unity, consisting of several communes and municipalities that have geographic, traditional, economic, social relation and common interests with each other. (Table 1, data of 2009).¹

Given the legal framework communes and municipalities are the closest administration to the recipient and have clearly defined their duties and responsibilities.

The district is an upper level of local government. The purpose of their establishment was to create an instrument which would enable and assist the central government in drafting the new regional politics and programs for the development of disadvantaged areas in order to eliminate inequality between disadvantaged areas and the average of Albania. In this way the actors were given opportunities to local, regional and national level to contribute and collaborate to maximize the development potential in these areas.

Problems of territorial division in Albania

A. Administrative Territorial Structure

Albania has a fragmented system of local government with a very large number of local government units that have no fiscal or human capacities to provide public services at a reasonable level. According to the Civil Registry Data in Albania are 46 municipalities in less than 2,000 inhabitants and 107 units (103 communes and 4 municipalities with 2000-5000 inhabitants), thus constituting 415 local government units with less than 5,000 inhabitants.² (Table 2, the number of municipalities and communes by population).

Currently with the territorial division of local government in Albania, the right of local government units to run efficiently and the right of citizens to participate in decision making fail to be exercised fully and to give their results in improving the life of citizens.

B. Fiscal Decentralization

Fiscal decentralization is not yet well developed in Albania with all the performed progress. The decentralization reform has brought an increase of local autonomy in terms of incurring expenditure, but more rapidly in terms of local autonomy in terms of revenue. Currently, local governments now manage over 80 local taxes and fees, which grow year by year. From year to year are added functions that the central government has passed to local government units. Today these units perform about 31 functions. However inadequate legal regulations, such as restrictions imposed in the law on local borrowing or absence of a specific law on local finances has made that in this direction there are enough problems, which have affected also the manner of exercising the functions and quality of public services offered to the community.

In general, fiscal decentralization is associated with lower efficiency of use of financial resources and high cost of administrative expenses. Number of local units that have very weak financial situation is high, especially of those units with small populations and few natural resources or in terms of business development. So about 220 communes spend more than 40% of the budget for administrative costs. About 110 communes provide income from fees and local taxes 0-10% of their budget and from these 70 communes have 0 the level of tax collection.³

According to the report: fiscal decentralization indicators for Eastern Europe 2006-2011:⁴

Albania ranks last in terms of local revenue as percentage of GDP.

Albania ranks third from the bottom in terms of local income/capita in 737 Euro leaving behind Kosovo with 587 Euro and Moldova with 518 Euro.

¹ Data taken from the document Inter-sectoral Strategy of Decentralization and Local Governance, prepared by the Ministry of Interior

² Data taken from the document Project of Planning and Local Governance in Albania, prepared by the United States Agency for International Development

³ Data taken from Inter-sectoral Strategy of Decentralization and Local Governance, Ministry of Interior

⁴ Report of Associations Network of Local Authorities of South East Europe, second edition, November 2012

Albania together with Kosovo and Bulgaria are the only countries that do not use sharing of personal income tax.

Albania ranks second from the bottom in terms of property tax collection as percentage towards GDP in 2011 with only 0.18% leaving behind only Croatia by 0.13%.

Albania ranks last in relation to local government investment as percentage towards GDP to 0.9%.

Albania ranks penultimate after Moldova in terms of per capita outstanding debt of local government units with 23 Euro per capita.

Table 3: Application of taxes from local government units

Table 4: Application of taxes from local governments units

With the current division of the territory and form of decentralization, the efficiency and economies of scale are not achieved, then it is touched the principle of subsidiary. We can mention the case of the final treatment of solid waste, the form of the transfer of responsibilities on water-supply and sanitation, urban planning when should be taken into consideration implications in neighboring local unit, inter-urban public transport, local administrative capacity not of the level with scale of the problem that must be faced, etc.. Due to lack of efficiency and legislation on standards, are offered non-qualitative services and lack of access that undermines the goal of decentralization, which is to provide qualitative services for citizens. One of the major problems that has presented this territorial division is the fact that also the funds allocated to these local government units are fragmented and therefore by their use is not achieved the proper economy and efficiency.

While the challenges they should face become more complex:

Citizens expectations about the qualities and types of public services increase, as they are becoming more and more part of a globalized world.

Local businesses seek increasingly more financial support and infrastructure, but local governments have difficulty attracting funding in the function of investments performance.

Most of young people abandon the rural areas unable to find a work, adding the number of unemployed in urban areas.

Many municipalities and communes are small and are unable to provide financial funding or expertise to carry out a good governance.

For example how could a local government body with 5000 inhabitants can manage good the domestic waste, when a modern processing plant requires a minimal population of 7000 residents?

When from the data of the Ministry of Interior issued by the National Registry of Civil Status 178 communes and 6 municipalities have under 7,000 residents.¹

This problem can be solved through cooperation of local governments of different levels, through inter-local cooperation.

What is the inter-local cooperation?

An instrument used by two or more local authorities working together within their legal powers to:

Perform administrative functions

Promote local development

Provide public/social services

There can be forms and various reasons for the application of this instrument, but in all cases there are some common features. Inter-local collaboration occurs when two or more municipalities or communes agree to work together to achieve a mutual benefit in connection with the services that they should provide to the community.

Inter-local collaboration does not refer to:

National/regional associations representing the interests of local authorities in negotiations with government

¹ MoI, General Directorate of Civil Status, January 01st, 2014

Change of jurisdiction/administrative borders through amalgamation

Cross-border cooperation between municipalities of neighbor countries

This instrument has:

its technical dimension, because it requires planning and management skills

cultural dimension because it requires a leadership with a positive and cooperative approach

above all it requires legal support, a flexible legal framework and financial incentives for certain objectives

Legislation enabling the inter-local collaboration

In Albania, the main legislation that enables the inter-local collaboration is:

Constitution of Republic of Albania, which in Article 109/4 provides: "The bodies of local governments have the right to form unions and joint institutions with each other to represent their interests."

The European Charter of Local Self-Government of the Council of Europe, adopted in May 1998, which in Article 10/1 states: "Local authorities have the right to cooperate while exercising their powers, and within the legal framework can form partnership with other local authorities in order to carry out the tasks of common interest".

Law no. 8652 "On the organization and functioning of local government bodies" which in some of its articles recognizes the right of local councils that can establish institutional agreements for co-management of various functions of local government. The law requires that these agreements:

Describe the purpose and functions to be exercised

To provide the manner whereby it shall be completed the goal

To determine the extent and duration of the delegation of powers

To determine the manner and measure of the division of revenues and other benefits from the activity.

Law no. 10296, dated August 07th, 2010 "On the financial management and control", which in Article 3/2 states that the field of law enforcement includes: "Corporations, non-profit organizations and joint authorities, which are owned, controlled, financed or financially guaranteed by a unit of general government (general government = central government and local government)".

There are also mechanisms of financing by state budget of the central government for cooperation agreements such as joint stock companies subsidies of water-supply and sanitation for polluted waters.

Another mechanism of central government that encourages and supports inter-local cooperation is also the Regional Development Fund, which is considered as the only instrument that somewhat addresses the problems of regional development. Regional Development Fund (RDF) is a financial instrument aimed to distribute the central funds for investments to local governments on a competitive basis and aims to harmonize national and local budgetary policies. Regarding this it is worthy to point out some issues as:

RDF funds are allocated on the basis of criteria defined by normative act¹, but allocation based on competitive grants makes it more project-oriented than an instrument that addresses the regional development. A large part of the local units have no skilled technical capacity to implement programs in order to benefit financial instruments from the fund.

Competitive nature creates the problem of "closed circuit of low capacities" (which has happened in Bulgaria) which means development opportunities only for a limited group of actors, usually those most developed. Thus the weak risks to weaken even more, because to him is not provided specific support².

There is very little knowledge about RDF and mode of application, and a large part of the local units apply to the old format of competitive grants. This conclusion has emerged from a survey carried out by an UNDP project.

¹ DCM no. 135, dated February 03rd, 2010 "On defining the criteria for allocation of funds for development of regions"

² Marinov, 2010

And finally all the institutions that will be involved in managing this fund, need to strengthen existing capacities and building new capacities.

The main areas and reasons for inter-local cooperation.

The main areas where an inter-local cooperation could be extended affect practically the vital services of a community and as such can be listed:

Health, social assistance, education, environmental management, waste management, water distribution and sanitation, economic development, culture, urban planning, roads, public transport, fire services, tax collection, public procurement and human resources.

The cooperation of local government units in all areas listed above leads to:

Harmonization, unification, development of common policies for all areas, unifying priorities and objectives in broader geographic areas and for a greater number of people.

Enhancing the quality of services, their availability and the possibility of using an advanced technology.

Opportunities to attract major funds for the realization of projects.

Efficiency and effectiveness in service delivery. Reduction of fiscal evasion and increasing specialization of human resources.

Increase the purchasing power of the community.

Increase the standard of human resources.

From a research conducted by the Swiss Agency for Development and Cooperation in partnership with the Ministry of the Interior and Local Government Associations, in which participated 83% of communes and municipalities and 78% of district, results that all participants confirm willingness to cooperate with other units of local government and rank 7 functions as the main interest for cooperation.

Table 5: Ranking the fields of cooperation for which there is an interest¹

Also from the research showed that:

To the question whether they have knowledge on the inter-local cooperation, 83% of communes and municipalities and 78% of districts responded that they have general knowledge and only 15% of communes and municipalities and 22% of districts responded that they have no knowledge.

To the question of who are the channels of information, 59% of communes and municipalities and 89% of districts responded that national associations are the main channels of information and these are the government and its agencies.

To the question whether the government encourages the inter-local cooperation, 72% of communes and municipalities and 78% of districts have responded positively.

Many local governments consider inadequate legal environment to assist local governments in creating and using different instruments of inter-local cooperation and require that the national legislation and local councils should define the specific rules of cooperation.

Inter-local cooperation in Albania so far in all cases has its partner the first level of local government, communes and municipalities. Districts so far have seen their role as encouraging and not only as a facilitator or participant in collaboration and there is only one case when in cooperation has participated a Sub-Prefecture.

So far 37% of communes and municipalities report formalized cooperation with other local units in the form of:

¹ Initial report to the Inter-Municipal Cooperation, March 2012

Agreements, used for delegation of powers to the district or other units of the first level. Typical are the cases of urban or construction inspectorates.

Establishment of legal entities, public enterprises, joint stock company or associations with the participation of private business. Typical are the associations of water supply and cleaning.

As reported by local units in all cases collaboration is realized with financial support of donators and mainly foreign ones.

Positive examples of inter-local cooperation

Despite all the difficulties in Albania, currently there are some successful examples of inter-local cooperation. Let mention some of them:

Region of Korca, Form of cooperation: Management of urban waste

Number of local units participating in the collaboration 28 communes, with a total population of beneficiaries.

Legal form: Joint Stock Company

Funding: KFW, the contributions of units, revenue from cleaning fees.

Region of Berat, Form of cooperation: water supply and sanitation

The number of member units 2 enterprises and 6 local units with a total population of beneficiaries.

Legal form: Joint Stock Company

Funding: KFW, the contributions of local units

District of Shkodra, Form of cooperation: cleaning service

The number of member units: 5 local units, 1 municipality and 4 municipalities, with a total population of beneficiaries

Legal form: Association

Funding: COSPE, contributions of local government units, revenue from cleaning fees

District of Shkodra, Form of cooperation: Depositing of urban waste

The number of participating units: 11 local units, of which 3 municipalities and 8 communes with a total population of beneficiaries.

Legal form: Association

Funding: COSPE, contributions of local government units from cleaning fee.¹

From what it is reported from the national associations of local governments, except of these most successful cases and in typical areas where exists an inter-local cooperation until now, there has been only one case of cooperation in the field of administrative services with the aim of cutting costs and there is no single case of cooperation in the field of human resources management.

The reasons that have hindered the inter-local cooperation to be further developed:

mentalities and political divisions

problems in financing projects

¹ Information received from

lack of inventory of properties by local authority and the barriers showed by the central government in carrying out this process

Lack of human resources to enable the drafting of agreements, practices and their further management.

Human Resources, a new area of inter-local cooperation

Human resources are the most vulnerable part when it comes to local government units in Albania.

Large population movements since 1990, with the change of political system in Albania continuing during 20 years later, made that in remote areas qualified human resources has moved and especially young people who try to be employed in urban areas because of higher payment, better living conditions and better job.

What we all recognize today in Albania is the fact that in local units there are less qualified human resources, who are able to respond to the challenges and demands of the time.

The loss of population in a large part of communes has also brought the departure of educated human resources on what makes difficult the use and implementation of reforms in order to increase the quality of life in communities.

In about 80 communes, especially those with less than 5,000 inhabitants, 70% of administration is without university education.

This phenomenon and this inability in terms of qualified human resources has led to the fact that since 1999 when in Albania came into force the first law "On the Status of Civil Servants", communes were excluded from this law due to the inability of the selection of candidates to be adapted to the requirements of the job position.

In all cases of inter-local collaborations, expertise or advising is made by international organizations and local experts employed by these organizations.

If local governments would seek to apply the forms of cooperation in terms of human resources, the supporting legislation in this regard almost doesn't exist.

There is only one law in which it is clearly expressed the fact that each local unit may borrow sources of other units, but also this in contractual form and approved in advance by the central government. Law "On Auditing in Public Sector".

Since February 2014 is entered into force a new law "On Civil Servant", number 152/2013, which has extended its scope to all local government units on both levels. The basic principle of this law is conducting recruitments in group or massive recruitments and on national level.

In manner that this principle can be realized and implemented realistically the spirit of the law, the government strongly advises local governments to extend their cooperation also in this regard.

We would have:

Respecting the legal law in the employment field

Opportunities for local governments for capacity expansion and selection of the best cases

Cuts of administrative costs

The new law sees the civil service system as a unique, within which we have mobility plans of the employees for their needs or institutions, to improve capacities etc.. In this context, local units within a broader region, could benefit from cooperation providing to the citizens the opportunity to expand the employment market.

In manner that all above can be accomplished, it is required a great collaboration between local governments and government agencies to enable recognition of the law and its proper meaning.

In this context, the government is also assisted by the Swiss Cooperation Office in Albania and Council of Europe, who in recent months have organized trainings with units of human resource management of local units and government experts.

By all participants in the training is evident the desire to implement the law and to cooperate in this field being aware of the importance of this major component as a qualified employee.

Two key objectives on which stands the European Cohesion Policy are: efficiency and equity. While ISRD emphasizes mainly the development of the legal framework and institutional capacity and does not answer to the question whether in a country like Albania we will support efficiency or equality? The answer to this question will certainly affect the territorial division, efficiency and role of the Counties, creating regions, their form and size. According to ISRD, the approach to regional development is more internally focused than integrated in the European concept of Regional Development (RD). But, funds that Albania will benefit from IPA III and will be managed centrally, will initially focus on EU priorities and national priorities through major infrastructure investments in transport, environment and regional competition.

IPA III budget will finance projects with the highest values (values that will be more than 10 million euro). This means that at the beginning Albania will not be able to address its regional problems through these funds. At first interest is to treat disparities between our country as a single region of the EU and other countries of the Community.

Therefore, what is required is a convergence of internal RD with IPA III and a gradual adaptation of RDF as the only current mean for this convergence. In terms of limited time, money and human resources, this alternative is an opportunity to be more efficient with used resources and without risking losing strategic orientation.

To be successfully carried out, it is required:

Limited changes in the institutional structure to allow more focus on human capacity building who need to gain knowledge and experience.

Maintain management and programming responsibilities at central level and local units specialization in project management.

A clear definition of responsibilities in the implementation of investments between the central and local authorities so that possible financing, management and programming collisions can be avoided.

It would also require some changes that can be made to RDF:

Review the basis upon which it relies to shift from the current focus towards projects in terms of development programs. This would allow a better connection of RDF with budget legislation.

The best connection of RDF that is managed centrally with development strategies of special Counties.

Special support for areas in advantage absence.

In conclusion, anyway it depends on the progress that Albania will make with efforts to establish an institutional framework and human capacities, which should be proficient in management, programming and implementation of EU financial support, with the ultimate goal of ensuring efficient use of these funds.

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Tables

Tab. 3 Application of taxes from local government units

Fees	Municipalities	%	Communes	%	Total	%
Cleaning fee	63	97	166	54	229	74
Transport License	47	72	167	54	214	69
Income from Tenders	43	66	139	45	182	59
Business Registration	44	68	114	37	158	51
Administrative Acts	28	43	99	32	127	41
Income from Parking	44	68	29	9	73	24
Hunting Fee	16	25	40	13	56	18
Other Income						
From Agricultural Land	2	3	4	1	6	2
Lands	16	25	24	8	40	13
Buildings	8	12	4	1	12	4
Specific Objects	2	3	2	1	4	1
Rent from Buildings	39	60	43	14	82	27
Rent from Agricultural Land	6	9	15	5	21	7
Rent of Lands	25	38	58	19	83	27

Tab. 4 Application of taxes from local governments units

Denomination	Municipalities		Communes		Total	
	No.	%	No.	%	No.	%
Tax on Building	62	95	235	76	297	96

Tax on Agricultural Land	32	49	231	75	263	85
Tax on New ConstructionS	42	65	91	30	133	43
Table Fee	57	88	162	53	219	71
Market Fee	51	78	80	26	131	43
Advertising Fee	37	57	21	7	58	19
Fee of Ownership	19	29	18	6	37	12
Hotel Tax	17	26	13	4	30	10
Tax on Profits from Private Sector Entities	1	2	7	2	8	3
Tab.1						
Districts	Municipalities/Communes	Population	Surface Km2	No. Residents/km2		
Berat	25	239.185	166.4	143.6		
Diber	35	194.873	2373.1	82.1		
Durres	16	397.925	704.7	564.6		
Elbasan	50	431.113	3251.2	132.6		
Fier	42	473.611	1739.5	272.2		
Gjirokastra	32	161.817	2902.2	55.8		
Korca	27	359.091	3503.2	102.5		
Lezha	37	115.120	1514.4	76		
Kukes	21	210.692	2479.1	85		
Shkoder	33	334.462	3184.2	105		
Tirane	29	951.364	1645.9	578		
Vlore	26	359.177	2719.5	132		
TOTAL	373	4.228.430	27682.4	152.274		

Tab. 2 The number of municipalities and communes by population.

No. Local Government Units/population	Number of population								Total
	<2000	2000> 5000	5000> 10000	10000> 15000	15000> 30000	30000> 100000	100000> 200000	> 2000000	
Municipalities	0	4	17	18	10	11	3	2	65
Communes	46	103	102	41	15	1	0	0	308
Total	46	107	119	59	25	12	3	2	373

Tab.5. Ranking the fields of cooperation for which there is an interest

Fields of interest	Commune/Municipality in %	Districts in %
Local economic development	80	100
Environmental protection	76	100
Tourism promotion	67	100
Urban planning, territory management, building permits	59	100
Protection of cultural-historical buildings	57	89
Protection of forests, pastures, natural resources	54	89
Response to emergencies	54	89

Tab.6 Albania has serious problems in deepening inequality

No.	County	Population	Poverty level/ national average in %	Unemployment rate/ national average in %	Local future/ national average in %	Access to water supply/ national average in%	No. medical visits/ national average in %	Completing obligatory education/ national average in%
1	Berat	181 901	96	99	74.6	114	107	368
2	Diber	166 367	59	85	61.4	54	70	55
3	Durres	280 996	102	117	106	131	68	53
4	Elbasan	380 593	80	110	70	83	62	147
5	Fier	380 737	85	133	77	91	83	76
6	Gjirokaster	80 646	131	118	112	97	132	385
7	Korçe	263586	94	126	78	97	127	202
8	Kukes	102 036	63	42	74	91	56	54
9	Lezhe	159 882	69	61	78	58	89	162
10	Shkoder	250 351	77	52	67	74	120	75
11	Tirana	677 871	108	168	160	123	140	
12	Vlora	202 295	139	89	139	132	92	506
		3127261						

Financial Reporting - the Private - Public Partnership Prospective - the Case of Albania

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Abstract

In the wake of the recent trend in governments stepping back from performing administrative duties aiming at improving service quality of citizens, Albania has witnessed a rapid growth in the Private – Public Partnerships (PPP). The ever growing confrontation of the government with the challenge to improve infrastructure and public facility planning grows proportionally with the increase in demand from the population as well as the need for enhancing existing infrastructure and public facilities, which suffer from delayed maintenance interventions. One of the distinguishing features of the latest developments in Albania is the boost in the number of PPP arrangements completed and in progress, aimed at meeting different infrastructure objectives, efficient mining exploitation, construction of Hydroelectric power plants and various public facility centers offering an array of public services etc. The PPP arrangements take a number of forms depending on the degree of involvement in the private sector and according to the methods used for their implementation. In this paper we are going to focus only on the accounting and financial reporting aspect of these issues, from the perspective of the public sector entity, i.e. the offer, by giving limited consideration to the operators of these agreements due to the fact that the accounting treatment and the respective financial reporting for Service Concession Agreements for private operators are covered by IFRIC 12 of the Interpretations committee for the International Financial Reporting Standards on "Service Concession Arrangements".

Keywords: Financial Reporting, Public Partnership Prospective

Introduction

Due to recent trends in which governments continuously step back from performing administrative duties and with the purpose of improving the quality of the services offered to the citizens, the Private – Public Partnerships (PPP) is rapidly growing in Albania, by raising the efficiency of the public investments. Governments are facing now more than ever the challenge to create the infrastructure and the public facilities, which should comply with the increase in demand from the population. They are also facing the need to enhance existing infrastructure and public facilities, which are deteriorating due to the delayed maintenance.

One of the distinguishing features of the latest developments in Albania is the boost in the number of PPP arrangements agreed upon and the ones that are in progress, aimed at meeting different infrastructure objectives, efficient mining exploitation, construction of Hydroelectric power plants and various public facility centers offering an array of public services etc. The PPP arrangements take a number of forms depending on the degree of involvement in the private sector and according to the methods used for their implementation.

A specific form of this partnership is the Concession Agreement (CA) which differs from other forms of PPP agreements because the risks and benefits that associate with the construction, ownership and use of the asset (property) subject to the agreement, along with the control over it, are largely separated between the public sector entity and the private sector involved in the agreement. The separation of these aspects of asset/property and the complexity of the transactions has often made uncertain the financial reporting by public entities as well as the private ones. Examples of these agreements are the use and maintenance of a highway from a private company against a fee, production and distribution of national passports, the production of excise stamps, construction operation and maintenance of the large parking lots, construction and operation of hydropower, etc. All of the above examples that are already present in the Albanian economy have on their basis the acceptance of the responsibilities from the companies that make the investment even after the completion of the investment.

In many cases, if not most of them, the execution of these agreements with the private sector requires their cooperation with the banks to provide for the necessary financial means (such as the case of HPP), where the guarantee of obtaining credit can be given by the public sector or from different agencies or donors. Under such circumstances, financial reporting takes the meaning of reliable information given to all parties involved.

Backgrounds and issues related to financial reporting agreements of the PPP

Although in Albania there is no clear guidance on the accounting and reporting by public sector entities for the property subject to concession agreements, of assistance in this regard may be the framework of the International Accounting Standards Board (IASB Framework) and the standard lease agreements and suggestions to the International Public Sector Accounting Standards Board (IPSAS). The lack of specific regulations on this issue, has brought divergence in the way of reporting the property/asset or service. It may unfortunately happen that the property is not reported as such from neither the public nor the private sector.

In this paper we are going to focus only on the accounting and financial reporting aspect of these issues, from the prospective of the public sector entity, i.e. the offeror or provider, by giving limited consideration to the operators of these agreements and this is due to the fact that the accounting treatment and the respective financial reporting requirements for Service Concession Agreements from private operators are covered by IFRIC 12 of the Interpretations Committee for the International Accounting Standards Board on "Service Concession Arrangements".

If the financial reporting on assets was to be based only on legal ownership, we would not be able to achieve financial reporting that faithfully reflects the assets based on the principle that "economic substance prevails over legal form". This is why it becomes necessary to analyze the relationship between the parties as well as the asset or activity subject to the agreement.

According to the International Public Sector Accounting Standards (IPSAS) the assets are defined as "resources controlled by one entity, which arise from activities in the past, from which are expected possible future or potential income of economic benefits. The notion of control over resources is clearly presented in the definition. Given the definition, that the provider has to report the property subject to the concession agreement as an asset, it should have a control over the property, but also receive future economic benefits or service potential.

The control over the use of the property is the key principle that is reiterated in the conclusions given in the IFRIC 12. According to this principle the private operator should not report as an asset of his own an asset subject to an agreement that is regulated by this interpretation. According to this interpretation, the private operator does not recognize the property as an asset but recognizes an intangible or a financial asset that reflects the right that has been granted to him by the offeror to use the property or receive contractual cash flows. According to the IPSAS Board, the nature of the criteria included in the scope of application of the IFRIC 12 generally is appropriate to determine whether the provider has complete control (substantial) on the property under such agreements for financial reporting purposes. These criteria taken into consideration together indicate that a) the provider will have a continuous right to ask for the property to be operated in such a way as to fulfill public service throughout the whole agreement and beyond, and b) the operator's practical ability to sell or pledge the property is limited.

Regardless of the operators' control over the provision of certain aspects of services that have resulted from wealth, the general use of this property remains limited to the providers' target set in the agreement. Furthermore, the concession provider controls the key operational aspects of the property, such as, for example, the fees to be applied to its use.

If criteria similar to those in IFRIC 12 are met, it is widely accepted that the operator operates the property on behalf of the provider, and the latter has ultimate control over the property.

Based on the instructions of IPSAS 23 and IPSAS 6, it can be argued that if the grantor's control over the assets underlying these agreements is similar to regulatory control, only one control of this kind is not sufficient to meet the concept of control included in the definition of an asset for financial reporting purposes providers.

For example, the government may transfer an area of land to a public university specifying that the land will be used only to construct the campus. Under IPSAS 23, despite this definition, the public university (in this example "user") controls the land and will present it as an asset in its financial statements. The university needs to recognize also a liability, if the determination shall be considered as a condition, which means that if the land is not used for the purpose for which it is given, then it will be returned to the rightful owner. Results of financial reporting in this example may seem in conflict with the guidelines discussed above concerning the control over property of this agreement, where the party that imposes restrictions on the use of assets (provider) and not the user of the asset (operator) is considered that controls the property for financial reporting purposes. The crucial difference between this example of land transfer to the university and the service concession arrangement is that the grantor holds control of the remaining interest in the underlying assets of the agreement until its end. In typical arrangements such as those discussed above, the asset at the end of the agreement is not returned to the transferor. Even where predestination is provided, upon fulfillment of this condition the asset remains with the operator, so in the case of the University at the time that the land will be used to build the campus, the asset (land) remains, to be reported in the statements of the University.

Future economic expected benefits or services potential.

Even though the provider in an agreement can control the use of property, in order to meet the definition of an asset by IPSAS 1, as mentioned above, the property should bring a stream of expected future economic benefits or service potential to the provider. IFRIC 12 concludes that the use of the property, subject to these agreements regulated by this interpretation, is not controlled by the operator (it does not meet the definition of an asset for the operator). IFRIC 12 covers only for private operator accounting and does not address the flow of benefits from the property to the provider.

The aspect of the potential service as future benefits that can come from an asset is the main difference between the definition of an asset under IPSAS 1 and that according to the IASB framework, which focuses only on future economic benefits. "The potential of services" further explained in paragraph 11 of IPSAS 1 as follows:

Assets provide means for the entities to achieve their goals. The assets used to supply goods and services in accordance with the objectives of an economic entity, but don't generate direct net cash flows are often described as containing "service potential". For example, a road where no fees apply for transfer is considered as an asset for the government because it provides services in order to achieve government objectives in relation to transport, although it does not generate future economic benefits for the government. In general, governments enter into such agreements concession to fulfill the objectives of the service through the construction, renovation, or improvement of the property subject to the agreement. In this way, the property subject of the contract is intended to provide benefits to the provider, related to the potential of their services, even if the property will not provide any economic benefit in the future. Even though the main reason for the provider to enter into such an agreement is the economic benefit, for example to receive in advance a cash influx in exchange for the rights to operate a road, the property subject to the agreement will continue to be used to accomplish government objectives - it would be operated only by a private operator, so it will offer service potential benefits grantor.

For example, let's take into consideration a national road operated free of charge that is reported as an asset by the provider, based on its potential for services. Let us assume that this road becomes the object of a concession agreement according to which the operator is entitled to decide charges for the road users, in return he takes the responsibility to make repairs and renovations, as well as make use of the road according to the specifications of the provider. If it is proved that the provider has control over the road under the conditions specified in the contract, then he will have the same benefits he had before the execution of such agreement, despite the fact that the provider has spent a good part of the risks and benefits to the operator. Therefore, it seems that the road must continue to appear as an asset of the provider because its basis that requires its reporting as an asset has not change, so it is an asset of the provider based on potential service.

Furthermore, it can be argued that in the cases the provider controls the property, the operator operates deeply the asset on behalf of providers, then he is a supplier of services to the concession provider. The economic risks and benefits assumed by the operator through the agreement may be similar to those of a seller to a service contract. They differ from the risks and benefits associated with ownership of these assets.

However, the economic risks and benefits may be associated with an active private operator reported as a result of "access" in this property. For example, the operator shall report an asset as intangible under IFRIC 12 because future income depends on the public use of the service and is not guaranteed.

Current proposals by the IPSAS Board, which can be adopted as practical even in our country, suggest that the concession provider must report the asset in its financial statements, if it is considered that controls property for financial reporting purposes. The proposed criteria for determining control by the providers are as follows:

The provider controls what services should the operator provide making use of the property subject to the agreement, to whom should these services be provided, prices associated with these services, etc.

The provider controls, through ownership, or through any other cause - a residual interest in the asset until the end of the agreement.

According to the Board, the providers' control over the asset subject to the agreement, proves that the provider remains responsible for providing direct or indirect public services, which relate to an asset. The fact that the provider is keeping the risks and benefits shows that the latter expects to receive from the property potential for services in the future.

Other accounting aspects and the financial reporting

For agreements that meet the proposed control criteria it is a good practice to use the requirements of IPSAS 7, regarding the timing of recognition of the asset (during construction or only when the asset becomes usable) and the liability associated with this asset, which in fact reflects the obligation of the provider to compensate the operator regarding the property (asset). Recognition criteria will be met during construction, if the value of the construction in process can be measured accordingly. This applies when the provider bears the risk of construction or when both parties can waive the agreement when they want to do such a thing without being paralyzed. If none of these scenarios is fulfilled, then the recognition criteria are not likely be completed until construction is finished.

Specific requirements have also been set regarding the agreements where the elements of construction and service may (or not) be separated within the scheduled payments by the providers.

If, however, for some concession agreement none of the proposed control criteria is met, as discussed above, the provider does not have to recognize as an asset subject to this agreement. Consequently, any payment to be made to this CA is for its service and not for the asset/property, and therefore should be spent according to the economic benefits of the service. Also, if the property exists and is held as an asset by the provider, according to IPSAS 17, it should be de-recognized.

For concession agreements in which the provider only controls the use of the property during the agreement (for example in the form CA building-ownership-operation), the tenant must follow the instructions in IPSAS 13 if the agreement meets the requirements of a lease

contract. If, however, the provider controls only the use of the property during the agreement and the agreement does not meet the terms of a finance lease, because the provider retains ownership during the period of the agreement, then the provider must report the property as an asset. If, however, the agreement includes a newly built property, the asset and the liability related to it shall be reported and measured as described above regarding the financial reporting provider when control criteria are met. At the end of the agreement the remaining accounting value of the property will be deregistered, reflecting the transfer of property to the operator. If the agreement does not meet the terms of a finance lease and the provider is not the owner of the property, then it will not be recorded as an asset and any payment in connection with this property / asset would be an expense of the period.

For agreements involving assets / properties that are newly constructed, where the provider does not control the use of the asset / property during the agreement, but instead it controls remaining interest in the asset / property at the end of the agreement (for example the BOOT form agreement), the provider reports as an asset the excess of the value arising from the difference between the expected fair value of the property right at the end of the agreement and the amount that the provider will be required to pay to the operator for the restitution of the property. This asset reaches gradually its accounting value of the payments made by the provider to the operator during the whole the agreement.

For arrangements involving existing assets in which the provider does not control the use of property during the time of the agreement, but instead it controls the residual interest at the end of the agreement, the Board proposes to follow the guideline that applies to the lessor by IPSAS 13, if the agreement meets the definition of a lease contract. If the agreement does not meet this definition, the provider derecognizes the asset (property) and recognizes as an asset the obligation of the operator to return the property at the end of the agreement.

Provisions for revenue sharing

In the cases of agreements where the operator is expected to raise revenue from direct fees imposed to third parties or by the users of the public good, usually the provider negotiates to include in the contract a provision for these revenue sharing between him and operator. In this way, if the property use exceeds expectations then the operator will share success with the provider. This provision would serve to protect the provider from political risk and public criticism that could arise due to involvement in an agreement, which may be more profitable for a private operator. For example, as part of a BOOT agreement for the construction of a large parking lot, the provider receives a fixed fee for each ticket sold. The provider uses this fee to finance activities of the community. Another example would be a deal that includes the construction of a toll road, whereby the provider is entitled to receive 40% of the total income as net flows from the agreement offer to the operator a pre-tax rate of return of 6.5% on the total funds invested. The part of the provider increases to 80% of the total revenue collected as cash contract gives to the operator a rate of return of 8%.

Provisions of revenue sharing are often included in the terms of an agreement along with a minimum guarantee for the operator. For example, an agreement for the operation of a toll road contains a provision for revenue sharing. This provision requires the provider to benefit about 57% of the income that exceed those predicted. This provision may be accompanied by other provisions where the provider will pay 80% of any negative gap between the predicted and current revenue. The provider minimizes the risk of demand by giving to the operator a kind of guarantee for minimum income, which if the project results successful has the potential to be even bigger. Current proposals of the Board emphasize that providers should recognize these revenues (and receivables) as they are earned, along with the substance of the agreement and after any contingency event has been met (such as the excess of the minimum threshold of income).

Consolidation

When the operator is a government business enterprise, there will always exist some of the control indicators discussed in paragraphs 39 and 40 of IPSAS 6, especially if this kind of enterprise is created to serve as an operator in the concession agreement. This operator, in general, should be consolidated in financial statements of the providers.

In cases the operator is an economic entity, then it is an economic entity for specific purposes and the control indicators described in paragraph 39 of IPSAS 6 would not be valid between the operator and the provider. However, the contractual terms of these agreements may result in the presence of several indicators of control given in paragraph 40 of IPSAS 6. For example, in an economic entity for specific purposes that is created for a toll road, the following provisions of the contract may be indicators of the control strength of the providers over the operator:

The operator is allowed to take a loan as specified in the contract and the provider must approve in advance any additional debt.

All payment charges for crossing the road are subject of approval by the Minister of Transportation and may differ depending on the requirements of providers.

The provider may request to dismiss every employee who is incompetent, rude etc.

The provisions of the agreement in this example, which may indicate that the provider receives benefits from the activities of the operator are as follows:

It is necessary for the operator to ensure that the highway will be open to traffic at all times and that traffic flow meets predetermined standards that accomplish objectives of the provider regarding transportation.

The operator will make payments to providers if the return of the project exceeds a certain limit.

Conclusions and Recommendations

A distinctive feature of developments nowadays in Albania is the rising number of PPP agreements completed and those in the process, for the implementation of various investments in infrastructure, for efficient utilization of mining, construction of HPP, centers and various facilities public, various public services etc.

PPP is a new and important means to increase the efficiency of government investment funds with the aim of taking responsibility on both sides.

Currently accounting treatments and adequate financial reporting by private operators for the concession agreements are covered by IFRIC 12 Interpretations Committee of the Board of the International Accounting Standards "Service Concession Arrangements".

Based on the instructions of IPSAS 23 and IPSAS 6, it can be argued that if grantor's control over the property subject to the agreements is similar to regulatory control, only such control is not sufficient to meet the concept of control included in the definition of an asset for financial reporting purposes of the provider.

The aspect of service potentials as future benefits that can come from an asset is the main difference between the definition of an asset under IPSAS 1 and that according to the framework of the IASB, which focuses only on future economic benefits.

Although the main motive of the provider to enter into such an agreement is the economic benefit, for example, to receive an influx of cash in advance in exchange for the rights to operate a road, the property subject of the agreement shall continue to be used to achieve government objectives - it would only be operated by a private operator, so that will offer potential benefits to its service provider.

Current proposals from the IPSAS Board, which can be adopted as practical even in Albania, suggest that the concession provider must report the asset in its financial statements, if it is considered that it controls the property for financial reporting purposes.

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Choice of Employment as a Category Differentiating Peripheral Employees

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Abstract

Some people deliberately choose alternative employment due to its flexibility, freedom and variety of tasks offered. Individuals preferring this type of employment mainly due to the said characteristics are referred to as voluntary employees. A coercive flexible employee is someone who perceives his/her employment as unattractive and undesirable, and it is only inability and lack of chances to find a permanent or a different type of employment that makes them choose this type of employment for a specified period of time or on short-term basis. Given the choice between a flexible form of employment and "permanent" job, assuming that conditions offered are acceptable, they do not hesitate to choose the latter.

Keywords: autonomy of employment, flexible forms of employment, peripheral employees

Introduction.

Attitude to work depends on the personality of an individual. Banka divided personalities with respect to attitudes to duties performed (1996). He described two types: professional personality and compelled personality. A professional personality is a personality of individuals for whom work has an important psychological meaning and is an integral part of their personality. Work is a part of one's life, an individual identifies and integrates with it strongly. The second type of personality is people bored with their jobs, who treat their work as a necessary duty, a monotonous part of life allowing to earn one's living. An attitude to work creates a division of a personality. One can speak of a work time producers (like for example workaholics) and work time consumers (individuals alienated from work). This translates very often into an attitude to perception of employment itself - one's own choice or coercion.

The research conducted so far point at significant differences that characterise reasons for choosing a non-traditional form of work. Some people deliberately choose alternative employment due to its flexibility, freedom and variety of tasks offered. Individuals preferring this type of employment mainly due to the said characteristics are referred to as voluntary employees. A coercive flexible employee is someone who perceives his/her employment as unattractive and undesirable, and it is only inability and lack of chances to find permanent or a different type of employment makes them choose this type of employment for a specified period of time or on short-term basis. Given the possibility to choose between the flexible and "permanent" job, assuming that conditions offered are acceptable, they do not hesitate to choose the latter.

Presentation of the author's research

A group of analysed variables, which affect the functioning of an individual in flexible forms of employment are personal characteristics. One of them is *autonomy of the choice of employment*. This is the willingness or reluctance that guides an employee in his choice of employment, a sense that he is employed with a certain form of employment by his own choice (voluntarily) or compulsorily (due to certain circumstances), in accordance with the research by J. E. Ellington, M. L. Gruys, P. R. Sackett, (1998). In this study it has been diagnosed with the set of 3 questions.

The results of the test for $n=2118$ peripheral employees show that the vast majority of flexible employees treat their form of employment as their conscious choice. 80.1% of all the respondents claim that they are currently employed, because they want to work this way and they would not change their work for anything else. Only one out of every five respondents treats his work as coercion and claims that he was forced by circumstances to choose it and therefore he would be willing to change it. The vast majority of patients (90.4 %) also argues that the present form of employment suits them. Only 9.6% of the respondents is of the opposite opinion. Analysed flexible employees are also overwhelmingly satisfied with their employment conditions. 89.2% of the respondents claims that they are generally satisfied with the terms and conditions of employment, whereas 10.8% of the respondents is of the opposite opinion.

Analysis of the answers to the questions (I am currently employed, because this is the way I want to work/because I was forced to by the circumstances; I am satisfied with the form of employment/I am not satisfied with this form of employment; I am/ I am not satisfied with the terms and conditions of my employment) with respect to the forms of employment showed that there is a statistically significant relationship between a form of employment and a sense of autonomy of employment. Dependency analysis was based on chi-square statistics using Kramer's V: for the first question: Kramer's $V = 0.132$; $p < 0.001$.

The highest percentage of individuals declaring their present employment was a conscious choice has been identified in the group of employees working in the social economy (88.1 %) and among part-time employees (85.3 %). Whereas the biggest number of individuals

for whom work in flexible forms of employment is coercion has occurred in the group of seasonal workers (29.4 %) and among those working for a specified period of time (27.4 %). In case of the latter it may be the case because the work for a specified period of time is the form of employment the most similar to work for an indefinite period of time (permanent job) - a traditional form of employment, and accompanying longing for certainty of employment undoubtedly contributes to the sense of coercion. Seasonal workers are the group that can easily be interpreted by temporariness of employment, due to an undefined period of employment with lack of a possibility to extend a job contract due to characteristics of seasonal employment.

Also the answers to the second question, if the form of employment is satisfactory, are significantly correlated with the form of employment. Kramer's $V = 0.143$; $p < 0.001$. The value of the ratio indicates that the relationship is weak. The most satisfied with the existing forms of employment are businessmen working part-time, while the least satisfied are seasonal workers. The results are the same as in the case of the first question concerning coercion or choice of employment.

Also in the case of the third question concerning the terms and conditions of employment, when it comes to individuals with flexible forms of employment a statistically significant correlation with the form of employment has been observed. Kramer's $V U = 0.165$; $p < 0.001$. The value of the ratio indicates that the relationship is weak. In this case also the most satisfied group are the respondents working part-time, and the least satisfied are seasonal workers.

For the record: the variable *autonomy of the employment* was diagnosed using a set of three questions: = 1. I am currently employed, a) because I want to work like this and I would not change this work for any other; (b) because circumstances force me to choose it and I would like to change it for some other work; 2. I am satisfied with the form of employment: (a) yes, (b) no; 3. My employment terms and conditions: (a) I am generally satisfied with them; (b) generally I am not satisfied with them. Correlations with social-and-demographic variables are presented in the following paragraphs.

In the case of the first question: I am currently employed, a) because I want to work like this and I would not change this work for any other; (b) because circumstances force me to choose it and I would like to change it for some other work; a significant correlation with the following variables: education, occupation, sector, industry, has been identified. There is no relation with the other social-and-demographic variables.

Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.136$; $p < 0.001$. The higher education, the higher the rate of responders who declare that the work in flexible forms employment was their deliberate choice. In the group of the respondents with education below secondary school the percentage of individuals claiming that this was the case is 64.0%. In the group of the respondents with secondary education the percentage is 79.1%, and in group of people with a university degree = 83.2%.

A correlation of the responses of the respondents with an occupation has been identified: Kramer's $V = 0.121$; $p < 0.001$. The highest percentage of individual who claim that they want to work under flexible forms of employment and would not change it has been identified among professionals and freelancers (84 %). The same response has been obtained among 80.5% of individuals in the group of trade and services employees. In the group of managers autonomy is declared by 78.9 % of the respondents, whereas in the group of technicians and civil service officers the rate is 75.6 %. The smallest group of individuals who chose their form of employment consciously are workers - 71.6 %. The responses to the questions concerning autonomy of the choice is affected by a sector in which individuals operate: Kramer's $V = 0.082$; $p < 0.01$. In the group of the respondents working in a social sector 86.6% made a conscious choice concerning their form of employment. Among those working in the public sector the ratio is 81.8 %, and in the group working in the private sector the ratio is 77.2 %.

Correlations between the second question concerning satisfaction with the form of employment has been identified with the following variables: sex, education, number of employers, number of children. there has been no other correlation with the other analysed variables.

Sex of the respondents affects the assessment of the form of employment - Kramer's $V = 0.095$; $p < 0.05$. Men (93 %) more often than women (87.4 %) declare that the present form of employment suits them well. Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.139$; $p < 0.001$. People with secondary school education (91.8 %) and a university degree (91.6 %) declare more frequently that their present form of employment suits them well, than people with primary school education (77.7 %). The response to the test is also affected by the number of former employers: Kramer's $V = 0.102$; $p < 0.01$. The more employers, the less individuals satisfied with the current form of employment. In the group of the respondents with only one employer so far 93.2% declares that the current form of employment suits them well. In the remaining groups the result is as follows: 93.1% in the group of the respondents who already had 2 employers; 90.7% among the responders who had 3 employers and 86.3 %, among the responders who had 4 or more employers. A correlation between the number of children and satisfaction with a form of employment has been identified as well. Flexible forms of employment are more likely to be preferred by individuals with children (94.4% in the group with 2 or more children and 89.4% in the group with 1 child) than by childless couples (87.6 %).

When it comes to the third question, whether the terms and conditions of employment are satisfactory for the respondents, a significant correlations have been identified between this variable and age, education, occupation, sector, number of employers, and duration of contracts.

Assessment of the terms and conditions of employment is correlated with the age of the respondents: Kramer's $V = 0.075$; $p < 0.05$. Older employees are more satisfied with the terms and conditions of employment than the younger ones: In the age group 41-65 years the

percentage of the satisfied is 92.5%; in the age group 31-40 years = 88.8%, and in the age group 18-65 years = 86.4%. Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.115$; $p < 0.001$. In the group of the respondents with education below secondary school the percentage of individuals claiming that this was the case is 78.0%. In the group of the respondents with secondary education the percentage is 90.0%, and in group of people with a university degree = 90.4%. A correlation of the responses of the respondents with an occupation has been identified: Kramer's $V = 0.119$; $p < 0.001$. The more prestigious occupation, the more positive evaluations of flexible employment. The responses to the questions concerning autonomy of the choice is affected by a sector in which individuals operate: Kramer's $V = 0.126$; $p < 0.001$. In the group of the responders working in the public sector, 93.7% said that the terms and conditions are generally satisfactory for them. Among those working in the social sector the ratio is 92.1%. In the group of individuals working in the private sector the ratio was 85.5%. Assessment of the conditions of employment depends also on the number of employers so far: Kramer's $V = 0.100$; $p < 0.001$. The lowest percentage of the respondents who are satisfied with employment terms and conditions occurred in the group of individuals who had already worked in at least 4 places (84.6%). In the remaining groups these ratios are 91 - 92%. Duration of employment contracts affects the assessment as well, Kramer's $V = 0.109$; $p < 0.001$. The longer one works for a current employer, the more satisfied with the terms and conditions one is.

Conclusion

Summing up, more educated employees declare that their choice of a form of their employment was their informed decision, individuals with lower education are experiencing coercion with respect to execution of flexible works. Similarly, when it comes to their posts, the further down the organisational hierarchy, the more coercion and lack of other options is experienced. The most conscious and informed choice of this form of employment was declared by individuals working in the social sector.

When it comes to individuals who are the most satisfied with this form of employment, they are mainly males, persons with primary and secondary education, relatively small number of former employers and bigger number of children (more than two).

The terms and conditions of a flexible form of employment are more satisfactory for older employees, individuals with university degree, employed in the public sector, with a relatively big number of former employers, with longer validity periods of employment contracts.

The research carried out has had an exploratory character. It regarded a new domain of knowledge concerning functioning of an individual in new working conditions, where a characteristic feature is temporariness affecting all aspects of the work, namely "temporary" occupation, "temporary" professional relations, "temporary" parties of a work contract, status of a "temporary" worker, etc. This changes completely the perspective of looking at one's professional future and his further existence, quite different from a permanent employment. A temporary form of employment is becoming increasingly popular in present times. This is due to significant changes in requirements of the labour market and changes in the character of work itself. However, in my opinion, it shall never replace and eliminate the longing for a permanent job. Temporary work is its complement, a different, not necessarily worse form of employment and making ones living for selected groups of employees. It is related to a new style of work and the functioning on the market. While remaining one of the tools in the fight with unemployment, it is still only an alternative for a permanent job.

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Business Ethics Perceptions in the Czech Republic during Global Economic Crisis

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Abstract

Based on a questionnaire survey, this study investigates business ethics (BE) in the Czech Republic as perceived by employees of Czech private and public organizations. Four main aspects of Czech BE are covered: 1) the management of BE in Czech organizations, 2) Czech managers' opinion of BE practices in their industries, 3) managers' previous experience of ethical conflicts, and 4) the factors influencing (un)ethical decisions. According to the results, while most organizations are making effort to enhance BE, large companies are more active in promoting BE when compared with small and medium size enterprises. The most common BE tools are corporate philosophy, code of ethics, and contribution to social/cultural activity. Personal code of ethics is the strongest driver of ethical decisions, and financial needs and lack of company policy are the strongest factors in making unethical decisions. Slightly over a half of respondents have some experience with ethical conflicts, majority of which are related to honesty in internal communication, offering bribes, and honesty in executing contracts and agreements. Unethical practices seem widespread, with bribing, unfair competitive and pricing practices, and contract violation perceived as the most serious issues. Our study also tentatively suggests that BE is increasingly beginning to be seen as an issue internal to the organization.

Keywords: business ethics, Czech Republic, transitional economies, managers' perceptions

JEL Classification: F2, M5, Z1

1 Introduction

This paper focuses on the investigation of business ethics (BE) practices in the Czech Republic (CR)¹, which is a middle-size Central European country that belongs among new members of the European Union (EU)². CR is an open economy highly dependent on export, and, due to its geographical position in the center of Europe along with its well-educated workforce, it is a popular site for foreign companies to locate their regional representations in. Thus, despite its relatively small economic size, the country has now become an important business crossroads for many European and global companies.

Since the reinstatement of the market economy in 1989, Czech companies as well as government officials have gradually realized that BE is an important factor influencing the overall quality and international attractiveness of local business environment. The entry in the EU brought the need to harmonize Czech standards and legislature with those of the EU and also highlighted the importance of anti-corruption measures, corporate social responsibility (CSR) and BE. Unfortunately, post-communist countries do not enjoy favourable reputation in relation to local ethical standards, and corruption and BE have become important consideration for foreign companies envisaging to bring their business to Central Europe or the CR. As Čaník and Čaníková (2006) document, among the EU economies, the Czech Republic is generally perceived as less ethical than old-member states (e.g. France, Germany, etc.), but more ethical than other newly accessed countries (e. g. Poland or Hungary).

Combined with increasing international competition, the fact that foreign companies often express their fear of the existence of unethical practices only serves to emphasize that the Czech Republic should be careful not to lose any potential investors or business partners because of their fear of low level of ethical standards. Although some Czech managers still tend to think that, especially in short-term, unethical conduct gives competitors an advantage over other companies (Trnková, 2004), they are becoming increasingly aware that in the long run, ethical attitudes bring companies more benefits than costs. This attitude is becoming more common and the number of initiatives and organization dedicated to BE enhancement has recently been growing.

Inspired by the growing significance of BE in the Czech Republic and lack of up-to-date studies on the subject, this paper investigates BE in the Czech Republic as perceived by managers from private and public organizations located in the CR. This study focuses on managers' perceptions of BE in four main areas: 1) the management of BE in Czech organizations, 2) Czech managers' opinion of BE practices in their industries, 3) managers' experience of ethical conflicts, and 4) the factors influencing (un)ethical decisions. The research is based

on a questionnaire survey conducted on the sample of 60 Czech companies evenly distributed among various industry groups and company sizes.

We find that majority of organizations are aware of BE issues and are making effort to enhance BE, most commonly by the use of corporate philosophy, code of ethics, and contribution to social/cultural activity. Our results suggest prevailing discrepancy between small and medium companies (SMEs) and large companies, which are on average more active in promoting BE than SMEs. In making *ethical* decisions, Czech managers are most strongly influenced by their personal code of behaviour and company policy. Personal financial needs and lack of company policy are viewed as the strongest factors for making *unethical* decisions. Slightly over a half of survey participants have experienced an ethical conflict in their career, most often related to honesty in internal communication, offering bribes, and firings and layoffs. The results further suggest the existence of a gap between theory and practice, as the answers to situational questions reveal that in reality respondents' personal ethical standards are not as influential as they report. Unethical practices seem widespread, with bribing, unfair competitive practices, price discrimination and unfair pricing practices, and breaking or violating contracts seen as the most serious issues. Our study also tentatively suggests changing understanding of BE, which is beginning to be seen as organizations' internal issue.

Our study contributes to the BE field in several respects. Its findings can be used by any organizations, institutions or initiatives having the promotion and enhancement of BE as their goal³. More detailed knowledge of how BE is perceived by local managers is an important factor, which can help them target their effort and increase the effectiveness of their BE related activities. Second, reliable information regarding Czech BE significantly facilitates the entry of foreign companies and investors in local market, as they can get a more accurate perspective of local business environment⁴. This can, in turn, help improve international competitiveness of the Czech Republic through increased trust and improved international reputation. Furthermore, this study also brings valuable information to Czech business managers, because it gives them a chance to verify their own views of Czech BE. In this respect, our study is especially important as Czech managers often report lack of information regarding BE in the CR. Finally, our study can also serve as teaching material for educators, who often rely on materials from other countries, as BE is still a very new subject at Czech universities.

The rest of the paper proceeds as follows. The following section (Section II) briefly discusses the development of the CR since the Velvet Revolution in 1989 until present, and shortly summarizes existing studies related to Czech BE. Section III provides overview of the methodology and sample descriptive statistics. The analysis and the results are provided in Section IV. The paper is concluded in Section V.

II Evolution of BE in CR since in Post-communist Era and Prior Studies

BE in the Czech Republic is a relatively new topic for scholars as well as researchers. Until the Velvet Revolution in 1989, Czechoslovakia⁵ was a communist country with a command economy system, which meant that BE virtually did not exist (for broader discussion on the challenges that Czech modern history and transitional process brought in the field of BE see Bohata, 1997; Cordeiro, 2003; Barclay and Smith, 2003; or Brown et al., 2003). During the transition period following 1989, market system and market principles were gradually re-introduced. The whole process was accompanied by necessary systemic changes, which happened relatively quickly over a short period of time.

Since 1989, the Czech Republic has gone through several stages of BE development. With some delay, the evolution of BE roughly copied the phases of Czech economic transition, and was also strongly influenced by the accession process in the EU. Major attributes of the **first phase** (1989 - mid-1990s) were fast pace of changes, underdeveloped legal system and turbulent business environment. As most business organizations were mainly concerned with economic survival, they displayed very low or no interest in BE.

In mid-1990s, CR entered so-called **know-why** stage (Trnkova, 2004) and BE started receiving more attention. Czech business environment gradually stabilized and reached sufficient level of maturity to create room for businesses to focus on issues not directly related to short-term economic goals. Also alerted by corruption scandals involving important persons of public life, companies began to realize the importance of ethical standards and trustworthy behaviour in business relationships. However, due to the lack of deeper and systematic understanding of BE (as well as CSR), local firms still needed to learn to understand the benefits of ethical conduct and find motivation for its systematic development. It is at this stage that the first studies trying to map corruption and BE situation in the CR appeared. Among the most important authors, we can mention Bohata (1997), Putnova (1999, 2000, 2001, 2007), and Nemcova (2001). The effort of scholars was also accompanied by the attempts of international organizations such as Transparency International (TI) to map local situation concerning CSR and BE (e. g. Průzkum aplikace etických kodexů, TI, 2006). As BE was reintroduced as a subject to schools, more theoretically oriented literature as well as specialized studies appeared (Friedel, 2003; Cooper and Dofman, 2003).

At the beginning of the new millennium, the country reached current, **know-how** stage. By now, most Czech organization have accepted the need to institutionalize BE and incorporate BE and CSR activities in their strategy, however, as Travníková (2005) suggests, there is still serious lack of knowledge of specific tools and procedures. According to Čaník and Čaníková (2006), Czech managers believe that there is still not enough information or literature on BE and BE issues are seriously neglected by media and the press. Managers would especially welcome more specific information concerning the implementation of various BE instruments, more positive examples, or databases containing the experience and best practices of other companies. BE and CRS studies conducted in the CR (Trnkova, 2004)

also suggest that companies with foreign participation or local branches of multi-national companies display higher awareness and more sophisticated approach in relation to BE⁶, a trend, which has also been observed among large companies. Previous studies also suggest existing BE gap between Czech SMEs and large companies. While majority of large companies started developing and implementing specific BE instruments (know-how stage), most SMEs are still in the phase of know-why. Nevertheless, despite reported lower awareness and knowledge of BE or CSR concepts among small companies (Trnkova, 2004; Čaník and Čaníková, 2006; Travníková, 2005), many SMEs actually successfully practice BE or CSR principles intuitively.

Previous studies have also provided some information regarding some BE perceptions prevailing in Czech business sector. It is alarming that a large number of managers does not see ethical behaviour as beneficial for the company (e. g. Travníková, 2005) and that a certain level of unethical (rather than ethical!) conduct is considered to be the standard. Furthermore, especially in the short-run, unethical conduct is often seen as a competitive advantage. Another largely held opinion is that companies can start paying more attention to BE issues only after they have reached economic stability, or that more sophisticated approach to BE and CSR topics is only needed in large companies (Čaník and Čaníková, 2006)⁷. Travníková (2005) also reports the existence of a large discrepancy between private and public sector, the latter being regarded as more unethical. Despite that, CSR or BE studies cited here also suggest that BE is growing in importance, BE practices are growing in sophistication and overall business environment seems to be becoming more ethical.

Existing studies also suggest another important feature of Czech business environment is the application of so-called double standards (Travníková, 2005; Čaník and Čaníková, 2006). Czech managers tend to distinguish two types of unethical behaviour – unethical practices which directly harm their own organization and should be severely punished (“bad ones”), and unethical practices benefiting their own organization (“good ones”). The latter are regarded as overall less harmful, not necessarily requiring punishment. Furthermore, if unethical behaviour in an organization is discovered, it is usually seen as a problem of character or individuals, rather than a problem of the whole organization. Consequently, in many cases Czech managers refuse their organization's responsibility for unethical conduct displayed by their employees (Čaník and Čaníková, 2006).

Finally, generally high level of scepticism regarding government intervention or any institutions promoting BE should also be mentioned. Implied by the experience from the previous regime, Czech managers regard these activities as inherently ineffective (Travníková, 2005). This attitude is also related to the widely held opinion that if exemplary ethical behaviour and CSR activities of companies are publicly announced or discussed, in the eyes of the public such activities are reduced to PR instruments through which the organization is trying to boost its economic performance.

III Methodology, Data and Sample Description

This study is based on a fully anonymous questionnaire survey using a modified version of a questionnaire employed by Choi, Nakano (2008)⁸. The modifications include the change of monetary unit for CZK (Czech Crown) and adjustment of the financial amounts to better reflect purchase power in the CR. Companies participating in the survey were identified by snowballing and the questionnaire was self-administered and submitted to the researchers via e-mail. Data was collected in August 2010.

Descriptive statistics of the sample are provided in Table 1. Respondents' organizations cover various industries, levels of management, and company sizes. Company size classification is based on the classification used in the EU⁹. As the table documents, 38% of the sample are large size enterprises¹⁰. Where company size may bear significant influence on the interpretation of the results, a separate analysis is provided for SMEs and large companies. As the sample mainly consists of non-manufacturing industry organizations (86%), the conclusions from this survey should be interpreted with caution and extended to manufacturing companies only with great care.

In relation to the sample description, it is also interesting to mention a high proportion of respondents without religion. It has been previously noted as a sociological phenomenon that the Czech Republic is the most secular country in Europe, even when compared with other culturally close Central European¹¹ or ex-communist countries. This fact bears importance on the survey, as the values of non-religious respondents are unlikely to be strongly influenced by any belief or religion¹².

IV Results

This section reports major findings of the study. Based on different aspects of BE investigated in our survey, we divide the results into six groups: those concerning unethical industry practices, management of ethical values in respondents' organizations, responsibility to various social groups and respondents' experience of ethical conflicts, factors influencing (un)ethical decision making, comparison of current ethical standards with the situation ten years before, and the results related to hypothetical situations. More detailed information follows.

IV. 1 Unethical Practices in Respondent's Industry

We first focus on respondents' opinions of general BE practices in their industry. Table 2 documents unethical practices are still widespread, as 78% of respondents report the existence of unethical practices in their industries and only 15% think there are none. On checking for company size, we found that SMEs report the existence of unethical practices more often (84% of SMEs respondents answer

"Yes, a few" or "Yes, many") than large companies (68% for both answers combined). The explanation may be that SMEs are more open to the external environment, making all of their employees more likely to be exposed to the situations where they can encounter or observe the existence of unethical practices. More detailed analysis also reveals that the tendency to report the existence of unethical practices does not appear to be related to the management position, as the results are very consistent for all managerial groups.

Table 3 reports that among existing unethical practices, respondents would most wish to eliminate "*Giving of gifts, gratuities, and bribes*", "*Price discrimination and unfair pricing*", "*Dishonesty in making or keeping a contract*", and "*Miscellaneous unfair competitive practices*". The list is topped by unethical practices directly related to business relationships with business partners and business contracts while practices related to respondents' organizations' internal issues (e. g. unfairness to employees or dishonest advertising) are considered as less important. This complies with the notion reported in prior studies that Czech managers mostly see BE issues as those arising from direct contact and everyday dealings with their business partners, neglecting other dimensions of BE. In situations where large companies can exercise stronger power implied by their economic size, SMEs and large companies' responses differ. For example, "*Miscellaneous unfair competitive practices*" are viewed as a more serious problem by the respondents from SMEs (47%), rather than large companies (33%). Similarly, "*Price discrimination and unfair pricing*" is also reported more often by SMEs respondents (50% vs. 40% for large companies).

IV. 2 Management of Ethical Values in Respondents' Organizations

With regards to the effort respondent's organization is making to enhance ethical values (Table 4), it is alarming to see that one fourth of respondents said their company is not making any effort at all and another 14% answered "*Yes, but very little*" (when combined, 38% of the answers). In contrast, only 14% think their organization is making effort to promote ethical values "*eagerly*".

As for the differences between SMEs and large companies, as expected, big companies' approach appears more active. According to the results, 77% of respondents from large companies answered '*Yes, eagerly*' or '*Yes, to some extent*', while in SMEs the combined percentage is only 51%. The explanation behind this results seems to be the generally held opinion that SMEs have "other things to worry about" than BE or CSR issues (Travníková, 2005; Čaník and Čaníková, 2006). Furthermore, large companies are often linked to foreign (Western) companies or investors who bring more sophisticated attitudes to BE from their own country. However, it is also important to point out that in many cases, small companies practice BE attitudes intuitively without institutionalizing them, and the effort on the part of such companies may not be recognized as the effort towards BE enhancement (Čaník and Čaníková, 2006).

The analysis also focused whether the way the respondents assess organization's BE effort is related to managerial position. When the answers "*Yes, eagerly*" and "*Yes, to some extent*" were added up, no significant differences was found for the groups of middle management (upper or lower) and non-management personnel. However, it was interesting to see that the responses of the group of top managers differ. Contrastingly to the rest of the sample, top managers tend to view their organizations effort as insufficient. Only 46% of them have answered "*Yes, eagerly*" or "*Yes, to some extent*", while 31% of top-management think the effort made is 'very little'. This may be caused by the fact that top managers are likely to be better informed of BE or CSR instruments and are in better position to see their organization's activities in larger context. Being aware of all possible ways to enhance BE, top managers may qualify the organization's effort as insufficient although from the viewpoint of lower managerial level the effort may seem enough. The answer may also reflect the fact that top managers are the main decision makers, who, fully aware of BE and CSR importance, may feel frustrated by insufficient resources they have at the disposal for BE and CSR enhancement¹³. This would be supported by the results of previous studies documenting that a number of managers show active interest in BE and CSR, but state they currently lack the resources for the development of BE and CSR in their organization (Čaník and Čaníková, 2006).

As far as the instruments used to enhance BE are concerned (Table 5 Panel A), overwhelming majority of companies rely on *corporate philosophy including ethics* (86% of respondents who answered the question), followed by the use of the *code of ethics* as distant second (46%), *contribution to social/cultural activity* (43%), *punishment for unethical conduct* (34%), and *employee training in ethics* (27%). According Table 5 Panel B, on average, companies use three different business ethics enhancement instruments. Differences between SMEs and large companies are also confirmed again. While the average number of different ethical instruments used by large companies is 3.9, for small companies it is only 2.4. It is also noteworthy that only 6% of big companies reported the use of *social auditing*, which is in contrast with the finding of Čaník and Čaníková (2006), who report that social auditing along with the use of code of ethics are BE tools receiving most attention.

On sorting the answers according to the management position for SMEs and large companies separately, interesting results were obtained (Table 5 Panel B). While for large companies the average number of ethical enhancement tools reported by the respondents decreases with the managerial level (with the exception of "other"), for SMEs the same number increases with management level (with the exception of "other"). This discrepancy points at the fact that lower level employees may be less accurately informed of BE tools in use by their company or the possibility of insufficient BE trainings. However, a large sample size and deeper analysis is needed to shed more light on this issue.

IV. 3 Responsibility to Various Social Groups and Respondents' Experience of Ethical Conflicts

Among various social groups, respondents think company is most responsible to *customers*, followed by *employees* as distant second, and *stockholders*, *suppliers* and *society in general* (Table 6). It is not surprising to see that respondents do not feel strongly responsible to government, which can be explained by a high level of scepticism of population towards institutions or public sector as reported in the CR (Travnickova, 2005). We contend that the lower level of responsibility to local community may be implied by communist history.

Slightly more than a half of respondents have experienced ethical conflicts in their career (Table 7), with some difference between SMEs and large companies – while 43% of respondents from large companies have experienced ethical conflict, in SMEs it was over 55%. Respondents have most commonly experienced conflicts related to “*honestly in internal communication*”, “*gifts, entertainment, and kickbacks*”, and “*firings and layoffs*” along with “*honestly in executing contracts and agreements*”, closely followed by “*fairness and discrimination*” and “*honesty in external communication*” (Table 8). Ethical conflicts respondents have experienced usually involve suppliers, employees, customers, colleagues, and competitors (Table 9). The finding that the most common type of ethical conflict is honesty in internal communication and the finding that employees and colleagues belong among the four most common social groups involved in the ethical conflicts respondents have experienced suggest that the perceptions of BE in the CR are changing and BE is beginning to be understood as an internal issue.

Respondents were further asked whether they reported the unethical practices they have experienced and if not, why. According to Table 10, in 74% of cases unethical practices went unreported. While 24% of managers gave as a reason that “*even if reported, it would be difficult to correct the unethical practice*”, 21% stated “*it was difficult to decide whether the practices were ethical or not*” (Table 11). As for the large amount of answers in the category of “*other*” (reasons), majority of them fell in two groups. The first can be summarized as saying they have never experienced an ethical conflict, so there was no reason to report it. The second one is related to managerial positions – top-management respondents said they had no superior to report to or had sufficient authority to solve the situation without superior's intervention.

IV. 4 Factors Influencing (Un)ethical Decision Making

The survey also examined the factors influencing (un)ethical decision making. In making **ethical** decisions (Table 12), “*One's personal code of behaviour*” was reported as the strongest factor, followed by “*company policy*”, “*the behaviour of one's superiors*”, and “*the behaviour of one's equals in the company*”. “*Ethical climate of the industry*” was considered as the least influential factor. These findings are in contradiction to previous studies repeatedly suggesting important role (or even key role) of leadership by example in Czech organizations (e. g. Travnickova, 2005). To understand this discrepancy better, we tried to see whether the company size or managerial position had any influence on the distribution of the answers. When the responses were arranged according to the management position, mixed results were obtained. Despite that, it was possible to observe increasing importance of ethical climate of the industry with increasing position in the company hierarchy. One possible explanation might be that the more responsibility managers have, the more external factors they need to consider in making their decisions, including overall ethical climate of the industry.

As for the issue raised earlier (weak influence of the behaviour of superiors or colleagues), we can only note that the importance of superiors for respondents in making ethical choices rose with decreasing management level (untabulated)¹⁴. This may be explained by the fact that with lower position, an employee has less power and authority and thus may tend to turn to superiors as opinion leaders more often.

In addition, two interesting findings should be mentioned. First, the results suggest that ethical climate of the industry plays more important role in ethical decision-making of SMEs (median rank 4.0) than in big companies (4.5)¹⁵. The reason may be that small companies are more open and more exposed to the outside environment and thus need to consider its current state more carefully than big companies. The second interesting finding is that in big companies, respondents reported stronger reliance on one's personal code of behaviour than in SMEs. It is left to future research to provide more insight into this finding.

As for making **unethical** decisions, personal financial needs were reported as the most significant factor, followed by company policy or lack thereof, and the behaviour of one's superiors (Table 13). Financial needs reported as the main reason for unethical conduct are well in line with previous literature documenting the tendency of the Czech to see unethical conduct more as a problem of individuals, rather than companies (e. g. Putnova, 2000; Čaník and Čaníková, 2006). The lack of company policy as an important unethical conduct factor may be related to the legislature and general policy vacuum (in public as well as private sector) that existed in Czech economy during the transformation process and the fact that BE and CSR concepts are still new for Czech businessmen. Although social demand for more clear guidelines existed, they were not provided or systematically executed, so this answer may also show lingering frustration of the inexistence of clear ethical rules to follow. Similarly to the previous question, the behaviour of colleagues or superiors does not belong among the most influential factors, although its importance increases with decreasing management level.

IV. 5 Hypothetical Situations

Finally, the respondents were presented with four types of hypothetical situations. In each case, they were asked what they would do in a given situational context and what they think an average businessman/executive (AE) would do. The responses are summarized in Table 14.

Situation 1

In Situation 1 **respondents** were asked what **they** thought about an executive padding his expense account. As the table documents, 68% of respondents think this behaviour is *"unacceptable regardless of circumstances"*. In contrast, 27% of respondents think it is *"acceptable, if the executive's superior knows about it and says nothing"*. These answers indicate the respondents are willing to follow the attitude displayed by the superior's behaviour. This corresponds to the findings concerning the factors influencing (un)ethical behaviour, where superiors were not considered the major factor, and at the same time were reported to be more influential factor that the behaviour of one's colleagues (the option *"acceptable, if other executives in the company do the same thing"* was only chosen by 5% of respondents).

The answers regarding what **an average manager** would think differed. Most respondents said that an average manager would think the behaviour is *"acceptable, if the executive's superior knows about it and says nothing"* (40%), followed by *"acceptable, if other executives in the company do the same thing"* (32%) and then *"unacceptable, regardless of circumstances"* (28%). This shows that Czech managers tend to regard themselves more ethical than the average. The findings related to Situation 1 also finally shed some light on the discrepancy identified in Table 12. Corroborating the findings from Table 12, the answers to Situation 1 suggest that the notion that "leadership by example" works and that it is a very significant factor influencing the conduct of Czech managers, is the respondents' opinion of the common situation in the industry (average manager). However, when managers are asked to provide answers concerning their own behaviour and motivation, their responses reveal that this factor is significantly weakened and that their own behaviour is more strongly influenced by personal code of ethics or company policy (Table 14). Alternative explanation is that the answers may also be influenced by social desirability.

Situation 2

Situation 2 concerns managers' willingness to hire an employee to obtain technological secret which would improve the position of their organization vis-a-vis major competitors in the same industry. As Table 14 shows, while 80% of respondents would probably hire the employee, 20% probably would not. As for the opinions of an average manager, the ratio is as high as 97% of opinions stating that average manager would do so and mere 3% stating he probably would not hire the employee. These findings confirm that respondents view themselves more ethical than the average, or, alternatively, they view the average less ethical than themselves. These findings may also partially reflect the "double standards" repeatedly reported by prior studies (Travníková, 2005; Čaník and Čaníková, 2006) referring to the fact that Czech managers tend to make distinction between unethical behaviour that brings benefits to their organization ("good unethical conduct"; often belittled in importance and not requiring strong punishment) and unethical behaviour that directly harms it ("bad unethical behaviour"; should be punished and persecuted).

Situation 3

In Situation 3, respondents were asked what they would do if the minister of a foreign nation offered them help in obtaining a contract in exchange for a 'special consulting fee'. When answering for themselves, 38% of respondents said they would *"refuse to pay, even if sale is lost"*, while more than a half said they would *"pay the fee, feeling it was unethical but necessary to help insure the sale"* and 9% would *"pay the fee, feeling it was ethical in the moral climate of the foreign nation"*.

These answers reveal that this kind of situation would expose 54% of respondents to an ethical dilemma, which they would finally solve by suppressing their personal ethics in favour of the interests of their organization. This is contradictory to the answers in Tables 12 and Table 13 where ethical climate of the industry was regarded among the least influential factors in respondents making (un)ethical decisions.

When talking about an average executive (AE), strikingly few (5%) respondents stated that AE would *"refuse to pay, even if sale is lost"* (For comparison, when talking about themselves, 38% of respondents said they would do so). Another 61% think that AE would *"pay the fee, feeling it was unethical but necessary to help insure the sale"* and the remaining 33% said he would *"pay the fee, feeling it was ethical in the moral climate of the foreign nation"*. These results again suggest respondents view themselves as more ethical than they view average managers.

Situation 4

Finally, in Situation 4 respondents were asked what they would do if they were a sales manager and found out that their salespeople are giving money to purchasing agents to obtain more sales. While 15% of respondents reported they would *"issue an order stopping future payments and reduce salespeople's pay in the amount equal to their commissions on the sales gained as a result of future payments"*,

59% would *"issue an order stopping future payments, but do not reduce sales people's pay"*, and 25% would *"say and do nothing"*. These responses suggest that unethical behaviour favouring the respondents' organization would be largely tolerated, in the sense that even if managers tried to stop it, they would not punish it (59%), or no attempt to correct this unethical practice would be made (25%). Again, we can see the manifestation of "double standards" as mentioned above.

When asked about an average sales manager, 70% of respondents think average sales manager would *"say and do nothing"*, 23% that he would *"issue an order stopping future payments, but do not reduce sales people's pay"*, and only 7% are of the opinion he would *"issue an order stopping future payments and reduce salespeople's pay in the amount equal to their commissions on the sales gained as a result of future payments"*. These answers again confirm the general scepticism of average managers and better view respondents hold of themselves when compared with an average manager. The gap is especially obvious when respondents talk about saying and doing nothing – while 25% of respondents ticked this answer when talking about themselves, 70% of respondents think this is what an average manager would do.

To summarize, the situational questions reveal a difference between theoretically stated ethical principles and preferences as summarized in the previous parts of this section, and behaviour when faced with real situation. This points towards the need for more practically oriented trainings, rather than theoretical explanations or materials, which may be understood as moralizing. Furthermore, the answers to hypothetical situation demonstrate different perceptions of one's own ethical standards and those of average managers, who are viewed as much less ethical.

V Conclusion

Through a questionnaire survey, this study investigated the views of BE held by Czech managers and non-managerial personnel of private and public organizations in the CR. Four BE areas, namely, the management of BE within the respondents organizations, respondents opinions of BE practices in their industries, their experience of ethical conflicts, and the factors influencing un(ethical) decisions were examined. In addition, survey participants were also presented with four different hypothetical situations, and they were asked what they would do and what an average manager/executive would do in such situations.

The results show that 61% of organizations are making more than "very little" effort to build ethical values in their organizations. The most common ethical enhancement instruments are corporate philosophy, code of ethics, contribution to social/cultural activity, and punishment for unethical conduct. When compared with SMEs, large companies make more active effort and on average use a larger variety of different BE instruments than SMEs. Managers feel most responsible to customers, employees and stockholders, while the responsibility towards government or society is rather weak.

Unethical practices are seen to be widespread - 78% of respondent report the existence of unethical practices in their industries. Bribing, unfair competitive practices, breaking or violating contracts and unfair pricing practices are perceived as the most serious issues. Slightly over a half of survey participants have experienced an ethical conflict in their career, most often related to honesty in internal communication, offering bribes, and firings and layoffs. The fact that honesty in internal communication is the most often cited cause of ethical conflicts may suggest changing understanding of BE, which is beginning to be seen as an internal issue. However, more studies are needed to verify this notion.

While one's personal code of behaviour followed by company policy were reported as the most influential factors in making ethical decisions, personal financial needs and lack of company policy are viewed as the strongest factors for unethical decisions. In both cases, ethical climate of the industry was perceived as a relatively weak factor; however, the answers to other questions reveal a discrepancy between theory and practice and indicate that respondents own ethical standards are not in reality as influential as respondents would wish. Our findings also indicate that respondents' answers are biased by social desirability.

Providing more detailed view, situational questions largely support the above findings. However, as mentioned above, they also reveal a difference between theoretical answers and respondents' behaviour when facing real situations.

The results of our study should be interpreted with caution. First, we acknowledge the limits of our study caused by the fact that the group of manufacturing industry and the group of large companies are slightly underrepresented, and the sample is relatively small. Despite that, we think that the findings point at some important trends and have enough validity to be taken into account. Furthermore, as repeatedly pointed out in the paper, respondents' answers may be influenced by various sorts of bias. In particular, social desirability seems to play a role, and it was also possible to observe that with increasing management position respondents were more reluctant to provide any answer which might make them appear as unethical. Moreover, when reading the results it is important bear in mind that generational difference plays a more important role in Czech as well as other ex-communist countries than the rest of Europe. It is so because the respondents from the age group of 40 and higher have spent most of their lifetime under a non-democratic regime suppressing their opinion, but at the same time simplifying many decisions due to the limited freedom of choice. As with any other surveys, we must not forget that self-selection also plays a role in our survey. It is likely that organization that do not consider BE issues important will be less willing to return a completed survey. The results will be thus more optimistically biased in the sense that they come from organizations (individuals) with at least certain amount of awareness of BE. Finally, it is also possible that answers to some questions are biased by the prevailing impact of the recent economic crisis, as sluggish or declining economy tends to worsen the view of business environment.

Our study contributes to our understanding of BE in the CR in several respects. To our knowledge, this is the first study of BE in the Czech Republic of this extent that has been conducted since the economic crisis that hit the world economy in 2008, and as such, it can provide interesting insights in BE perceptions in the post-crisis environment. Furthermore, majority of previous comprehensive BE studies in the CR are rather old, as the most recent one we have been able to find dates to 2006, which is a long time in the fast changing business environment of transitional economies. Another point is that unlike many previous studies, which either focus on in-depth investigation of one single BE instrument (Transparency International, 2006) or broadly cover CSR issues and consider BE just a part of them, our study is monothematic in the sense that it solely focuses on BE. Last but not least, our sample composition to large extent reflects opinions of SMEs, which are often neglected by other researches, as SMEs are likely to employ less sophisticated BE policies and instruments. We believe that our findings can be beneficial for any organizations focused on BE promotion or BE training. The findings of our study provide useful insights of how BE was perceived in 2010 and as such they can help these institutions better target their efforts. Our results can be also used for educational purposes. BE studies are still a new subject at Czech universities and teachers still largely use teaching materials originated in other countries. Last but not least, our study can also provide more accurate information on Czech business environment to businessmen, often relying on their own experience when assessing business practices in their field (country), or any other economic subjects interested in cooperation with Czech companies.

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Footnotes:

¹ Czech population in March, 2010 was about 10,500,000 inhabitants; 2009 GDP per capita 18,971 PPS (Purchase Power Standard). Czech Statistical Office, <http://www.czso.cz/>.

² Czech Republic has been EU member since May, 2004.

³ Transparency International CR, Business Leaders forum CR, AISIS, VIA Foundation, CG Partners, SCR Consults, Ethical Forum of the CR, etc. can serve as the examples of such organizations.

⁴ The uncertainty implied by insufficient knowledge of local business practices, and among them especially those related to ethical issues or legal aspects of doing business, is an important factor for companies in their decision about the location of their investment.

⁵ In 1993 former Czechoslovakia peacefully split up into two sovereign countries – the Czech Republic and the Slovak Republic.

⁶ However, Czech economic agents realize it does not necessarily mean a higher **level** of BE on the side of foreign companies. In fact, certain amount of Czech managers are of the opinion that while foreign companies have devised more sophisticated ways to enhance BE or CSR, they have at the same time become very apt at finding ways how to avoid acting in accordance with them. BE or CRS instruments thus in many case become mere PR tools, rather than efficient ways of increasing overall level of BE and CRS (Travnickova, 2005).

⁷ Čaník and Čaníková (2006) also find that a significant portion of SMEs managers believes ethical practices can be developed through personal communication and shared company culture, with written rules or ethical code considered unnecessary.

⁸ This study is part of a series of studies conducted worldwide (e. g. Korea, Japan, China, Bhutan, USA) based on the same survey instrument.

⁹ Recommendation 2003/361/EC regarding the SMEs definition, <http://ec.europa.eu/enterprise/policies/sme/>

¹⁰ Based on the portion of Czech GDP originated in SMEs and large companies, large companies (38% of the sample) are slightly underrepresented (about 40% of Czech GDP is originated in large companies), data for 2010, taken from the official website of the Czech Statistical Office (<http://www.czso.cz/>).

¹¹ The country culturally closest to CR is the Slovak Republic. Nevertheless, even in Slovakia the proportion of religious population (84% of population in 2001) is much higher than in the CR (31% in 2001). Both numbers are taken from the official website of the Czech Statistical Office (<http://www.czso.cz/>).

¹² This fact is relevant in relation to the answers provided in Tables 12 and 13 (survey participants' responses regarding the factors influencing their (un)ethical decisions).

¹³ As the proportion of respondents at the top-management level is lower for large companies than for SMEs (See Table 1 B), we also conducted the analysis of responses according to the management level for SMEs and large companies separately. The above findings have been confirmed. Not tabulated.

¹⁴ The answer to the question raised here is further discussed in relation to the results reported in Table 14 of this paper.

¹⁵ Untabulated.

Tables:

Table 1 (Panel A): Descriptive Statistics of respondents

Descriptive Statistics		
1. Age		<i>N=60</i>
	29 or under	10%
	30-39	42%
	40-49	20%
	50 or over	27%
2. Education		
	High school graduate or less	12%
	Bachelor' degree or vocational school	13%
	Graduate school	75%
3. Management position		
	Top management (president, chairman of board, executive director and board member)	22%
	Upper middle management (functional department head, assistant director of department and	32%
	Lower middle management (functional unit head)	32%
	Other (non-management personnel, assistant manager, supervisor and government officer)	15%
4. Industry		
	Manufacturing	14%
	Non-manufacturing (mining, construction, transportation, and other service industries)	86%

5. Company size: number of employees*		
	1-49 (Small enterprises)	38%
	50-249 (Medium size enterprises)	25%
	250 or more (Large enterprises)	37%

*Company size classification is based on Recommendation 2003/361/EC regarding the SMEs definition commonly used within the EU (<http://ec.europa.eu/enterprise/policies/sme/>).

Panel B: Number of respondents by management position (SMEs vs. Large Companies)

Company Size	Top (%)	Upper – middle (%)	Lower – middle (%)	Other (%)
SMEs	76.9	73.7	52.6	44.4
Large	23.1	26.3	47.4	55.6

N=60.

The Pledge as a Legal Instrument for Reinforcement of the Contract

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Abstract

The contract is made with the aim of achieving harmonized interests of contractors. Contractors, such as the seller and the buyer, initially align goals and mutual interests and, as such, they set in the contract, in order to realize in practice. This is the normal course of contracting and contractual implementation. However, in practice, it often happens that, at least one contractor to disobey them adequately its contractual obligation and, to the extent and in what form, to damage the contractor. After that, the judicial proceedings for the realization of contractual requirement of contractor damaged, to the extent of consideration, is complex and lengthy, in that proceeding, the damaged contractor, again, is disadvantage. Consequently, in practice, are applied forms of respective insurance forms of contractual of request of contractual creditor. Such a practice is called "instrument for reinforcement the contract". Instrument for reinforcement of the contract, is regulated with a clausal of contract and presents its accessory element. When the contract is perfected in accordance with contractual terms, contractual enforcement instrument, is not activated and vice versa. In theory and in practice, are recognized and applied multiple instruments, and different to enforce the contracts, among which, worth to be emphasized the Pledge.

Keywords: the pledger, pledgee, Contractor, liability, insurance

Introduction

Pledge (in movable goods "res mobiles", while, on real estate "immobile res" – imobiles) -pledge) is practiced as suitable instrument for securing the contract. The good "res" loaded with pledge, should be available on the market but can be ideal part of it. Also, instead of the good, can also be pledge a property right which is appropriate for the creditor in order to achieve the contractual requirement to provide it. The contractual right of pledge is a real type of insurance liabilities, unlike bail, which also is one of the instruments of insurance liabilities, but of personal character. So bail, is a personal instrument of liability insurance, while, pledge, is a real instrument in the same function.

However, the movable property pledge "pignus" or on real estate "mortgage" is the safest instrument for reinforcement of the contract of bail, which relies on personal components, moral and values assigned to bail, which, as such, in practice, cannot monetized as practicable to the thing charged with pledge.

The right of pledge

The right of pledge is a real right, with what its holder is not authorized to use the pledge, but only to dispose for contractual fulfilment of contractual demand unfulfilled from his debtor and, when is found that the debtor has failed in fulfilling the certain contractual obligation.

With pledge contract, the debtor, as the pledge debtor is obliged to, he or another person, as pledger, to give any movable good to pledge creditor, in which there is a right of property, so that he before other creditors can collect from its value, if the request will not be paid before expiry, whereas, the pledge creditor, owed that, the taken thing to save and maintain and after its request, to return to the pledger.

The right of pledge profit

For acquisition of the right of pledge, the pledge contract is a legal base "titulus". Except titulus for pledge contract is required the ways of getting the pledge "modus acquirendi", which is realized at the time of receipt of the pledge.

Essentially, the contract for the pledge, even though resembles the real contract, is consensual and oneroze contract. In contract for pledge is established the legal report for the pledge between the creditor and debtor of the pledge. Usually, the pledger is the entity that has the right to request from legal-binding relationship. When a bank lends (loan) to borrower € 100,000 and he pledges the property with a value of € 167,000, in the contraction, the bank is lender and pledgee, while the borrower is the borrower and the pledger.

The pledger can be the borrower but also the entity (from the Roman law; POMPIUS: "PLUS CAUTIONIS IN RE EST QUAM IN PERSONA") who does not get borrowings from the lender but guarantee the borrower with the thing that use as pledge.

Such contracting is of multilateral type. The object of the pledge can be each movable or real estate good which is in circulation "res in commercial".

Also, the items in the joint, for the adequate part of the owner, can be charged with pledge. The object of pledge must be specified and defined.

Gams- considered the item left as pledge must be individualized. Pledger obtains the right in pledge when he gets the thing left as pledge. Such pledge is possessory pledge.

Pledge can be standard when the pledged object remains in the possession of the pledger. However, possessory pledge, the pledge holder is handy, because, in case of failure of the debtor's contractual pledge, the pledge can be accomplished more easily and quickly.

For valid contracting for pledge is requires that the pledger to have ingenuity of handling the pledged item. Only thing that is owned by the pledger may be left as pledge, as authorized owner to legally accessed with the "Ius Utendi" Ius Fruendi "Ius Abutendi".

By law and in practice tolerated and applied successor or pledges or pledge in pledge known as under pledge. The contract for pledge can be done to advance the thing pledged.

The pledge can be put in next duty and obligation liability, as can be conditional pledges and credit pledge with certain commercial paper. The right of pledge is also in the secondary requirements associated with the primary requirement, such as the interest, costs pledgee holder for holding securities and expenses for the realization of the pledge. The reports and legal affairs secured by pledge business, is not allowed:

- Transfer of pledge into the property of the pledgee after the contractual failure of the pledge debtor, neither
- Selling the pledge from the pledgee with a price established previously by him with the pledger.

However, is permitted that the pledgee, in legal proceedings, to sell the pledge with a price that the pledge item has as a standard and for that price he can take itself.

The pledger is obliged to submit the pledgee or a third person designated by them, the thing (res) which is the object of the contract or document which entitles the holder the exclusive right of availability with it.

Pledger and the Pledgee

Contractors, pledger and pledgee, may agree that the thing pledged, to keep together. In all cases, the pledger or other person is authorized to maintain the pledged item (the possessory pledge) is required to save the object with good care economies. When the debt is back, the owner of the thing pledged, authorized for its retention must return the object to the same condition and form as contracted.

Also, the pledgee who use pledge without the authorization of the pledger, is responsible for damage or destruction caused pledge odd in that case.

When the pledge gives fruits, (Antichresis), while, between contractors is not defined their case, they, in principle belong to the pledger. Similarly applies to benefit from the thing pledged. If pledge collateral has factual or legal defect, the pledgee is entitled to request from the pledger to replace such collateral.

In case the debtor, with time or under contract does not fulfil the contractual obligation, the creditor has the right to ask the court of jurisdiction to sell the pledge collateral in auction, and, if the pledged collateral has a stock price or market price, to sell it with current prices. Pledgee, has the right that from the realized price from the sale of collateral to pledge, to collect money before the other creditors:

- Contractual requirement (Pledge can be: legal pledge, when assigned to law enforcement; judicial pledge, which is determined on court proceeding or contractor pledge, which is stipulated from the relative contractors)
- The relevant interest rate;
- Costs incurred for the maintenance and preservation of the pledge (possessory pledge);
- Expenses for collection of contractual demand.

Negative pledge applies when the pledger, in the pledge agreement commits that pledge collateral will not impose to another pledge. Collateral is property or movable property which can be transferred legally. Joint property may be collateral on the consent of the co-owners. A person who has partial interest in movable property, that interest can leave as collateral. With pledge collateral can be ensured the total amount of the obligation secured with the pledge. With pledge can be secured some liabilities. To be a valid pledge requires that the secured obligation may be expressed monetary.

Pledge can be:

- Standard;

- Possessory and
- Cash buyer.
- Pledge can be manifested as:
- Pledge in bank account;
- Pledge in cash or
- Pledge in contractual obligation and in any movable goods.

For perfection of pledge, among other things, is required the statement of pledge (The Notification Statement), which should be recorded (must be filed). Declaration of pledge a minimum should contain:

(Pledge means an intentionally created interests in movable property that gives the pledge holder the right to take possession of such property for the purpose of satisfying or attempting to satisfy a secured obligation in accordance with the application law):

- Sufficient identification of the pledger;
- General or specific identification of the secured obligation;
- The maximum amount of the secured debt expressed in money;
- Identification of the collateral;
- Signature of the pledger or his authorized person and
- The date when the pledge was given and its registration.

According to the Law on Pledges, pledge terminate (ends) when:

- The pledger and pledgee agree;
- The obligation secured is calculated;
- The collateral finish existing;
- Collateral is changed or incorporated with any item or other right;
- The collateral becomes part of the property or other right;
- Collateral becomes property of the pledgee (the collateral becomes owned by the pledge holder).

When the debtor fails to fulfil the obligation secured by the pledge, the pledgee as creditor, if it did not have in possession the collateral (possessory pledge), pledge collateral can take in the possession through:

- Court (proceedings) action (Judicial action);
- Its action with the condition not to break law and order or
- Administrative proceeding.

In court proceedings, the pledger, may make application to the court of jurisdiction to give the order "ex parte" with which, to allow the taking of collateral in its possession as a creditor (plaintiff).

The court, in unusual circumstances, decides for the issue within three days of conform to the application of the pledgee. In three other days, the pledger or the person authorized and legal legitimate active (legal interest), may exert contrary to the court's decision for allowing dismission of pledge and the court, also, within the same time must decide by opposition.

The decision by the opposition and decision against whose within three days is not exercised the objection, becomes final, so that, pledgee, may proceed with the execution of the pledge.

When the pledge is a possessory, judicial processing is shorter, so that the pledgee, from the court of jurisdiction requires ex parte to allow the sale of collateral of pledge.

In the case of not fulfilling the contractual liability of the debtor (pledger), the creditor (pledgee), can sell the pledge, to hire or dispose of, and the incomes of such pledge collateral, should dispose for:

- Reasonable expenses for taking in possession, putting on sale and realization of sale of collateral of pledge;
- Fulfilment of the obligation secured;
- Fulfilling the obligations to the subsequent pledgee on the same collateral and
- The rest part (if there is any left part) is returned to the pledger.

Except on the case when is contracted differently, the pledger remains liable to the pledgee for the debt which cannot be covered by the sale of pledge collateral.

Alienation of the pledged collateral, compliance with contracts and local shopping habits, can be realized:

- At public auction or in
- Private sale (if the pledge holder proceeds by Judicial action scarf times file an application with the Court with appropriate jurisdiction requesting on order ex parte and without notice to the pledger or any other person authorizing the collateral to be seized and delivered to the Pledge holder pursuant to Judicial process). However, the pledgee, before, must inform the pledger and other pledgees in the same collateral, for the day and place of sale of pledge collateral. Pledgee, in principle, cannot buy the pledge collateral except when:

- Pledge collateral is sold on a recognized market or
- For collateral exist standard prices widely known.

Also, the pledgee can offer the pledge collateral for fully or partly fulfilling of the ensured demand, if:

- The pledger is agreed and
- Debtor including each other debtors, within 14 days of receipt of the offer, stating no objection. The pledge, must first register and when the obligation guaranteed is fulfilled, without delay, the same should be deregistered. Registration and deregistration of the pledge is made at the designated office for that official work.

Conclusion

We managed to understand that contract is a very important contributor instrument and liability under mandatory law and also provides a central institution within the legal communications between the contracting parties.

In legal theory, the contract is defined as will consent between two or more parties to which they come for the purpose of ascertaining, change or break the relation of any legal liability. So, contracting is done with the aim of achieving harmonized interests of contractors. Contractors, such as the seller and the buyer, initially align goals and mutual interests and, as such, is set in the contract, in order to realize in practice. With pledge contract, the debtor, as the pledge debtor is obliged to, he or another, as pledger, to give any movable good to the pledge creditor, in which there is a right of property, so that he before other creditors can collect from its value, if the request will not be paid before expiry, whereas, the pledge creditor, owed that, the thing that he takes, to maintain the item taken and return it to the pledger.

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Entrepreneur of the Regime Change - the Fusion of the Hungarian Economy with Organized Crime

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Abstract

In recent years the Hungarian administration of justice trialed some of the most famous murder cases of the 1990's which were contract killing between organized crime groups. These trials brought up many new information about the life of organized crime gangs and given a better opportunity to criminologist to understand the recent activity of the organized crime gangs. I wrote my thesis about how organized crime successfully survived the crisis of the regime change. The following research based on a tight cooperation with Pest County Police Headquarters where I analyzed criminal files about organized crime gangs after the regime change. The main question of the research was: what sociological and economical factors contributed to the strengthening of organized crime In Hungary? Where can we discover the responsibility of the state? How state regulation affected organized crime? The present days organized crime roots from illegal criminal groups existed in the socialist period. Thanks to the liberal economic reforms in 1981 the second economy had a great economic potential during the socialist period. Organized criminal groups often invested in private sector thus corporate crime became linked to organized crime. Due to their better economic conditions the criminal networks could establish different kind of private ventures, like restaurants, pubs or tobacco shops. After the declaration of democracy many organized crime networks took advantage of regulatory gaps. They preserved their status and informal capital from the second economy. Due to the economical change the new entrepreneurs informally forced to borrow capital from organized crime groups, or they used these group's money to recover their debts. They could not turn to court because of their illegal transactions. Other organized crime networks misused government subsidies and created semi-firms, which could operate successfully due to the problems of state control. My research seeks to show that during the third Hungarian Republic from the 1990's organized crime groups have worked with the help of entrepreneurs. Due to the economic crisis of 2008 and the emergence of political extremism the organized crime groups became number one public enemies, who are again using the same methods what were successful during early 1990's. A kind of semi-legal market and entrepreneurship has developed since 2008.

Keywords: Entrepreneur, Regime Change, Hungarian Economy, Organized Crime

Introduction

The political-economic system change of 1989/1990 effected Hungarian organized crime syndicates as well. With the change of legal frameworks, it became harder for authorities to keep track of organized criminal activities. Society at large started fearing the unknown, since during socialism the entire concept of organized crime was *terra incognita* for the majority. Through a notorious case, I wish to explore how organized criminal activity transformed as a result of the system change.

I wish to prove, that criminal successfully exploited the transformational crisis and the ensuing legal loopholes caused by the system change. János Kornai identified the collapse of former export markets as one of the symptoms of this transformational crisis. My research shows, that this was indeed one of aspects of the system change that organized crime syndicates successfully exploited. Other important causes of the transformational crisis included the low efficiency of bureaucracy, the underdevelopment of the financial markets and the persistence of strong grey and black economies.

"The chaotic transition of the Soviet Union to the market economy created the conditions for the widespread penetration business activities in Russia... by organized crime." According to sociologist Manuel Castells (2007: 200), this process helped intensify legal and illegal trading activities with the post-soviet area. In a 1994 report, the Center for Social and Economic Analysis – a background institution of the Office of the President of Russia – estimated that around 10% of economic actors in Russia were involved in illegal economic activities, with illegal transactions equaling 20% of the capital worth of the regular economy (Izvestiya 1994).

Through a Hungarian example, I wish to highlight, that throughout Eastern Europe, informal ties and legal or illegal business models developed throughout socialism remained predominant in these newly emergent market economies. I believe it to be telling, that many of the people killed during the mafia vendettas of the 90s in Hungary were businessmen involved in either legal or semi-legal activities, through which they were making serious profits (Barnóczy – Prókai 2012). The Russian newspaper *Kommersant* practically ran an obituary on Hungarian businessmen murdered in mafia vendettas (Goldman 1997.).

In this paper, I wish to show how the *new capitalists* that emerged following the system change, fused together with the newly emerged organized criminals. I wish to prove, that Mr. József Stadler was and would have been a successful businessman without associating himself with criminal elements. I also wish to refute the popular perception – perpetrated by the media – that Mr. Stadler was nothing more than a tax evader: such an interpretation of his activities greatly oversimplifies the truth. The reason this perception emerged, was largely due to the fact that economic journalists of the day, did not have a profound understanding of the dynamics of the new, capitalist market. Indeed, the quality of such investigative journalism remains questionable even today. It should also be underlined, that the journalists that took issue with Mr. Stadler, almost exclusively focused on the uncertain political aspects of the case (Index 2001), although given the evidence that was at their disposal at the time, they could and should have been able to see the much more tangible interests motivations behind the dubious entrepreneurs actions.¹ József Balla points out, that court cases of rural districts, are primarily taken-up by freelance journalists, who feel pressured to produce entertaining articles, in order to sell them to newspapers. From such an *infotainment* perspective,² the twenty years old girlfriend and the oil painting of the entrepreneur proved to be the most important aspects of the case. In order to dig-up the juicy details, such journalists endeavored to build close relationships with accomplices of Mr. Stadler. For all practical purposes, this means that such “cooperation (however we may judge it)” determines “the angle the readers of the story get the following day, that is to say, the aspects of the case that are thrust into the public eye” (Balla 2001a). We should however mention that even information derived from such information, may produce factual errors, even in extensively researched books, dedicated wholly to the subject (Ambrus 1995).³

Penetration of organized crime into the economy

I hypothesize that following 1990, organized crime syndicates underwent a qualitative change due to the transformations in the economy and the legal system in Hungary. This is why my research only extends only until September 15th 1997, when the legislator instituted the term of ‘organized crime syndicate’ into the penal code with the LXXIII. law. Examining the timeframe of 1980-1990 is especially important from an organized crime-criminology perspective, since the effects of today’s organized crime activities are hard to fathom. This is why taking a historical perspective is more justified. There is much to explore, highlighted for example by the fact that many of the vendettas of the 90s are still shrouded in uncertainties.

The case of József Stadler – an entrepreneur from Akasztó – became one of the most iconic cases of the 90s, calling the attention of the wider public to the deficiencies of the newly emerging market economy in Hungary. Due to the intensification of vendettas and other high profile economic crimes (Globex, Postabank-case) during the second half of the decade, the public forgot the significance of the Stadler case. Journalists and other experts tended to focus on later crimes in their books (Mong – Vajda 2009) or articles (Diós 2009).

Through a series of interviews conducted with police detectives, it quickly became apparent that for the reasons mentioned above⁴, the case of the entrepreneur from Akasztó – along with his motivations, and the criminal techniques applied – quickly faded from the agendas of criminal justice conferences and symposiums as well. In the meantime, the case file grew so thick, that involving new detectives in the investigation became increasingly difficult, and eventually impossible. Just bringing new officers up to speed through a detailed overview of the files would have taken several weeks at first and would have later taken several months at least. According to one of the detectives, one of the house-

¹ Refreshing exception József Ballai, who had done extensive investigative work in connection with the Stadler case.

² The information (information) and entertainment (entertainment) English nouns flattening of the resulting concept.

³ This kind of suspicion already appeared earlier works of Ambrus. See: Zelei Miklós: Még egy kis Ambrusológia. *Beszélő*, 1990/ 1., 3.

⁴ Interview with “B. M.” police colonel 2013. 02. 24.

searches alone yielded several hundred kilogram bags of documents, occupying 40m² of storage space¹. Undoubtedly, one of the most ironic elements of the case is the fact, that the case documents – totaling several tons – are nowhere to be found. They are not in the police archives, and according to my inquiries, they are not in the Hungarian historic archives either. By all accounts, it seems that they have been scrapped.²

Throughout my research, I conducted interviews with retired and still active police officers – 4 all together, who were investigated the Stadler case. These proved immensely useful to fill in the gaps left by the case files, and in complementing the information found within them as well. Although I followed the chronological order of the case during the interviews, in order to be able to uncover new pieces of unexpected information, I employed a semi-structured interview structure (Kovács 2007). The success of the methodology used, is largely dependent on the interviewees level of trust towards the interviewer. Most of my subjects wished to stay anonymous. In order to avoid possible “*interview-traps*” I have used the Gabriele Rosenthal (2006) method, treating all interviews as a related narrative, and taking notes on the meta-communicational signals of the subjects, interpreting the entirety of the interviews.

Difficulties of investigating organized- and economic crimes

In the following, I will review the effects that the political system change of 1989 had on the police force's relation to investigating economic crimes. By doing so, I hope to shed light on the true nature and extent of the influence of Mr. Stadler in this process. The following analysis aims to showcase that the entrepreneur from Akasztó was – and would have remained – a profitable businessman without committing economic crimes. This assertion is also closely related with the rejection of the assertion that the main source of illegal revenues of Mr. Stadler came from VAT fraud. The fact that the media persistently identified him as a VAT fraudster is due to several things.

For one, journalists of the day were not particularly well versed in the different methods of economic crimes. Adding to this was the misguided perception of several police officials. At the time of the system change, the social ownership protection of the police departments (TT - as how the police informal language referred to the social protection of property) were on the verge of being closed down, and with the dawn of the market economy, several high ranking police officers advocated that these not be transformed into general property protection departments. In his testimony in front of the Parliament's Oil Committee in 2000, brigadier General General Ernő Kiss said the following: “*some police leaders voiced strong opinions, that in a market economy, there was no need for any economy-related police work.*”³ This quote allows us to deduce, that some prominent police officials of the day, had an overly optimistic, vulgarized understanding of Adam Smith's invisible hand theory. Their reductionist premise suggests, that following the creation of a capitalist market economy, committing economic crimes that were perpetrated during the time of majority state ownership and incumbent state companies would become senseless.

The lack of understanding surrounding the nefarious activities of Mr. Stadler was compounded by another issue. On the 5th of January, 1990 prominent politicians from SZDSZ and FIDESZ brought charges against the State Security Service of the Ministry of the Interior, for illegally spying on opposition parties and civil society initiatives. Although, according to the constitutional modification of October 23, 1989 such methods were banned. However, the official police charges included incriminating documents, like Report 219. prepared by József Végvári, group leader of the Ministry of Interior's Interior Security group BM III/III-7. on the 10th of November 1989. The opposition parties held a press conference in the Miner's Cinema after they pressed the charges. Here they presented other reports from the same group. Reports from December the 6th, the 20th, and the 22nd contained a significant amount of information attained by covert methods (phone taping, violation of private correspondence, informants). As an immediate consequence of the ensuing scandal, Minister of the Interior István Horváth resigned his office at the end of January of 1990 (Dunagate – report 2015).

¹ Interview with “B.I.” retired police colonel, 2013.03.31.

² Interview with “B. M.” police colonel 2013. 02. 24.

³ Minutes of the Parliamentary investigative committee created to investigate any possible links between the oil business and organized crime. 2000. 10 o'clock Monday, October the 30th, meeting held at meeting room number 61 of the Parliament, accessible online at: last download: 2013.05.15 <http://www.parlament.hu/biz36/olaj/v006-021.htm>

As a result the of all the public attention the case was getting, high ranking police officials felt compelled to indiscriminately disband informant networks, including assets working in the field of criminal justice.¹ This decision proved to be detrimental. Without assets, carrying out operative investigations proved to be nearly impossible. Investigations regarding economic crimes took a particularly heavy blow. During the transition period many of these crimes were committed against the state its self.² In many cases, the damages caused were less apparent and thus went unnoticed. Counter to the pre-1989 mentality, the Criminal Code of the day did make it possible (in chapter XVII) for economic crimes to be committed against private entities, not just the state and its companies. Informally, however, the state remained at the center of the authorities' perception of economic crimes. On the one hand, the newly established private sector relied largely on the process of privatization to gain access to equipment that was once state property.³ On the other hand, through the criminalization of tax avoidance, the state retained its presence in the market economy.

At the time, the National Police Department⁴ (*ORFK*) did not have a separate property damage department. The Budapest Police Department's (*BRFK*)⁵ property damage department functioned as an operative entity only, with concrete investigations being conducted by a general *investigative* department. County police departments had property damage departments, which conducted both operative and investigative work. However, without informants, conducting meaningful operative work became impossible (Korinek 2015).

The decision not to transform the departmental structures of the police force to better suit the changing economic realities – i.e. by not converting the communal property damage departments into property damage departments, and the decision to disband the informant networks – lead to a drastic increase in economic crimes like fraud, embezzlement or malfeasance.

Both Brigadier General Ernő Kiss and Police Colonel László Tonhauser emphasized that the above mentioned decisions effected economic crimes related detective work the most. In the case of a homicide or larceny case, it is easier to find witnesses and the media can be used to aid the investigation to greater avail. In the case of economic crimes⁶ however, insider information or turned witnesses are many times the key of resolving a case, with the media playing no role in the investigative process. This is due to the fact, that intricate economic crimes are much harder to present in an intriguing way toward media consumers.⁷ It is common knowledge that many crime-investigation related movies and series portray misrepresent the actual nature of detective work to make it more sellable, economic type investigation, however is never even portrayed.⁸ Over the past twenty years, a considerable amount of investigative journalism has been focused on introducing these crimes into the perception of the wider society. Even so, the transgressions of politicians and other public office holders are those that are mostly present in the media. Economic crimes (domestic and transnational alike) committed by non public figures mostly fly under the radar – save very few exceptions.⁹

The realization and acknowledgement of these processes calls for the reinterpretation of the statistical data presented in Mihály Tóth's research paper: *Market Economy and Criminal Law*. Tóth's (1995: 4–5) data shows, that the number of crimes committed per year rose from approximately 100.000 in 1974 to over 400.000 in 1994. The most significant increase took place following the transition to the market economy. Between 1986 and 1988 the yearly number of crimes known to the authorities was 180.000 on average. This number steadily increased: to 225.393 in 1989, to 341.061 in

¹ Interview with "N.L." retired police colonel, 2013.04.17

² Interview with "B. M." police colonel 2013. 02. 24.

³ In the current tax-law (Law C. of 2000) the basic accounting equation makes it possible to describe a company's accounts by looking at the changes in tools and financial instruments. (Losonczy Csaba – Magyar Gábor: *Pénzügyek a gazdaságban*. Juvent Kiadó, Budapest, 1996. pp. 415-417.)

⁴ Hierarchically the highest national body of law enforcement in Hungary

⁵ The main police department of Budapest.

⁶ For the sake of simplicity, I define economic crimes as those that according to the Hungarian penal code, may be committed against property, since fraud and embezzlement investigations are conducted by property protection departments regardless of their placement in the penal code.

⁷ One of the refreshing exceptions from the past years is the series produced by criminal investigative journalist David Simon, entitled: "The Wire", which chronicles crime fighting in Baltimore.

⁸ Enough to emphasize the complaints of police officers who mentioned several times to the media that the citizens demand from them the techniques and methods what they saw in the TV. Fekete Gy. Attila: A magyar nyomkeresők bealszanak a CSI-on. *Népszabadság* 2009. 11. 28. (<http://nol.hu/lap/hetvege/20091128-nyomkeresok>)

⁹ Most of the exemptions may be found in print or online media forums, like the Hungarian weekly HVG, or Átlátszó.hu.

1990, to over 400.000 in 1991 and to 447.215 in 1992. According to Tóth's (1995: 4–5) data, the number of economic crimes stayed more or less stagnant at 8000/year all throughout this period. As seen from the article, the author had difficulties explaining this stagnation, saying that two-thirds of these crimes were tariff and foreign exchange related, who's: "number was constant (or at least, the amount of money spent on uncovering these crimes was)" (Tóth 1995: 5). However, this does not explain, why only the number of economic crimes stagnated, and it disregards the fact, that other departments or segments of the police force were working at full capacity as well. Tóth's argument is more useful in explaining why the number of economic crimes decreased by 1994: the opening of the borders and the transformation of the economy brought about new customs regulations as well. At the end of his explanation, Tóth suggests that the authorities are lagging behind criminals when he points to the fact, that several areas of criminal behavior were ignored by the police force. He brings the deficiencies of the 1994 criminal statistical handbook as an example. Although profiteering had been taken out from the criminal code, and the definition of unfair price increasing had changed significantly, the handbook still included the pre-system change categories (Tóth 1995: 7).

The lack of restructuring the police force following the 1989 transition, as outlined above seem like the most plausible explanation for this lack of increase in the statistics. The anachronistic language used by Tóth in his analysis and the outdated problem-understanding behind the statistics totally disregard the fact of the system change. This gives a further indication of the ill preparedness of the police force of the day.

According to Tóth, the radical decrease in economic crimes in 1994 does not indicate a "spectacular improvement" (Fekete Gy. 1995: 1) as seen by the frequency of stories of economic crimes being published in the press. Since many crimes remained hidden, Tóth only aimed at estimating the approximate share of economic crimes in relation to other crimes, to see if their importance increased or decreased. Partly based on the press material published by a investigative journalist, who interviewed the director of ORFK's criminal unit (Fekete Gy. 1995: 1), Tóth concluded that the weight of economic crimes had increased. In the frontpage article of Attila Gy. Fekete, the journalist interviewed the criminal director of the time, Antal Kacziba, who claimed that counterfeiting (Vegeta spice, Herendi Chinaware) was one of the major threats during his tenure. For the latter, unauthorized loans VAT refunds, fake collateral certificate recorded were the biggest issues. At the request of a political TV program ("A Hét") a Hungarian public opinion research firm, Sonda Ipsos made a poll, in which they found that according to two-thirds of the respondents the reason for growing phenomenon of economic crime was associated to regime change and the incomplete nature of economic rules (Fekete Gy. 1995: 6).

So while the detection of these crimes by police decreased during the first half of the 90s, according to the police officer cited by Tóth, and according to other public statements made by police leaders – that I will refer to later – the actual number of economic crimes experienced an unprecedented boom.

In 1996, Antal Kacziba, then deputy state secretary of the interior was already talking of the "explosive increase" of fraud and bankruptcy crimes, owing to the introduction of new legislation in 1994-95 relating to public procurement, bankruptcy crimes and protection of intellectual property rights. The new laws lead to an increased role of property protection departments in unveiling economic crimes. "step by step, previously only rarely used criminal categories »came to life«" (Kacziba 1996: 61).

Enumerating all the reasons for the initial latency of many crimes seems an impossible endeavor. I do however wish to identify the most important reasons. I find it essential to highlight the problems surrounding the capitalist transformation of the economy at large. Capitalist statecraft did not appear instantaneously following the collapse of the Iron Curtain in the post-socialist region of the Soviet Union. The collapse was followed by a transitional phase. Based on empirical findings, the manager-capitalist theory of Iván Szelényi shows that it was the technocratic managers and leaders of ex-incumbent socialist companies whose power and influence increased exponentially in the 90s, and not that of the small and medium entrepreneurs. In a period of low market capitalization, these managers – who mostly went on to lead the privatized equivalents of the socialist incumbents – could not create a stable capitalist market overnight. Their main assets were their informal contact networks, which they used as investable and transformable assets. During the socialist period the ownerships could be seen as a vacuum based on Pavel Câmpeanu, therefore József Böröcz (1992) emphasized the informal practices of the regime change. The system of mutual favors also played a very important constituent role in this world. These aspects of the system are stressed by Endre Sik (2012) as well when he talks about the system-specific processes of the system change. The joke of the day – cited by Szelényi (1995) – illustrates this situation: it is known,

how fish stew (socialist state) can be made from an aquarium of fish (capitalist state), however the method of making fish out of fish stew is as of yet, unknown to man.

The next reason that needs to be mentioned is the outdated justice system of the day. In 1994, Tóth pointed out that it is often the case with new crimes, that they are interpreted totally differently by the prosecution and the police authorities. At the time, it was often the case, that crucial facts of the case were only established well after the initial investigative processes, since only qualified experts, like accountants were able to certify these facts. In relation to this phenomenon, Tóth cites an article February the 7th 1995 from the daily *Népszabadság*. The title of the article is already telling: *"A lack of experts is complicating investigations into economic crimes"*. Since then, experts in this field are held in much higher regard and their pay has increased significantly. Indeed, the field has become so lucrative, that there are many fraudulent "experts". The phenomenon is well chronicled by an article in the 70th edition of *Criminology Review* written by István Jávör and Dávid Janics (2012), entitled *Corruption in the courthouse and the economy*.

Another good example is István Jávör's article (Corruption in the judiciary and the economy), which deals with the issue of abusing the system of "experts". Mihály Tóth in 1994 supported the usage of experts, especially on the side of the defense. In contrast Jávör (2011) found that the misuse of the experts changed the aim of the whole trial, facilitating endless polemics. Therefore the financial background of the defendant decided the outcome of the trial.

In 1994, Mihály Tóth argued for the extensive use of experts, advocating the defense's right to employ them as well. However, looking at the findings of Janics and Jávör, we may say, that the overuse of experts and their fundamentally different assessment of the same situations has, in many cases, lowered the overall quality of the debate in court cases.

Furthermore, it is important to highlight the question of morale and law. Here I am referring to the lack of a strong economic or tax morale. This meant that Mr. Stadler was portrayed by some parts of the media and perceived by many as a folk hero of sorts – this is clearly illustrated by the article in *National Sport* (2007). Péter Imrédy wrote five volumes on the life of the entrepreneur, entitled *"The Stadler Story"*. The language used by Mr. Stadler in the interviews in the books is simple, peasant like with an almost rustical quality – similarly to the language he used in spoken language, as illustrated by several video interviews (Index 2007). Mihály Tóth lamented the lack of a proper societal moral compass himself, blaming the paternalistic perception of Hungarian society. According to him the extensive amount of written regulations resulted in *"arbitrary reinterpretation"* of the *"everything is allowed that is not prohibited by law (written laws of course!)"* norm (Tóth 1995: 23). In other words, the lag of the speed and the unclear phrasing of new regulation in the wake of the political economic system change – and the abundance of legal loopholes – facilitated the blurring between the lines of legality and illegality. Jávör and Rozgonyi (2005: 155–157) described on the basis of level of organizational operation calls this negative legitimacy. While a positive process of legitimization of state bodies accountable to guarantee accountability, while the state administration bodies are not similar to positive action, but in the opposite direction guarantee provided to members of the society, which is an informal, social acceptance level makes the norm violation.

Entrepreneur of the regime change

In order to be able to properly interpret the criminal behavior of József Stadler, it seems useful to consider Antal Kacziba's observations on organized crime. He believes that a prime indicator of the fact, that someone is partaking in organized criminal activity, is the speed of his wealth acquisition – something observable by the extensive usage of luxury items. He also mentions the possibility of laundering money by investing into legal business activities as a possible connection between organized crime syndicates and individuals involved in illicit economic activities. According to Kacziba, this new form of cooperation was brought on by the circumstances of the 90s. Valér Dános believes that these two groups already started cooperating in the 80s as an unwanted side effect of privatization and as an inner conflict of economic liberalization.

József Stadler started exporting various products to eastern markets from the 1990s, especially to the Soviet Union, and the newly emergent Ukraine and Russia. In police testimonies made in front of the Parliament's Oil Committee, the implications of the dissolution of the Soviet Union were discussed. According to Ernő Kiss: *"the penetration of people from various parts of the state institutions into the spheres of economy has started there as well. We have the appropriate connections. Right from the start, we should have done the same. We did not however have the appropriate staff to*

conduct information gathering operations in Ukraine or even in Russia based out of Hungary." Besides the deficiencies caused by the disbanding of the informant networks, State Security's lack of adequate connections with the services of neighboring countries made uncovering trans-boarder criminal networks specializing in economic crimes practically impossible. It is likely that formerly high ranking state officials of the Soviet Union – and other eastern republics – moved to lucrative economic activities without greater difficulties, much like they did in Hungary.

Following the 1991 dissolution of the Soviet Union, many things stayed the same in Russia, many soviet traditions lived on. The Hungarian economist László Csaba makes mention of the ban on bartering, instituted by the Russian government, in order to spur the population to use the official currency (Csaba 1991). The endeavors of Mr. Stadler were also helped by the fact, that the Russian government levied a 40% tax on profits made off of exported goods. Csaba (1991) describes the economic policies of Yelcin as having a sort of folkloric quality based on *poetry and realities*. The reason being, that while the political declarations made in the media lead observers to believe that the government was perusing a sound monetary policy, in reality they continued to pursue Soviet style planning cycles (Csaba 1992). Public perception of the so-called "shock therapy" applied in the Russian Federation was, that it was forced on Yelcin by the United States and the IMF (Csaba 1992). According to *Claus Offe*, Eastern-European societies faced the dilemma of simultaneity, since they had to undergo political, economic and social transformations at the same time. However, the restrictive market economic reforms "*only come into effect under pre-democratic conditions*" (Offe 1991: 118).

So, the social support that translates into democratic legitimacy was only an illusion. The media at the time, most likely understood this very well, since as Csaba (1991) points out, that the Russian journals of the day were making jokes to the effect, that the Russian leadership didn't even translate the IMF accession requirements into Russian when they joined the Monetary Fund instead they immediately translated the Russian declaration of joining into English. Csaba (1991) believes this to be as much of a folkloric element as the possible adherence to the IMF conditionality, which would have meant a restrictive money supply policy, and the liberalization of trade. Yelcin however applied the exact opposites of these policies. Csaba (1992) however points out that stabilization is less a question of economic theory than one of technical control mechanisms (Csaba 1999). Perhaps this is the reason, that during the Yelcin period economic stabilization did not happen. According to Csaba, such stabilizations should have consisted of three main elements. First, the fixing of the exchange rate, which in turn would lead to equilibrium between black market and actual market prices. The restriction of the monetary supply would have artificially increased the availability of products. Reforms should have targeted both the expenditure and both the income sides of the budget. However, the reforms that took place in Russia between 1992 and 1996 almost exclusively target only the income side of the budget. Since economic liberalization in Russia took place without the proper stabilization, companies started accounting in USD and Deutschmark. Thus, Mr. Stadler received his income from the Russian market in these currencies as well. Having profits denominated in stable currencies was a big advantage at the time, when economic circumstances were fast-changing. The Russian state did not adhere to the strict monetary controls that it set itself at the time (Ponton 1994).

Gerashchenko once perceived as a strong supporter of the 1991 monetary reform² officially abolished more than 1000 billion ruble's worth of inter-company debts during the summer of 1992. This act, in and of its self greatly helped Russian industry, and especially companies focusing on military production. Of course, this policy resulted in the lasting instability of the ruble, and it hindered the continuation of any reforms to the overall economy. As a result, experts were acutely aware of the fact that the liberal turn in the Russian export policies would have to wait. That, convertible national currencies would not appear, and that inflation would go untamed. History has proven them right (Csaba 1992).

Grigorij Aleksevich Javlinsky, the later leader of the Russian Democratic Party (Jabloko) was strongly influenced by the thoughts of János Kornai and Michael Ellman, thus envisioning a sort of system of national capitalism (Javlinskij 1994). He discarded the notion of decentralized privatization. According to Tamás Krausz (2003), he did not want to accept a sort of periphery variety of capitalism. This meant, that even though he tried to put a stop to the *escape* of company

¹ Minutes of the Parliamentary investigative committee created to investigate any possible links between the oil business and organized crime. 2000. 10 o'clock Monday, October the 30th, meeting held at meeting room number 61 of the Parliament, accessible online at: last download: 2013.05.15 <http://www.parlament.hu/biz36/olaj/v006-021.htm>

² By decision of Valentin Pavlov – then financial minister of Russia – a certain amount of ruble's were taken out of circulation, in order to decrease the problems caused by the lack of products. According to the official explanation, the reason for the move was founded in the fight against counterfeit money. (Raddaway, Peter - Glinski, Dmitri: *The Tragedy of Russia's Reforms: Market Bolshevism against Democracy*. US Institute of Peace Press, Washington D. C. 2001. pp. 273–274.)

executives and managers from state control, he could not. State companies started instituting “double accounting”, selling more and more of their products on the black markets. This helps us understand why these companies would have been interested in being officially overbilled by their partners, since they could use such bills in their double accounting schemes. Later on, mid-level economic actors took over the state’s control function through their extensive informal networks (Szelényi – Eyal – Townsley 1998).

According to Krausz (2003), Javitsky saw these processes as *maffiacapitalism*, when instead of the emergence of market mechanisms, a system based on a sort of gambling logic emerges, which proves to be unsustainable due to the penetration of the black market, and the permanent avoidance of paying taxes. Russian liberals did not anticipate the importance of informal connections and the strength of such a culture of resistance to reform (Krausz 2003). Effectively, partaking in this informal economy became the primary prerequisite for anyone wanting to actually do business in the Russian economy at the time.

This meant that making profit became increasingly difficult on these eastern markets. Insider information, well placed informants and the exploitation of the loopholes in the laws were absolutely vital elements of success (Jávör – Rozgonyi 2005). Among other things, the financial interventions of Gerashchenko hindered the emergence of a stable market economy. Similarly to the Hungarian situation, there remained several factors that allowed József Stadler to exploit his existing contacts – and to find new ones – to maintain the profitability of his enterprises.

In 1988, József Stadler founded *Stadler LLC* with an initial capital stock of one million forints. Mr. Stadler was the chief executive of the company from the very start. At first, Stadler LLC only conducted trade within the borders of Hungary, however following the transition, the company quickly expanded to international trade. In the *Stadler Story*, Mr. Stadler says that he had started out in the 60s by buying cheap alcohol from various collectives in Bács-Kiskun County, and selling it to neighboring pubs and restaurants at a profit (Imrédy 2008).

In the 80s, Mr. Stadler bought copious quantities of wine from these collectives, which he stored in wine cellars in Pest county until an opportunity to resell them at a profit presented itself.¹ This kind of activity was illegal, but in the book Stadler frames it, as a perfectly legal business model. However, he contradicts himself later on in the book, when he says, that what he was doing could only have been conducted legally by the commercial departments of the collectives. Stadler admits that he made special arrangements with these departments, to have some trucks delivering wine directly to his cellars.

By 1988-89 he’d established such good relations with the leaders of various collectives, that he already had a good grasp on the workings of the wholesale distribution networks in the country. He started buying alcohol from the factory, and he built a large distribution network, operating with his own trucks. At the time of the system change, the manufacturers and wholesalers that Mr. Stadler had been doing business with got into a tough spot (Paládi 1988). The COMECON formally ceased to exist on June the 28th of 1991. Several companies lost the markets that they took for granted overnight: the Nagyőrös canned food factory the SZOBI fruit concentrate factory, the Kőbánya beer factory or the Budafok wine cellar. This meant that Mr. Stadler could buy up their products dirt cheap. In 1990, the coalition Antall government was formed between MDF, KDP and FKGP. The eastern markets were not overly important for these parties. The infamous “Tavarisi konyec” (it’s over comrades!) poster of MDF symbolized the mentality of the governing coalition (Sárközy 2012). In reality, the reason for this distancing had more to do with the fact, that the economic supporters of the new government did not enjoy the sort of access to information and knowledge of the functioning of the state administration – as highlighted by László Csaba – on the eastern markets – as did their predecessors. In this time the imports of agricultural products constantly grew (Petschnig 1995). In a coauthored article, Alexandr Buzgalin and Andrej Koganov (1992) highlight the immense difficulties in penetrating the Russian market of the day. Miklós Kun (2010) – a historian – corroborated this in an interview he gave about Russian markets. He suggested that western companies had been supporting local traders in the newly emerging post-Soviet nations, who had good contacts with influential people in order to be well informed about the relations and situations on the ground.

The Antall government’s decision to deepen trade relationships with Germany made the situation of the struggling Hungarian companies even worse. They were unable to sell their products on the German market, because of their low quality. To use a metaphor: it is easier to turn small ships in a narrow straight or bay in the direction of the wind, than it is

¹ Imrédy Péter: *A Stadler story 1. kötet A kisjuhásztól a nagy felvásárlóig*. Kastély-Bor Kft., Akasztó, 2008. pp. 115-117.

turning a three mast giant. If we identify the narrow straight as the changes caused by the system change, than it is easier to see why newly emerged small entrepreneurs like Mr. Stadler – the little ships – had an easier time navigating the waters than humongous post socialist mammoth companies – three mast ships. The Antall government provided export subsidies to companies that were willing and capable of exporting. They provided agricultural exporters with a 30% cash-back subsidy of the prices of their exports. Entrepreneurs received 15-20% back on clothes and other consumer products (Juhász – Mohácsi 1995).

Comparing police interviews and the article of journalist József Ballai, it seems that Ballai's account of Mr. Stadler's initial success is very accurate.¹ Stadler LLC started off with a small fleet of trucks, however by 1993-94 the company "*owned 42 – mostly Mercedes-Benz – bobtail trucks*" (Ballai 2001a). At the time, the company made an export profit of 125 million dollars. Owing to Mr. Stadler's good contacts, his partners paid him in USD. In comparison to his profits from abroad, his one billion forint profit from the domestic Hungarian market seemed only like peanuts. At the exchange rate of the day, the 125 million profit made from exports equaled several tens of billions of forints. On the books, however Stadler LLC only showed a modest profit of 600 million forints. This meant that the company only had to pay corporate and other taxes after this amount.

At first, APEH – the Hungarian tax authority – only asked him questions about his company's inventory register, since he could never give an exact answer when asked how large his inventories were. When asked about his fruit concentrates and beer inventories, he always said, that he had X number of pallets, however he could not say how many bottles that meant in total.² József Lovas, a detective of the Kecskemét Police Department's property protection department conducted several covert investigations against Mr. Stadler, however there was never enough evidence to start conducting an overt investigation against the entrepreneur. In the Imrédy autobiography of Mr. Stadler, the entrepreneur makes mention of Detective Lovas, remembering how he would always call him into his office, and ask how he was able to make such immense profits (Imrédy 2008). It should be noted, that there is no proof as to the truth of this claim by Mr. Stadler, based on the interviews conducted with police detectives.

As the above cited figures show, Mr. Stadler's profits would have easily allowed him to pay the larger tax burdens, however he wanted a larger empire and he wanted it fast.³ In order to achieve his goal, he used a double invoicing system. The lot numbers, dates, company information were exactly the same. Only the unit and final prices differed. He provided the tax authority with the invoice with the larger prices, in order to receive larger export subsidies. In other words, he received the subsidies after much larger – fictive – sales. This, and not the VAT fraud he committed, was the real source of his immense profits.⁴ If we look at Stadler LLC's books, we can easily see, that the non-fraudulent export subsidies that would have been due to the company after the actual sales prices, would have covered Mr. Stadler's costs and left him with a significant profit – approximately a third of what he made by his cooking of the books.⁵

The macro economical effects of the methods used

The only issue Mr. Stadler had to deal with because of his double invoicing scheme was that of the fictional profits his company was generating on paper – and thus the surplus taxes that he would have had to pay after these. In order to avoid paying these taxes, the accountant of the company, Gyula Hrubí, recommended generating surplus overhead costs and fictional losses, in order to eat-up the "*balloon profits*".⁶

This is how other organized crime syndicates appeared around Mr. Stadler. Nándor Pergel, a well tailored criminal, who spoke good French, and was involved in a horde of economic crimes, specialized in creating phantom companies in order to commit massive VAT fraud operations.⁷ His air-conditioned car at the beginning of the 90s gives a strong indication as to his financial situation. László Zsíros was one of Pergel's affiliates, in charge of accounting and phony invoicing. László

¹ Interview with "B. M." police colonel 2013. 02. 24.

² Interview with "K.F." retired police major, 2013.03.12

³ Interview with "B. M." police colonel 2013. 02. 24.

⁴ Interview with "B. I." retired police colonel 2013. 03. 31.

⁵ Interview with "B. M." police colonel 2013. 02. 24.

⁶ Interview with "B. M." police colonel 2013. 02. 24.

⁷ Interview with "B. M." police colonel 2013. 02. 24.

Domák – or “Cinóber” as he was known - came from the world of prostitution and drug trafficking. He was shot dead on Üllői road – in the heart of Budapest - in 1996.¹

These men were “*hardened criminals*”², compared to Stadler, however they were willing to take the entrepreneur from Akasztó onboard as an accomplice in the VAT fraud that they had already been conducting beforehand, since they saw potential in Mr. Stadler. They hoped to increase their profits and expand beyond mere VAT fraud through their newfound ally.

This ring of criminals mainly specialized in “*transiting*” products through Hungary. One company would import 155 288 pieces of cosmetic items for 971 thousand forints, which it sold on to a second company for 41 million forints. This company then resold the items for 20 million forints. The third company then sold the items for 147.5 million to the fourth, which sold the items to Mr. Stadler's company for a few million more. Of course, the VAT was refunded by the tax authority to Mr. Stadler's company in Akasztó. However, József Balla's – the journalist chronicling Mr. Stadler's activities – claim that the VAT refund was the centerpiece of the illicit activities, is largely false. The above mentioned cosmetic items consisted of cheap French perfumes, and artificial leather shoes from Syria, manufactured for the dead – thus they were not of very high quality.³ The above described process of “*transiting*” happened through nonexistent companies – that were unknown to the business registry court. Physically the imported items went right to Mr. Stadler's warehouse in Akasztó, for less than one million forints. After the “*transiting*” had taken place, Stadler LLC resold the stock to Ukrainian and Romanian companies for a little more than the purchase price. This meant, that he had his initial investment returned, and he could show a huge loss towards the tax authorities, which meant that the company's yearly profits would fall accordingly, and thus Mr. Stadler would have to pay less taxes.⁴

In order to unravel the process of “*transitioning*” the authorities had to prove that the companies involved did not exist. They succeeded in doing so. They also managed to prove that all the invoices were written with Nándor Pergel's typewriter.⁵

Part of the aforementioned illegal mechanisms can be attributed to the 1994 IX. Act, which introduced “dereliction to provide economic data” as an offense into the Penal Code. Michael Toth's statement that “*legislators were perhaps a little late*” to respond to the challenges of the new world seems a bit mild, with the usage of hindsight. Nonetheless it was an important milestone in the criminal prosperity of “*illegally wealthy and partially lost or forever changed peerless business enterprises*” (Tóth 2000: 232). The purpose of the law was clear: increase the public legitimacy of companies in the eyes of criminal law.

The media and the political impact of the case-Stadler

Another activity conducted by Mr. Stadler in order to increase his company's overhead costs shows just how easy it was for those involved in exporting to bamboozle even the authorities, which were unaware of many of the loopholes. In the interim period – between Mr. Stadler's moved from domestic business to exporting – the entrepreneur used the political and economic commotion to his advantage. He framed himself, as if he intended to do business with another emerging market economy, with similar endowments as Hungary. Various different Russian marketing agencies conducted marketing and market research activities for Stadler LLC in segments of the economy to which Mr. Stadler had no formal ties, but which he informally was very well acquainted with. The prosecution makes mention of seven invoices. These amounted to 2.4 billion in costs, which meant that the entrepreneur from Akasztó could decrease his tax base by 989.5 million in the year in question alone.

The majority of the media focused on Stadler the collector, since this was more tangible than the above described processes. It was something that could be presented in an entertaining and shocking story – well sellable in the media. In 1993, on paper Mr. Stadler bought 22 paintings – among which was *The Last Supper*, by Leonardo Da Vinci. Of course, it

¹ Interview with “N. L.” retired police colonel, 2013. 04. 17.

² Interview with “B. I.” retired police colonel 2013. 03. 31.

³ Interview with “B. I.” retired police colonel 2013. 03. 31.

⁴ Interview with “B. M.” police colonel 2013. 02. 24.

⁵ Interview with “B. M.” police colonel 2013. 02. 24.

goes without saying that the XVth century fresco is located on the wall of the Santa Maria delle Grazie church in Milan and that art historians know of no original copy in existence. However, some art historians do claim, that in the XVIIth century, many painters did make canvas copies of the original. This claim was brought up several times by the defense attorneys of Mr. Stadler, as a mitigating circumstance, as Stadler could not have known if he was buying an original or not. Another peculiar item on the list of paintings bought by Stadler, were nudes painted by Mihály Munkácsy. According to art historians, Munkácsy never painted any nudes... Mr. Stadler paid for the lot of paintings in two installments – in cash in both cases. The joint tally of the two invoices came to 820 483 600 forints – this meant a VAT rebate of 205 120 900 forints.¹

Stadler conducted his purchases for his collection through a certain Sergei Antoljevics Vexler – a Russian businessman. The authorities never found out who this person really was. As Stadler's defense argued that the fact that they could not find the man in question, was most likely due to the fact that Vexler is an extremely common surname. According to the invoices, Stadler bought the paintings from the ArtLux Gallery. The difficulties in inter-country justice assistance are well portrayed through the Vexler question. At first, Russian authorities admitted that the gallery in question did exist, and they claimed that a number of the paintings in question were stolen. Later on, however, as the case started gaining momentum, the Russian authorities denied the existence of the gallery, and the paintings as well. In the end, a Hungarian detective has to go to Moscow, to ascertain the existence of the gallery, and the companies behind it. Despite all the initial difficulties, in the end the cooperation of the Hungarian and Russian authorities proved that that none of the companies that Mr. Stadler conducted business with in Russia, actually existed.²

The founding of Stadler FC – football club – and the building of a stadium was another topic that the media took interest in. The case detectives mentioned their shock when they found Mr. Stadler sitting amidst lavish luxury in a gold plated room. His stadium and his other properties were often home to extravagant parties, where he invited people of power and influence as well as prostitutes, who he provided with copious amounts of extravagant free food and drink.³

One could only speculate at the actual extent of Mr. Stadler's political connections, until *Magyar Nemzet* – a Hungarian daily – published (on the 22nd of February, 2001) a handwritten letter from Stadler, in which he asks Csaba Hámosi and Ernő Balogh – two members of the Hungarian Socialist Party – to return at least twenty-thirty million forints to him of the amounts that he paid them earlier, so that he – Stadler – could finance his legal expenses (Molnár 2001). Géza Deésy, a member of the FKGP party, and a co-defendant of Stadler was accused of helping the entrepreneur deal in dubious perfumes. As Dessex LLC – Deésy's company – neglected paying VAT, Stadler, the customer, received a reimbursement from the State. The third degree co-defendant of the case first gave an explicit and in-depth confession, but later recanted, citing physiological pressure by interrogators – one of who is an interview subject of mine, cited in this article. However, from his initial confession, we can find out, that Géza "moneymaker" (Ballai 2001b) Deésy was approached by the criminal ring, because of his extensive informal contacts. Deésy in turn, was supporting himself, and his party's coffers from the illicit earnings. Although it should be mentioned that these charges were not proven in a court of law. Still, it is interesting to see how this dynamic contributes to the XXth century version of Lajos Leopold's (1988) fake capitalism theory: the usage of informal networks financially benefits the political elites. This may be one of the reasons that Claus Offe (1991) claims, that the transition to market economy in Central-Eastern Europe is primarily a political endeavor.

Stadler, as a brand name

The Stadler case was the first instance in post-socialist Hungary, when a defendant could use the media to his advantage, thus putting pressure on the authorities from the Parliament as well. This proves that the battle for the media has to be won as well. In 1998, the court instructed the investigative authorities to conduct a new investigation. The initial first degree court verdict sentenced Mr. Stadler to 9 years of incarceration and the confiscation of all his property. In 2003, the second verdict, resulting from the new investigation sentenced Mr. Stadler to 4 and six months, without substantially changing the findings of the first degree court. The justification of the court for commuting the sentence was Mr. Stadler's bad health, and the fact that he has already been undergoing criminal proceedings in excess of 10 years

¹ Interview with "N. L." retired police colonel, 2013. 04. 17.

² Interview with "B. M." police colonel 2013. 02. 24.

³ Interview with "B. M." police colonel 2013. 02. 24., Interview with "K.F." retired police major, 2013.03.12

(Index 2003). The second degree co-defendant of Mr. Stadler, Gyula Hrubí was sentenced to three years in prison, three years of banning him from practicing public citizen's rights, and a fine of 200.000 forints. The fourth degree co-defendant, Géza Deéry received three years in jail, for continued fraud and forgery of private documents.

Stadler LLC was liquidated by the tax authority, since it did not pay several outstanding tax bills. When it was eliminated, it had a debt of approximately 9 billion forints (Balai 2005). Corvin Bank, one of the most important credit sources of the company never recovered the money that it lent Stadler LLC – which amounted to several billion forints, after late fines, and interest.¹

After being released from prison, the ex-entrepreneur opened a shop in Solt, where he conducted commercial activities. Owing to his prior conviction, he was prohibited by law from taking up a leading role in any company, so his second and third degree accomplices were registered as the chief executives of the company (Origo 2011). During the investigative phase of his second case, Mr. Stadler admitted that he founded and held majority ownership in two companies. However, he also claimed that because of his prior conviction, he did not take an active role as an executive. He claimed that his second and third degree accomplices fulfilled their duties as executives. The two companies were registered at the homes of the two accomplices; however the actual offices of the companies were in Solt. During the 2008 economic crisis, Mr. Stadler was utilizing his vast network of acquaintances to buy up clothes and foodstuffs below market prices in eastern countries, and import them to Hungary. He also bought unpackaged detergents in massive amounts at wholesale prices, packaging and branding the detergent under his own name (Index 2007). He bought the secondhand clothes in massive quantities as well, and resold selected pieces to the residents of Bács-Kiskun County as new.

The tactics used by Mr. Stadler during the 90s became successful once again in the 2000s, in large part due to the economic crisis. Mr. Stadler had more customers, and more illicit business associates than ever. According to the prosecution, between 2007 and 2010, Mr. Stadler caused 420 million forints worth of damages to the Hungarian State by issuing and accepting fraudulent invoices through companies in which he had interests, in order to apply for VAT refunds, in order to make illegal profits or decrease the tax burdens of his companies. The Szeged Appellate Court sentenced Mr. Stadler to 4 years and 10 months incarceration, and confiscation of property worth 67 million forints in November of 2011. According to the investigation materials, he bought the massive amounts of clothes from Western-Europe without providing invoices, and then with the help of his previous accomplice, Gyula Hrubí, he proceeded to produce fraudulent invoices to non-existent companies, claiming to have bought the clothes from them. However, since these companies were non-existent, they did not pay VAT. However, Mr. Stadler was able to apply for VAT reimbursement himself. It was suspected, that the clothes made their way to Eastern Europe by way of charity organizations, which illegally sold the clothes to Stadler and other criminal organizations. Since clothes arriving to Hungary from charity organizations could not be resold through commercial activity, it was necessary for Mr. Stadler to produce a paper trail. On paper he bought the detergents and other accessories at such a high price that he could again, write off some of his corporate tax base (Origo 2011).

With his trademark shout of "*I am innocent*" (Blikk 2005) and with his attacks on politicians, Mr. Stadler became successful in the media. Law enforcement officials that were socialized during totalitarian socialism were most likely puzzled by the fact that Mr. Stadler became a favorite of the newly privatized media outlets. Various newspapers and magazines helped create the image of a folk hero (Index 2011). This was something that could not have happened in the time of state run media only a few years earlier. From shepherd to billionaire entrepreneur: a real self made man. Since Mr. Stadler, the authorities take it for granted that cases have to be won not only in the court, but also in the media.²

Mr. Stadler was already a successful businessman during socialism. At the time of the system-change in Hungary through his extensive network of contacts he was capable of selling products that seemed unsellable at the time. By organizing the shipping activities himself, Stadler was able to extend his range, and his profits – through illicit activities. Mr. Stadler took advantage of raking in cash from criminals, looking to invest money attained through illicit enterprises into legal activities – something that was done regularly, as pointed out by Dános and Kacziba. However, the case of the entrepreneur from Akasztó is special, insofar as his criminal career took off, as a result of the legal uncertainties

¹ Interview with "B. M." police colonel. 2013. 02. 24.

² Interview with "B. M." police colonel 2013. 02. 24.

surrounding the system change of 1989, through the various semi-legal and illegal activities described above. The man that had gotten away with his illegal activities during socialism thanks to his good informal connections, used this advantage to start exporting to eastern markets following the system change. By accident or owing to political pressure, the media often portrayed him as a folk hero, which facilitated a faulty perception of the wider public of Mr. Stadler.¹ Nevertheless, the fact remains, that József Stadler was one of the most successful entrepreneurs of the system change.

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The Role of Audit in Detecting Errors in Financial Statements

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Abstract

The main objective of the audit is to detect potential errors in the client's financial statements. This study aims to identify faults that are detected by auditors during auditing of financial statements. Ten audit firms are interviewed, in various cities of Kosovo, for the purpose of collecting data for errors found during the audit of the financial statements of their clients, for the period January-December 2012. The data obtained show that through the implementation of various audit procedures are found different type of errors which occur for various reasons ranging from lack of experience of clients personnel, insufficient knowledge of accounting principles and negligence. Data from this study provide empirical support to previous studies. Researches undertaken by Hylas and Ashton (1982) have shown that the audit affects the detection of errors in the financial statements, which have occurred for various reasons. The study provides knowledge that audit helps companies to eliminate errors which affect the accuracy and reliability of financial statements.

Keywords: Audit, financial statements, disclosure of errors

Introduction

The main objective of the audit of financial statements is to provide an opinion regarding the financial statements if they present fair, in all material respects, the financial position of the client.

The condition of being real financial statements should be free from material misstatement. The auditor's task is to implement audit procedures necessary to verify the accuracy of financial statements items to be convinced that these statements are free of material misstatement. To achieve the goal, the auditor plans his work based on the evaluation of the functioning of internal control, information available on the functioning of the client and the auditor's professional judgment based on the experience of the auditor in his professional work with clients.

Knowledge that takes in conversation with client staff also serves as a starting point where to find potential errors in the client's financial statements. All these serve the auditors to determine audit procedures and techniques in order to obtain adequate information about whether the financial statements are free from material misstatement. In this paper are analyzed errors found by auditors in various cases that are reported from audits of economic entities.

Our questionnaire has been designed so that, for all errors detected, reported initial events that affected the discovery of the error and the area of the financial statements where the error was found. Also, are reported audit procedures that are used in case of error detection and in any case described the cause of the error happened?

Hylas & Ashton (1982) in their study found that auditor' expectations, based on prior audits of the clients and their discussions with client personnel, helps to the detection a significant number of errors in financial statements. Chen & Leitch (1999) and Dzeig (1994), concluded that the analytical procedures suggests the auditor, in terms of finding errors in the client's financial statements. Austen, Eilifsen & Messier (2003), in their study have concluded that the analytical procedures, discussions with staff and expectations from previous years, have significant impact on the appearance of errors in financial statements.

Objectives of the Study

The first objective is to establish empirical evidence about events that affect the detection of errors in financial statements and to create empirical evidence about audit procedures that are applied in the case of detection of errors in financial statements.

Reasons that have influenced the occurrence of errors in financial statements, focusing in unintentional mistakes.

To contribute to the general awareness of the public about the role of auditing in enhancing the reliability of audited financial statements.

Research Question and Hypothesis

The hypotheses of this study are based on the findings of previous studies in this area as well as our experience in the field of study. These hypotheses are as follows:

H1 = Expectations from prior audits and analytical review have an important role in detection of the errors?

H2 = Personnel problems have a direct impact on the errors in financial statements?

Based on these hypotheses is designed questionnaire which was sent to 10 (ten) local audit firms in Kosovo for audits of 2012, in which auditors were asked to respond to the questionnaire prepared in connection with mistakes detected during the audit.

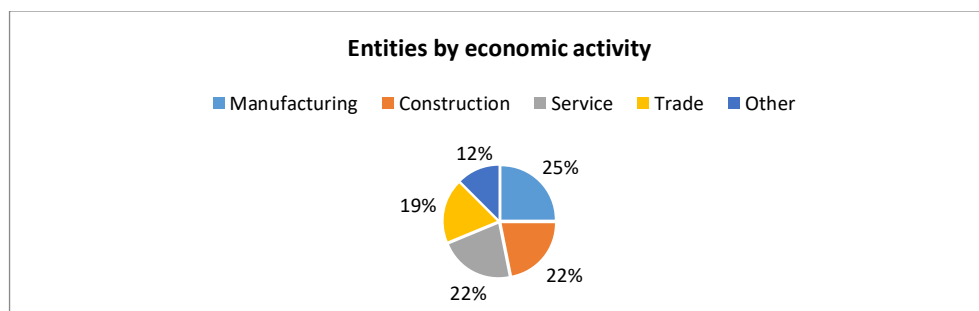
Through the questionnaire was asked to give answers to these sets of questions:

- Initial event that affected the discovery of the error,
- The auditing procedures applied in that case,
- The audit areas in which the errors occurred,
- The cause of the error, and the
- The size of the client, the area in which it operates, and other records connected with the client.

Six audit firms responded to our request that reported by 54 audits conducted, in which 32 of them are found errors, reported 68 errors detected in the financial statements of their clients.

Audited entities of which are reported errors are from different areas and are shown in the following figure:

Fig. 1



From the audited entities 8 (eight) of them are engaged in the manufacturing field, 7 (seven) of them are engaged in construction, 7 (seven) in services, 6 (six) in trade and other areas 4 (four) of them.

Analysis, Data Explanations

Audit procedures, initial events or circumstances that help auditors to detect errors in the financial statements are classified as follows: (1) expectations from previous audits, (2) analytical procedures, (3) information from the client, (4) test of detail, (5) confirmations and (6) other procedures.

The auditor's professional judgment is based on his experience and knowledge that has in the profession as well as the expectations of the findings from previous years. This thing helps the auditor, to be oriented where can found errors in financial statements.

Analytical procedures are audit procedures that are made in the audit planning stage and at later stages which give information where can found potential errors. These procedures relate to compare the area of the current financial statements with the previous year as well as financial data comparison with the average of industry in which the client operates.

The information from the client from conversations with staff, regarding business performance, problems faced during work etc. give signals for potential errors.

Factors that have contributed to the appearance of errors in financial statements are divided as follows: (1) the insufficiency of professional knowledge in accounting, (2) estimate or misjudgment, (3) Accrual errors, (4) inadequate internal control, (5) technical errors, (6) other problems.

The first category includes errors made about the lack of professional knowledge of staff and insufficient professional personnel engaged in accounting. This has been influenced by the limited knowledge of accounting principles and wrong application of accounting policies in the preparation of their financial statements. In this category are included also the mistakes that occurred because of negligence of staff engaged in accounting jobs.

The second category of errors has to do with errors in assessment or judgment, has to do with errors on valuation of receivables, settlement of inventory and contingent liabilities.

Accrual errors in the end of the year, where some transactions are not presented in the period in which they occurred. Here, first of all it comes to prepaid expenses which must be distributed in the period incurred.

Errors due to the lack of adequate control procedures and reviews dealing with errors in reconciliation, reviews of old account balances for collectability, etc.

Technical errors related to errors in various calculations made by staff employed in accounting jobs. Errors reported by the audits are presented in Table 1 and the 54 audits have reported a total of 68 errors.

Table 1 **Material errors reported**

Nr.	Number of audits reporting	Number of Errors	Cumulative	%
1	22	0	0	40. 74
2	16	1	16	29. 63
3	6	2	12	11. 11
4	4	3	12	7. 41
5	3	4	12	5. 56
6	2	5	10	3. 70
7	1	6	6	1. 85
	54		68	100. 00

In 16 cases (29. 63%) of the audits are reported by an error for each audit. Six of the 54 audits reported by two errors, which represents 11. 11% of the total reported audits.

Six audits have resulted with two errors for each audit, which represent 11. 11% of the total reported audits.

Four audits have resulted with three errors for each audit, which represent 7. 41% of the total reported audits.

There are six reported audits with 4-6 errors, which represent 11% of the total of reported audits, while 22 (40. 7%) reported not finding errors.

Initial events, circumstances that help auditors to detect errors in the financial statements are presented in the following table:

Tab. 2 Initial Events

Nr.	Initial Event	Errors	%
1	Expectations from prior years	22	32. 35
2	Analytical review	18	26. 47
3	Discussions with the client personnel	5	7. 35
4	Test of detail	12	17. 65
5	Confirmations	4	5. 88
6	Other procedures	7	10. 29
	Total	68	100. 00

Expectations from prior years and analytical review detected 40 errors or 58. 82 percent of all errors.

From the above we can conclude that the first hypothesis is confirmed:

H1 = Expectations from prior audits and analytical review have an important role in detection of the errors

Table 3 Distribution of errors reported by audit area and industry

N r.	Audit area	Nr. of errors	%	Industrial %	Construction %	Service %	Trade %	Other %
1	Property, plant and equipment	9	13. 24	8. 33	14. 29	20. 00	12. 50	20. 00
2	Inventory	5	7. 35	16. 67	0. 00	0. 00	12. 50	0. 00
3	Accounts receivable	8	11. 76	12. 50	9. 52	10. 00	12. 50	20. 00
4	Cash	11	16. 18	8. 33	14. 29	30. 00	25. 00	20. 00
5	Revenue	12	17. 65	20. 83	19. 05	10. 00	12. 50	20. 00
6	Prepaid expenses	7	10. 29	12. 50	14. 29	0. 00	12. 50	0. 00
7	Income taxes	8	11. 76	8. 33	14. 29	10. 00	12. 50	20. 00
8	Purchase cycle	6	8. 82	12. 50	9. 52	10. 00	0. 00	0. 00

9	Contingent liabilities	2	2.94	0.00	4.76	10.00	0.00	0.00
	Total	68	100.00	100.00	100.00	100.00	100.00	100.00
	Number of errors gabimeve			24	21	10	8	5
	Number of companies			8	7	7	6	4

Three audit area included 32 (47 percent) of the 68 errors detected. These areas were revenue cycle (12 errors), cash (11 errors) and property, plant and equipment (9 errors).

Among industrial companies 20.83 percent of errors detected occurred in the revenue cycle and 16.67 percent in inventory area.

Table 4 Distribution of errors by audit area and company size

Nr.	Audit area	Number of Errors	Company size		
			Revenue < 2 million €	Revenue 2-4 million €	Revenue > 4 million €
1	Property, plant and equipment	9	4	3	2
2	Inventory	5	1	2	2
3	Accounts receivable	8	3	2	3
4	Cash	11	4	4	3
5	Revenue	12	5	4	3
6	Prepaid expenses	7	3	2	2
7	Income taxes	8	2	3	3
8	Purchase cycle	6	3	1	2
9	Contingent liabilities	2	0	1	1
	Total	68	25	22	21
	Number of companies	32	10	11	11
	No-error companies	24	9	8	7

The table shows that larger companies have a smaller number of errors in proportion to medium and small size companies, with an approximate number of audits.

The table also shows that errors involving the revenue, cash and property, plant and equipment tended to occur more frequently in smaller companies, while errors involving accounts receivable and income taxes tended to occur more frequently in larger companies.

Table 5 Errors detected by various initial events

Nr.	Factor identified	Nr. of errors	%
1	Insufficient accounting knowledge	21	30.88
2	Judgment error	8	11.76
3	Accrual error	14	20.59
4	Inadequate internal control	12	17.65
5	Mechanical error	7	10.29
6	Other	6	8.82
	Total	68	100.00

The lack of professional knowledge of the staff represents the largest percentage of the causes of the errors found by the auditors (30.88%), followed by accrual errors that were reported in 14 cases (20.59%) and Inadequate internal control reported in 12 cases (17.65%).

As stated above, we conclude that the second hypothesis is confirmed:

H2 = Personnel problems have a direct impact on the errors in financial statements

Discussion

Our results suggest that auditors' expectations of errors based on prior audits and discussions with client personnel led to the detection of 32 percent of all errors.

It may be useful to compare our results with other studies that have described certain characteristics of errors found by audits. Kinney (1979) found that results suggest that expectations from prior years were effective in signaling of errors.

Analytical procedures also have a special role in detecting the errors in the financial statements, and according to reports from audits reported they have enabled the discovery of over 26% of reported errors. Previous studies support this conclusion, so Chen & Leitch (1999) and Dzeig (1994), have concluded that the analytical procedures give signal in terms of finding errors in the client's financial statements. Austen, Elifisien & Messier (2003) in their study have concluded that the analytical procedures, discussions with staff and expectations from previous years, together have enabled the detection of 29% of the errors reported.

Other procedures that enable detection of errors are essential tests, which certainly should not be overlooked, in direction of potential errors in financial statements.

Regarding the causes of errors, the findings of this paper show that over thirty percent of reported errors, dealing with the lack of professional knowledge in the field of accounting. Previous studies have similar results, so Mautz, Reilly & Maher (1979) have found that staff issues are the main causes of errors in financial statements. Austen, Elifisien & Messier (2003) in their study also concluded that personnel problems such as lack of experience, not competence, negligence, etc., have significant impact on the occurrence of errors in financial statements.

Area of the financial statements, in which are found large number of errors, is the area of revenues, followed by cash and fixed assets. Previous studies also have similar results, area of revenues is the area where most of errors have occurred. Hulas & Ashton in the study cited above, have come to the conclusion that most of errors are detected in the area of revenues (16% of total errors).

Conclusions / Recommendations

Results of this study show that most of the audits results with finding errors in financial statements. Initial procedures which have signaled auditors, in terms of errors in financial statements, are the expectations from previous years, conversations with personnel and analytical procedures. Should not neglect the role of essential tests in detecting material misstatement in the financial statements.

Revenues represent the area where most of errors are reported and dealing with lower incomes reported. Then according to reported errors, cash and assets of customers represent the areas of reported errors.

Regarding to the causes of errors, the results of this paper show that, client personnel problems are important causes of errors in financial statement data. Client personnel problems such as inexperience, incompetence, and insufficient knowledge of accounting, are instrumental in causing of errors. As a result, are presented numerous mistakes during registration in accounting accruals.

We recommend that professional associations organize trainings for accountants of economic entities, so that the professional staffs take the necessary knowledge about accounting standards and other knowledge in the field of accounting.

We recommend the management of economic entities, to employ professional staff in accounting affairs and allow the staff participation in trainings in the field of accounting, in order to follow current developments in this area and to be continuously informed about the legislation in accounting and changes in accounting standards.

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The Necessity of Using Foreign Capital in the Croatian Economy

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Abstract

Croatia, like most developing countries, is facing a shortage of capital for its economic development. Acceptance of foreign capital in the national economy should be regulated by legislative and economic regulations that would allow its unobstructed acceptance. In this process, it should be taken into account that investments should be pointed in the most favourable direction in order to encourage social development, but also ensure profit to potential investors. Foreign capital in the Croatian economy can operate in several directions: as international public capital, capital of international institutions, state capital, private capital, while in practice, there are also other forms of capital. In the present social moment, in terms of economic and legal insecurity in the country and high level of corruption, serious foreign public and private capital primarily shows interest in investing in major infrastructure facilities such as roads, ports, tourist facilities, and other facilities, and seeks to provide direct protection of the state. Croatian businessmen at lower levels of development as well as various entrepreneurs who would like to incorporate foreign capital in their business activities should make sure to use this capital in the realisation of the planned social development, and avoid foreign venture capital in the process. They should primarily demand legislation from the state that would provide them with legal and financial security of their investments. Investment experts recommend services of internationally acclaimed and reputable businesses that should be used to make investments in the country.

Keywords: foreign capital, investment, economy, development

Introduction

The economic system of the Republic of Croatia operates in the environment of Central European transition countries that orient their economic development towards the open and free social market economic system of the Western type. Within this system works an adequate system of property relations, entrepreneurial management, economic and political democracy, the rule of law and a certain level of social protection and human rights. Presently, Croatia is an European Member State, and it also needs to be fairly and effectively involved in European and global economic trends. Successful achievement of the above-mentioned requirement and the necessity to encourage such transformation processes would regulate internal relations in all segments and activities in the Croatian society, with special attention devoted to property, market, entrepreneurial management, organisation and management of business and other entities. In order to achieve such great economic and political changes in the country, it is necessary to acquire the appropriate modern knowledge, abilities, and skills, develop entrepreneurial spirit, innovativeness, all of which is included in human capital development, and particularly bring into the country new, fresh financial capital. At the time of property transformation and privatisation, there was a slightly better situation with large infrastructural government systems, where large-scale foreign investors appeared as buyers or investors, investing their capital into certain facilities or attempting to gain the majority of shares in all the systems such as banks, highways, insurance, etc. Of all the investments, 57,9 per cent occur in the private sector, and 26,6 per cent in the government sector.

The main hypothesis: Further development of the Croatian economy should be based on the belief that, along with all the forms of domestic capital, foreign capital is also necessary for future development of the country. PH1: Croatian economic development, according to all the relevant plans and indicators, is based on such viewpoints, and future strategic objectives are necessarily linked with an increase in material well-being of Croatian citizens, their material and spiritual wealth and quality of life. PH2: The realisation of these objectives should depend on successful management of natural, technical, and human resources, i.e. economic and social efficiency of national economic operators, all of which affects the development of the national economy as a whole. The objective of this paper is to point to the necessity for a high level of transformation in the field of engineering, technology, organisation, management methods, but also the entire economic structure and structure of employees, with special attention devoted to entrepreneurial and managerial staff. All of this can be very effectively achieved by using foreign knowledge, techniques, technology, and capital. The scientific contribution is reflected in the development of scientific thought about the importance of changes in the social and economic environment of the country, but without the creative acceptance of useful global achievements from developed countries, one cannot be equally and effectively engaged in global economic trends or European economic and political integrations. Membership in the European integrations can significantly contribute to development of Croatian economy, but only to the level at which we are trained to use these achievements. Scientific methods used in this paper are methods of systematic analysis, dialectical and logical method, mostly in the combination inductive-deductive and vice versa, deductive-inductive. Quantitative and qualitative methods were used with methods of comparison of spatial and temporal characteristics.

1. Social Development and Foreign Investments

Along with evident development processes and economic transformation and restructuring of the country, it was soon noted that further development of the Croatian economy would not be able to continue without extra capital. Since extra capital from domestic sources is presently insufficient, it is necessary to enable free access of foreign capital to the country. In order to do this without causing major economic shocks, legislation should be used to achieve economic relations in the country that would enable majority control of domestic population over the capital. This is especially important in the segment of land ownership where a small country of this size can, part by part, be bought by any large multinational company. Its population can be moved out under different excuses and national demography can thus be changed. Unfortunately, domestic population in these areas has very bad experiences with foreign investors and investments of this type.

Current experiences of other transition, underdeveloped or colonial countries indicate that foreign capital primarily aims to gain its own profit regardless of future consequences for the country they invest in. In this regard, owners of foreign capital in the recipient country should be controlled by legislation, and any kind of illegal behaviour should be prevented. In this way, their capital interest would be in line with domestic interests in the long run.

When foreign capital enters Croatia, one should bear in mind to ensure that economic ratio with domestic source of capital remains undisturbed, and attention should especially be devoted to quality distribution of social costs and tax obligations. The use of contemporary technical and technological solutions should be encouraged, as well marketing, and effective appearance at the global market. Foreign investments should be used in joint investments based on a well-designed national developmental economic policy. When foreign capital is invested in economic facilities, national investment should be estimated realistically. Price and location of the land are very important. Land ownership as an investment should, as a rule, stay in domestic ownership. This particularly refers to top quality agricultural continental land, while coastal, riverbank, and seashore land should not be sold, but rather rented for a short or long period of time. In this process, the use of the land and economic facilities should be conditioned by application of the most contemporary technological know-how, including the obligation to implement environmental protection (Acimović, 1987). This could be achieved by using an adequate system of mortgage loans that would be applied in the economic activities. In this process, Croatian owners of capital who work and reside abroad should also be included in the system.

State capital, that needs to be legally defined, plays a very important role in Croatia. In the earlier economic system, state capital had operated in all segments of economic life in the country, while investments were exclusively under government control. Nowadays, in the age of neo-liberalism, the market system forces the creators of economic policy in the country to turn public companies into private enterprises, while the state should create a legal framework for such a transformation.

According to recent experiences in the majority of transition Member States, the government will remain the leading investor for a long time, as well as manager in some infrastructural industries of importance for the state. However, this should not

be tolerated for too long, and conditions should be created for approaching private capital that must operate under government control, because it cannot be allowed that citizens are encroached due to various misunderstandings among owners of the capital. Refinancing is an important developmental factor in the economic system of any country. The refinancing system in Croatian economic systems, in the manner in which they have been used until now, should undergo significant changes. The effects achieved in the economic field in Croatia by refinancing point to the fact that refinancing has not been efficiently used in the sense of using extra capital, whether domestic or foreign, which would be used for national technical, technological, organisational or managerial adjustment of the existing economic system. The original idea was to use for this purpose the capital obtained by selling the shares in the process of sub-shareholding of former social companies. The gained capital soon disappeared in various embezzlements of leading governmental structures.

All things considered, there is no great quantity of free capital in Croatia that could be used to enter larger economic transformations and investments. Also, foreign debts are substantial and there is no real opportunity for increasing government debts, without causing a large-scale economic crisis.

For making investments in the national economy, one should realistically consider the capital of Croatian citizens working abroad. According to statements of the financial bodies of the countries in which Croatian citizens are living and working, this capital is quite large and it is estimated to tens of billions of dollars.

When we analyse the latest experiences with the redemption of shares of certain large companies, except those that had a monopoly at the market and were protected by the state, they were not particularly stimulating. After they had bought the shares of such companies, they went bankrupt, and shareholders lost their invested funds. The current situation on the capital market, as well as new trends, indicate that foreign and domestic owners of capital would be more inclined to buy certain smaller enterprises and take full control over their business activities, than invest into shares, with which persons who are sometimes connected with organised crime would trade at the market.

An important role in Croatian economic development should belong to owners of small capital, primarily Croatian citizens who gained their capital abroad, and who could invest their capital in small and medium-sized enterprises. These enterprises could become a new foundation on which one could revive weary economic flows that were oriented for years towards government bodies and had political influence on them.

All things considered, foreign and domestic investments should be directed to follow the trend of total economic development along with efficient government protection, but also assistance of financial institutions that should provide capital investors with certain benefits and guarantees that are common in the countries of developed market economies. These would be: tax and customs benefits, reduction of taxes and employee contributions, solving of insolvency, limitation of legal proceedings duration, reduction of administration, possibility of fast transfer of profit, use of different types of mortgages, etc. Most importantly, legal and economic factors should be created that would provide equal chances to everyone in the economic competition. In this process, competitive relations should be created in which the realised profit would not lag behind other, neighbouring competitive countries (Vizjak 1995, 227).

2. Adjustment of the National Market to Foreign Investments

For correct, effective, and safe investment of capital, the national market should be well-organised, and one should think about the effects of the investment on certain segments of the society. A point of consideration is also operation of some important market factors, because their timely synchronisation is important for improved access of domestic and foreign capital to the country's economic structure. Successful economic market activities of Western type depend on successful overcoming of various legal or economic barriers at the national market. When adjustment in the market area is taken into consideration, in order to accept domestic or foreign investments, the idea is to establish and develop a complex national market with all its constituent parts. This is not only the market of goods and services; this system should, except labour and services, also include capital and knowledge, as well as all their sub-systems. In this way, a market would be created that would be open to the maximum, and operating enterprises could at all times obtain all the necessary factors, production and business inputs, and use entire, but fair competition, and place their products and services – outputs – into any other country at the foreign market (Ostojić 1996, 67.). In order to achieve comprehensive adjustment processes in the national market, and to enable successful acceptance of capital investments, there are many limitations in practice resulting from the application of certain adjustment operations, when underdeveloped marketing culture or wrong economic moves

become visible, by those in charge of designing applicable operating systems. According to data by the Financial Agency, 733 industrial enterprises in foreign ownership pay average net wage of KN 5477, while the average wage in 10,826 domestic industrial enterprises is, on average, lesser by as much as KN 1066, which means that a foreigner is a more desirable employer. Out of 48 state companies, 36 gained profit, while 12 suffered loss in the amount of KN 1064 billion. The greatest winners are HEP, HKZP, Plinacro, ARZ, Hrvatske šume, and the greatest losers are HPB, Petrokemija, Croatia osiguranje, HŽ Cargo, Đuro Đaković. From January until September of 2014, there was a total of KN 6338 billion of investments, which is 16,1 or one sixth less than in the same period 2014. As much as 47 per cent of investments in state companies were in the following three: HEP, in the amount of KN 1,15 billion, INA with KN 1,08 billion and Hrvatske vode with KN 751,9 billion (*Jutarnji list*, January of 2015). Some entities in charge of designing economic strategies often present market systems from the period when capital development was at a lower level, or its liberal, a bit more developed stage, which causes resistance and fear of the users of the system. At the same time, quite a few businessmen learnt some important different and more humane characteristics of the modern, developed Western market through their co-operation with foreign countries. Many of the so-called experts think that foreign experiences can easily be integrated into the Croatian economic system, using government's force. This is why users of the national economic system are facing unnecessary dilemmas. Therefore, one should get well-acquainted with foreign economic conditions and practice, and think about which one of them would have the best effect in Croatian practice in the given time and space.

3. Foreign Capital as Stimulation to Development of the Croatian Economy

Given that Croatia was one of the most developed republics in the former state, that reached a high level of economic co-operation with foreign countries, needs for new capital investments from abroad were treated as a normal economic occurrence. When Croatia became independent, the necessary legislation was adopted at expedited proceedings which specified the conditions of entrance of foreign capital to Croatia. Owners of foreign capital became equal with domestic owners. In this process, the rule "everything that is not specifically forbidden is allowed" was applied. However, the established legislation was not accompanied by other conditions that would in practice regulate the inflow and the manner of operation of foreign capital in the country. It soon became evident that the legislation was superficial and incomplete; various "businessmen" from abroad or from Croatia, in agreement with the highest state officials without capital of their own, bought everything of any value in the country.

Some time later, Croatia started opening itself towards Europe and the rest of the world, and foreign capital of a more "decent" kind started showing interest in making investments in the country. Soon, the first results started showing at the international market with strong attempts to make up the lost time. This is when attention started to be devoted to the need to define foreign capital according to possible forms and sources, its allocation, way of co-operation, and all other factors in order to stimulate faster development of the Croatian economy. There is an estimate of the European Commission that this year in Croatia, there will be good business opportunities, because in the next 3 years economy will be stimulated by investments higher than EUR 300 million, which will result in opening of 1,3 million of new workplaces in the framework of the great Juncker's Recovery Plan (*Jutarnji list* 23.2.2015). In the scope of the Juncker's plan, Croatia proposed 68 projects in the value of EUR 19,3 billion, from which 24 were adopted in the value of EUR 9 billion as the ones that should be realised with the help of private initiatives. So far, Croatia has signed contracts for projects worth EUR 900 million from the offered EUR 1,2 billion from the EU funds, while EUR 500 million have been realised. Until February 2015, the announced signed contracts are worth KN 5 billion, and until the end of the year, more than KN 10 billion (*Jutarnji list* 02.12.2014). The most significant projects are LNG terminal in Omišalj (supported by both EU and Washington), the Adriatic-Ionian pipeline, portable power system, the E-schools project, ICT and broadband projects, hydropower plant Kosinj, thermo power plant Plomin C, Zagreb upon Sava (EC, Croatian government). The list also includes investments related to road, rail and air traffic, state-owned companies in the water industry, and HEP (*Novi list* 01.12.2014.).

4. Foreign Investments in the Croatian Economy

Modern Croatian economy accepts all of the above-mentioned forms and sources of foreign capital. In the long run, the most favourable would be loan capital, i.e. interest-based or investment, i.e. profit-making capital. Strong development of the securities market in Croatia leads to a greater inflow of portfolio capital.

Special attention should be devoted to the human capital necessary for social development of Croatia. Great social and economic processes, changes and transitions are not a coincidence, but a result of interactive development of nature, and human scientific activities (Pulić and Sundać 2001,5). Croatia has many educated employees and staff members, which is a large development potential; however, their knowledge and skills are partly outdated, especially from the aspect of contemporary needs and demands of market economy. Sometimes, there is also a need to import entrepreneurial-managerial human capital that should increase the level of domestic education in co-operation with the domestic capital. Society members who are not highly educated, but rich in honesty, good will, kindness and integrity, could also contribute to the creation of a society of well-being. (Zelenika 2007, 195). We need as many distinguished, talented and hard-working students in faculties as possible, and direct the already employed to life-long learning and training courses abroad. This especially relates to scientists and top managers.

From 1993 to 2006, about EUR 13,2 billion was invested in various parts of the Croatian economic system, and the majority of foreign capital preferred the financial part of the economy, in which about EUR 3,3 billion was invested (Buletin of the Croatian National Bank, 2006). From 1993 to 2000, about USD 4,5 billion of foreign investments were made in Croatia. In this mass of investments, of about USD 3,6 billion, about 80 per cent or USD 669,2 million refer to equity investments, while about five per cent, or USD 243,6 million was transferred to the level of retained profit (Buletin of the Croatian National Bank, 2006). During 1998, USD 626 million was invested in Croatia, and the highest portion of investments related to investments by foreign companies operating in Croatia. The greatest inflow of foreign investments was realised in 1999, and amounted USD 1,2 billion. It originated from the first round of privatisation of HT shares. The second round of privatisation of HT was not realised in 2000, for reasons of which the inflow of foreign investments was a bit weaker than expected. In this year, the majority of Croatian banks were transferred into the ownership of foreigners. PBZ and Splitska banka were sold to the Italians, and Riječka banka was sold to Germans. Foreign investments of that time went into several economic activities. About 65 per cent of the total investment amount was invested in three economic activities; 24 per cent in telecommunications, 21 per cent in monetary business activities, and 20 per cent in the pharmaceutical industry. Except in these activities, foreign investments were made into the oil and gas industry, which was a result of the co-operation of INA and AGIP in the Adriatic, while the rest was invested in the cement industry. According to these data, it is evident that most investments were made in the production and not in the trade industry, as was advocated by the majority of economists. Only about 4-4,5 per cent of total investments were made in the trade industry. All other investments were made in other industries such as production of building material (1,9 per cent), industrial gases (1,4 per cent), production of beer (1,3 per cent), non-alcoholic beverages (1,3 per cent), production of radio, TV and telephone devices (1,2 per cent), sanitary ceramics (1,2 per cent). The biggest foreign investors of the time were the USA with USD 1,11 billion, Germany with USD 1,06 billion, Austria with USD 890,2 billion, and Italy and Holland (Babić, 2001.).

Current experience in business activities with foreign capital indicates its interest in investing in large infrastructure facilities under direct protection of the government, such as roads, financial institutions, insurances, energy potentials, and other large facilities of wider European interest. Table 1 and Chart 1 show foreign investments in the Croatian economy.

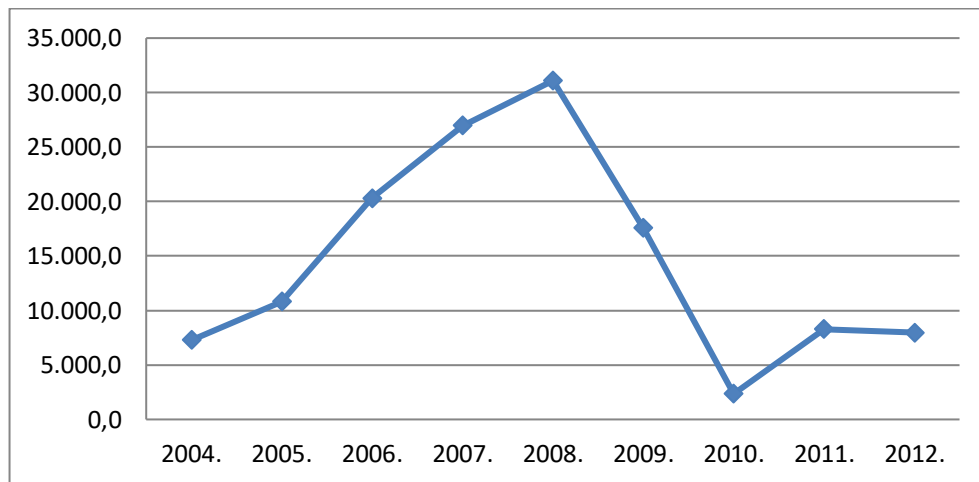
Table 1. Foreign Investments in Croatia from 1993-2014 (in mil EUR)

Year	EQUITY INVESTMENTS			Retained profit ¹⁾	DEBT INSTRUMENTS			Total
	In direct investment	In direct investor	Between horizontally		In direct investment	In direct investor	Between horizontally	
1993	15,2	0,0	0,0	n/a	n/a	n/a	n/a	15,2
1994	5,7	0,0	0,0	n/a	n/a	n/a	n/a	5,7
1995	5,4	0,0	0,0	n/a	n/a	n/a	n/a	5,4
1996	20,7	0,0	0,0	n/a	n/a	n/a	n/a	20,7
1997	161,7	0,0	0,0	6,7	53,0	0,0	0,0	221,4
1998	69,9	0,0	0,0	2,2	72,9	0,0	0,0	145,1
1999	59,7	0,0	0,0	2,1	-1,5	0,0	0,0	60,4
2000	37,6	0,0	0,0	8,5	5,5	-0,7	0,0	50,8

2001	123,8	0,0	0,0	19,8	-9,9	-0,2	0,0	133,6
2002	592,7	0,0	0,0	8,3	7,7	0,3	0,0	609,0
2003	70,2	0,0	0,0	31,7	15,3	1,5	0,0	118,8
2004	94,1	0,2	0,0	165,8	23,6	17,8	0,0	301,6
2005	57,4	0,0	0,0	63,8	59,8	0,0	0,0	181,1
2006	143,6	0,0	0,0	63,5	12,5	-16,4	0,0	203,1
2007	144,9	0,0	0,0	123,3	-20,4	4,2	0,0	252,0
2008	943,8	0,0	0,0	118,6	-106,8	24,5	0,0	980,1
2009	1.030,2	0,0	0,0	-117,1	35,2	22,1	0,0	970,3
2010	-264,3	0,0	0,0	7,3	369,2	13,1	0,0	125,3
2011	182,4	0,0	0,0	-7,4	-323,9	-19,9	0,0	-168,8
2012	148,4	0,0	0,0	-70,8	-134,1	-6,5	0,0	-63,0
2013	96,6	0,0	0,0	-163,5	-81,4	30,5	0,0	-117,7
1., 2. i 3. tr. 2014	1.590,8	0,0	0,0	25,3	33,3	223,9	7,1	1.880,5
TOTAL	5.330,6	0,3	0,0	288,2	9,8	294,4	7,1	5.930,4

Source: Croatian National Bank, available at: www.hnb.hr accessed in January of 2015

Chart 1. Direct Foreign Investments in Millions of KN 2004 – 2012



Source: Croatian National Bank, available at: www.hnb.hr , accessed in January of 2015

Foreign capital is oriented towards parts of the economy that represent a specific Croatian advantage. Besides, private foreign capital is interested in parts of the economy in which medium complex technology is applied. Analysis of investments according to investors' countries shows that, traditionally, the biggest investors in the Croatian economy come from Austria and Germany, while the most recent investments were made by France, which invested over a billion euros in Croatia. Table 2 shows foreign direct investments in Croatia according to activities, and Table 3 foreign direct investments in the industry.

Table 2. Foreign Direct Investments in Croatia According to Activities, in Millions KN

NCA 2002	Activityt	Total investments 2004 - 2012
	TOTAL FOREIGN DIRECT INVESTMENTS	132.647,3
65	FINANCIAL MEDIATION, EXCEPT INSURANCE AND PENSION FUNDS	45.648,3
51	WHOLESALE AND MEDIATION IN TRADE	17.151,4
70	REAL-ESTATE BUSINESS	10.810,3
74	OTHER BUSINESSES	9.420,1
23	PRODUCTION OF COKE, REFINED PETROLEUM PRODUCTS AND NUCLEAR FUEL	9.119,1
52	RETAIL, REPAIRS OF HOUSEHOLD UTILITIES	7.362,2
	EQUITY INVESTMENT IN REAL ESTATE	5.317,6
11	OIL AND GAS DRILLING, SERVICE INDUSTRIES	3.408,6
26	PRODUCTION OF OTHER NON-METAL MINERAL PRODUCTS	3.109,8
55	HOTELS AND RESTAURANTS	2.844,8
66	INSURANCE AND PENSION FUNDS, EXCEPT OBLIGATORY INSURANCE	2.347,2
92	RECREATIONAL, CULTURAL AND SPORTS ACTIVITIES	1.989,4
	OTHER ACTIVITIES	1.626,0
15	PRODUCTION OF FOOD AND BEVERAGES	1.194,9
41	COLLECTION, PURIFICATION AND DISTRIBUTION OF WATER	1.119,8
50	TRADE OF MOTOR VEHICLES, REPAIR OF MOTOR VEHICLES	1.063,4

Source: Croatian National Bank. Available at: www.hnb.hr, accessed in January of 2015

Table 3. Foreign Direct Investments in the Croatian Industry (mil EUR)

	2009	2010	2011	2012	2013	1.tr.2014
Production of coke, refined petroleum products and nuclear fuel	110.6	-0.7	68.7	12.9	-119.6	15.9
Production of chemicals and chemical products	-18.7	-440.7	244.1	-46.1	30.2	29.3
Production of other non-material mineral products	11.5	-56.7	56.5	-6.7	-30.7	4.8
Production of food and beverages	-175.5	-4.5	-6.7	-24.4	79.6	6.6
Production of electrical devices and appliances	8.3	11.1	-4.3	-5.8	12.7	2.3
Production of textile	18.3	9.4	32.7	1.7	7.1	0.8
Production of rubber and plastic products	2.1	3.5	1.2	4.2	3.0	-0.1
Production of machines and devices	35.8	6.2	-4.3	-6.0	4.1	10.1
Leather processing, making of accesories and shoes	16.1	14.7	12.0	13.2	-6.6	-2.1
Production of clothes, finishing and colouring of fur	-5.8	4.9	6.5	9.6	3.2	0.6
Oil and gas drilling	-10.4	-70.7	-49.1	-52.6	-12.6	-2.9
Supply of electrical energy, gas, steam and hot water	-5.6	10.8	10.6	6.4	13.3	1.7

Source: CNB

Analysis of investments according to investors' countries shows that, traditionally, the biggest investors in the Croatian economy come from Austria and Germany, while the most recent investments were made by France, which invested over a billion euros in Croatia. Table 4 shows foreign direct investments in Croatia according to countries of origin.

Table 4. Foreign Direct Investments in Croatia According to Countries of Origin

Country	2009	2010	2011	2012	2013	1.tr.2014
Austria	441,9	-115,5	211,8	283,6	31,1	78,9

Holland	694,7	-264,4	253,9	-231,4	226,2	964,1
Germany	186,8	92,3	225,3	-109,8	140,6	-906,3
Hungary	164,5	-10,3	104,2	41,7	-172,0	23,1
Luxembourg	143,9	111,5	1332,9	176,3	45,5	30,5
Italy	87,2	142,3	22,9	39,5	91,2	22,4
France	42,0	17,1	5,5	2,7	17,2	-45,6
Slovenia	112,4	89,1	16,6	-6,2	-24,0	-8,9
Sweden	337,3	8,4	4,7	-22,8	-44,6	13,2
Switzerland	6,4	0,8	24,8	7,4	4,4	0,2
Great Britain	40,2	-48,7	20,5	6,9	40,7	21,4
The Czech Republic	-21,5	13,6	5,8	308,8	-8,2	3,4
Russia	6,6	12,0	29,2	25,9	41,5	1,6
Ireland	41,5	82,3	6,8	1,3	0,7	1,9
Denmark	21,7	-10,6	-20,0	5,7	23,7	-1,6
Slovakia	6,1	7,6	11,5	10,2	32,6	0,3
USA	26,0	-17,9	-56,8	-70,0	14,3	5,0

Source: CNB

In order to make investments in certain parts of the economic system, Croatia needs loan investment capital; however, judging from the experiences of other countries that surpassed the development level at which Croatia is now, loan capital should be used very carefully, because in such forms of investment, all the risk is transferred to domestic companies that are usually unable to manage this type of investment. This capital should be returned by certain deadlines with interest, and the selection of investment location and effectiveness of the use becomes an exclusive obligation of domestic companies. On the other hand, by using investment profit-gaining foreign capital, all or partial investment risk is shared by the foreign investor and domestic entrepreneur. This co-operation between a domestic entrepreneur and foreign investor is achieved through the assistance of the foreign investor in the transferring of new technology into the country and opening of new, preferably foreign markets, which could have a positive impact on the change in the ownership structure in the company, but also improvement of the qualification structure of the employees, faster development of entrepreneurial and managerial staff, etc. It must be taken into account that the every capital is directed to fast generation of profit to its owner.

All things considered, according to CNB analyses, 2008 was a record year in terms of investments in Croatia. Investments in 2006 were large-scale, because at that time, Pliva was sold. This upward trend of foreign investments in Croatia was contributed by the takeover of several large companies. The biggest investment of this kind was realised by the French Societe Generale that bought Splitska banka, and another large investor was the American Barr that bought Pliva. Foreign investors are mostly attracted to the financial part of the Croatian economy, and this economic part attracted about EUR 790 million of investments in nine months in 2006. Along with the financial part of the economy, foreign investments were made in several companies dealing with production of food and beverages, where the level of investment amounted about EUR 190 million. This was followed by telecommunications with investments of about EUR 127 million. Investments in oil amounted EUR 94 million, and in all other parts of the economy, foreign capital was represented at the level of about EUR 50 million (Buletin of the Croatian National Bank, 2006). Since the beginning of the crisis, i.e. from 2009, the number of foreign investments significantly declined. In the past year, the investments amounted KN 52 billion, i.e. they fell from KN

89,6 billion to 37,4 billion. High level of foreign investments in Croatia is primarily supported by the profit gained by foreign companies that operate successfully in Croatia, but they have also become desirable employers, because they provide higher salaries and are more productive and innovative in their activities. Table 5 shows the parameters of domestic and foreign companies.

Table 5. Domestic and Foreign Companies According to Parametres

Foreign vs domestic	Companies in foreign ownership	Companies in domestic ownership
Number of companies	733	10,826
Number of employees	39,746	191,021
Average net salary	5477kn	4411kn
Source per employee	471,650kn	201,159kn
Share of export in total operating revenues	56	30
Export/import ratio	164%	191%
Labour productivity	183,505	151,429
Return on capital	9,1%	15,8%
Indebtedness	51%	58%
Short-term debt	70%	94%
Innovation	40%	29%
Development of new products at the foreign market	15,8%	8,2%

Source: *Jutarnji list* 29.03.2014

It is interesting that foreign companies that realise profit in Croatia increasingly reinvest their profit in other parts of the economic system. Increasing number of Croatian companies is bought by foreign investors. This type of reinvestment is especially popular with foreign investors in the banking sector. They were forced to this procedure by the CNB that introduced financial restrictions that significantly raise the costs of borrowing abroad, and increasingly use their achieved profit to undertake further credit activities.

Conclusion

The need for rapid development of Croatian economic system has created the need for various types of foreign investments. Such investments should be in accordance with the needs and demands of the domestic market as well as open domestic co-operation with the international market. Croatian economic development should be based on scientific approach and research that would show all the good or bad sides of such ventures, taking into account the overall economic strategy of the Republic of Croatia. Special attention should be devoted to future development of national economic operators, their operational and financial bonding and integration into new organisational forms modelled on comparable groups in the world. In these activities, the government should have an important role; it should use efficient legislation to have an impact on the rule of law, ensure free operation of economic market principles, and prevent each attempt of market closure or creating a monopoly that would affect proper functioning of the market. The government should provide active development

policy which would open space for developmental initiatives and creativity. In order to meet the existing needs and demands, big investment capital is necessary that should be collected from domestic or foreign sources. Presently, but also in the distant future, Croatia will not be able to collect the sufficient amount of capital to achieve these goals. Croatia has many unused resources. Smart activation of these resources could attract domestic and foreign capital. This capital can originate from a variety of sources and can be in different forms. The investment of foreign capital into a country does not only depend on the capital itself, but also on the conditions in this particular country. Previous experiences from other countries suggest that high expectations from the expected capital investments from abroad often have no real basis. One should not passively wait for developments, but rather try to use a real situation to achieve the maximum. When using foreign capital, particular attention should be devoted to the capital of Croatian emigrants i.e. people working abroad. It should be noted that capital, in terms of free market, knows no national bonds and aims to get away from the native country by creating better conditions in another country if the native country has no prospect of making profit.

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Waste Management in Ancient Times and Today from the Perspective of Teachers: Reflections to Diaries

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Abstract

Wastes, which are results of human activities, have reached to amounts that threaten the lives of current and future human generations. The only way to create a waste-aware and recycling-aware society is through the education of our children. At this point, science teachers have a key role in formation of recycling generation. With this fact in mind, Project "Look forward, recycle: Recycler teacher" was conducted to make teachers witness the effects of two lifestyles, with and without wastes, to increase their knowledge on the issue, and to develop positive behavior about recycling. This project was conducted with the support of Scientific and Technological Research Council of Turkey and Mehmet Akif Ersoy University in Burdur during August, 2014. Twenty teachers from different provinces of Turkey participated in the project activities. Nature trainings included 23 activities and they were conducted by academic consultancy. In this process, participant teachers wrote diaries about the assigned subjects after completing their daily activities. Diary topics were determined in such a way that the participants could convey their feelings and opinions about the daily activity content. This study covers the results of five activity events and written diaries about them since the activity topics and contents were comprehensive. The names of these five events are as follows: (1) Let us trace the wastes, (2) Where to our wastes travel?, (3) Irregular and regular storage, (4) A journey in history: Introduction to the ancient city of Kibyra, and (5) Waste and waste management in ancient times. Teachers wrote diaries about the subject "Can you compare waste and waste management between ancient times and today?" after completing five events. The analysis of the diaries indicated that almost all teachers displayed an increased awareness and knowledge about waste and recycling increased by means of activities performed in modern technological facilities (purifying, waste collection facilities, wild-landfill storage areas) and historical remains. However, many teachers stated that still standing sewerage system made up of soil and stone of Kibyra ancient city and solid waste landfill site called as Bothros interested them much more rather than the modern technological system. Obviously teachers found waste management of ancient times much nature-friendly in comparison to the modern era.

Keywords: Waste management, recycling, modern technological facilities, ancient times, teachers.

Introduction

Wastes, which are produced as the results of human activities, have reached to an extend that threatens the lives of the generations of both today and the future (Court of Accounts, 2007). Together with using economic recovery methods like reuse of the wastes, recycling, composting, or energy production, preventing the rapid consumption of natural resources and producing wastes which do not threaten human and environmental health form the basis of "sustainable development". Efficient recovery can be possible by degradation at the source (Court of Accounts, 2007). This fact focuses on conscious consumption behaviors (Bayazit Hayta, 2009). Making each member of our society a recycling-aware consumer can only be achieved by educating our children. The focus of Turkish secondary school science course curriculum has been "educating science literate individuals who have sustainable development awareness" since 2005 (MEB, 2005, 2013). The acquisitions regarding recycling, wastes, sustainability, and other related topics in the curriculum have gained more importance since then. In this context, science course teachers have one of the key roles in shaping a recycling generation (Erduran Avcı & Deniz Çeliker, 2015).

Although there are still locations in Turkey, where wastes could not be gathered and disposed of in accordance with the applicable legislation, efforts and effective applications are conducted in various provinces regarding solid waste storage areas and recycling (Ministry of Environment and Forestry, 2008). Burdur is one of the provinces that started such applications. Both sides of the coin, the negative effects on the nature caused by not recycling wastes and not storing them properly and the efforts to recycle wastes at their source together with the proper storage sites, can be observed in Burdur. This study presents some of the results of a nature training project which was conducted in Burdur. The aims of the project are (i) to make science course teachers experience that living with or without wastes has effects on humans, plants, animals, and environment, (ii) to improve their scientific perspective about this subject, and (iii) to make them gain positive attitude about recycling.

“Look forward, recycle: Recycler teacher” Project

“Look forward, recycle: Recycler teacher” project was conducted from 17th to 23rd August 2104 in Burdur with the support of Scientific and Technological Research Council of Turkey and Mehmet Akif Ersoy University. Twenty science course teachers participated in 23 project activities during their nature training. These activities included discussions about living with and without wastes, facility inspection visits (waste concentration center, waste water treatment facility, solid waste storage areas, etc.), on-hand activities (composting, producing bio-gases), land and water resource inspection visits (Lake Burdur and Lake Karaçal), and historical site inspection visits.

Wastes and waste management was a problem of ancient people as it is of us today. In this context, teachers tried to understand the approach of ancient people to this problem by visiting the ancient city of Kibyra near Gölhisar, Burdur. During this process, teachers wrote down diaries on given topics after completing the activities. The diary topics were determined as to make the participants express their ideas and opinions on the activity of the day.

Since the number of activities in the project is high, this article is bounded by five activities and the diary results about them. These activities are (1) Let us trace the wastes, (2) Where to our wastes travel? (3) Irregular and regular storage, (4) A journey in history: Introduction to the ancient city of Kibyra, and (5) Waste and waste management in ancient times.

The participants performed their activities regarding the contemporary waste management in waste concentration center, waste water treatment center, and irregular storage area (city dump). They performed their activities regarding waste management in ancient era in Kibyra ancient city. They wrote the diaries after performing their activities about comparing modern waste management with ancient waste management.

Method

This research is a qualitative study. Twenty volunteer science course teachers participated in the study. 13 of the teachers were male and 7 of them were female. The teachers applied for participation using an application form on the internet. The diaries written by the teachers were used as the data collection tools and their content were analyzed using content analysis. The themes, which were extracted via analysis, were supported by the expressions from teacher diaries. Nicknames were used instead of real names for quotes.

Findings

There were four major themes in science course teachers' diaries: learning, self-criticism, emotion, and comparison of ancient and modern eras. Table-1 presents the themes in the diaries and their distribution.

Table 1. Themes and their distribution

Themes		N
Learning		20
Self-criticism		13
Emotion		8
Ancient-Modern Era	Nature perception	14
Comparison	Waste types	7
	Waste gathering and recycling methods	19

N: Number of teachers

Learning

Most of the project activity participants stated that they had the opportunity to learn many concepts about which they had non-decent information of misconceptions. The most common of these concepts were bio-degradation, recycling, compost, solid waste storage methods, water treatment, waste types, bio-gas, and bacteria. During the project, teachers both saw the application of the theoretical information they received and sometimes had on-hands experience. They stated that this helped the retention of their newly gained knowledge. Some samples of diary entries are as follows:

We learnt a lot about bio-degradation and making compost. I learnt that oxygen is required for degradation and burning is not possible in areas to which oxygen does not penetrate. (Kahraman)

The activities and research trips we performed blended entertainment with information and they prove that retentive learning is possible this way. (Fatime)

We went to the solid waste storage area and could not believe our eyes. There were fumes everywhere. We learnt that the cause of the fumes was methane originating from the dump. We observed the difference between irregular and regular storage. (Özgür)

I learnt how bio-degradation occurred and how house wastes are reused via composting. (Tolga)

I learnt how wastes are recycled and in which areas they are used. (Sait)

Today I added a term, whose meaning I did not know, to my vocabulary: compost. (Aylin)

Self-criticism

The teachers expressed that they did not have enough information about wastes and recycling. Moreover, they stated that they were not aware of the way these information affected our daily lives and our environment. Some of the teachers made their own criticism by confessing that they did not make use of their information and skills sensitively. They said that they realized the negative results of their negligent behaviors on nature. Some samples from teachers' expressions which reflected self-criticism are as follows:

We went to package storing. What a great effort and a great challenge. We act lazily at home and do not parse them but they struggle in that smell and dirt and do it. I will be very careful. . . To make a general evaluation, this was a very beneficial training. I witnessed and learnt many things I did not know about recycling. I will be very keen on this issue at home and at my school. . . We are sinking our world unconsciously. (Hünkar)

We were always deceiving ourselves. It was not the global warming, but our negligence and laziness that polluted the nature. (Özgür)

After seeing the waste water treatment facility I realized that there were many things I did not know. (Tolga)

This activity made me realize the extend the recycling box affected our lives. (Büşra)

If we give back what nature gave us, nature will show us her generosity. (Recep)

Now I am more aware of waste collection and parsing. (Bilge)

The greatest contribution of this training to me is that: I will return back to my students with more information about recycling, a topic I thought I knew, I will share them with my students, and I will educate more conscious students and make them more aware citizens. (Yaşar)

Emotion

Teachers made some emotionally negative expressions in their diaries about the places they saw, the information they gained, and the applications they made during the project activities. These expressions indicate that they experienced fear, anxiety, and distress. Some examples of such expressions are as follows:

This was the first time I wandered around in a dump. I was like watching the backstage of the people who paid great attention to how they looked and the results of their activities. The bad smell in the dump, the slowly burning fire there, and the dead creatures around were like the mourning of universe to humanity. I thought we might die somewhere among the wastes surrounding the world and I was very touched by it. (Jale)

We observed the journey of the sewer water in the treatment facility until it becomes clean again. We could not believe what we saw. We inspected how that dirty water which contained solid wastes became clean water again. (Özgür)

I noticed that the current status of Lake Burdur was catastrophic and it was about to dry. (Bilge)

I feel more disturbed every passing day by the waste density in Turkey, the increasing waste amount due to population and unconscious consumption. (Zeynep)

As the result of today's activities, I learnt that the living style of people can be unearthed even after centuries. I am afraid archeologists will speak about how a primitive society we were and how we polluted the nature after unearthing cities of Turkey as ancient cities. (İsmihan)

We started the day with the water treatment facility. . . . yesterday we went around Lake Burdur and saw no water resource feeding it. Today we learnt that it was only fed by waste water. What will our heritage be to the future generations? I think our wastes will be our only heritage. (Ömer)

Comparison of ancient and modern eras

While comparing Kibyra ancient city and modern age of today, teachers heavily criticized modern era. The analysis of the diaries show that this comparison can be categorized to three sub-themes as 'nature perception', 'waste types', and 'waste gathering and recycling methods'.

First of these sub-themes is named as nature perception. Teachers compared the activities of two eras which are performed in order to manage wastes. Most of them found the waste management in ancient Kibyra far more natural than modern Burdur. For instance, İsmihan expressed her opinion regarding this issue as *"...I think that the people of the ancient ages were far more environment-friendly than us despite they lacked today's technology and opportunities. After today's*

activities, I learnt that the living styles of people can be understood even after centuries by excavations. I am afraid archeologists will speak about how a primitive society we were and how we polluted the nature after unearthing cities of Turkey as ancient cities". Özgür stated the difference between the nature perception of the people of two different eras as "the people of that age cared about the nature more than us. . . I managed to see the emphasis that people of ancient times put on art, sports, and environment by observing the theaters, sewer systems, and stadiums they built. I am both happy and sad to see that such people lived on our lands because we cannot see such things in our modern society. Theaters are replaced by television, not even by cinema. We consider only football as sports. Would it be better if we lived in the ancient age?".

The second theme is waste types. Teachers stated that the wastes of ancient era were mostly organic ones which can degrade in nature easily where the wastes of today were various and not nature-friendly. They compared the waste types of two periods by giving examples. For instance, Zeynep wrote: "There are some materials like plastic, glass, metal, or batteries that cannot be recycled enough. They were not used in the ancient times but today we cannot think a life without them." Büşra expressed her observations and her admiration as "The wastes in the ancient era were very natural. Wastes were either remnants of food or pottery which were made of mud. They used to gather them in specific locations. Food remnants were used as fertilizers and the other wastes were transformed to sand in order to be used in grout as a construction material. The waste water was drained from the city regularly via a major channel fed by smaller channels. Today the case is not that easy and healthy. Today I was surprised by every site I saw. I was amazed once again after telling myself that there should not be a more amazing place." Bilge's opinions on the subject were as follows: "Ancient people did not kill their environment like us. There were no plastic and harmful gases were very limited. Even so they built regular sewer systems and waste storage areas. There is no need to say anything about today, especially about our country's status."

The last sub-theme is waste gathering and recycling methods. This sub-theme covers the comparisons between two eras regarding waste gathering and recycling methods. It was a remarkable fact that the teachers compared modern waste storage areas to ancient bothros fields and the materials of modern and ancient sewer and drainage systems. Most of the teachers were amazed by the methods used in ancient times. Regarding this issue, Jale wrote "There were waste gathering areas called "bothros" in ancient times similar to our modern world. They had water channels. But they had enhanced sewer systems water drainage pipes for public areas which we lack today. The ancient people used healthy pipes made of mud instead of today's plastic." Merve expressed her observations in her journal as: "After seeing the ancient city of Kibyra's infrastructure and the place they gathered their wastes, I think that we are not that advanced today. They built the sewer system before building the city. It is a system that travels all the way underneath the city collecting the waste water and a person can traverse in it easily. Moreover, there are pipe systems to drain rain water beneath public places like the stadium. They were transporting the solid wastes which were produced in houses to some pre-determined areas in the city. These wastes were grinded in order to be reused as grout. Today, factory and business wastes are in huge amounts due to industrialization. Rapid increase in human population affects all creatures and natural environment indeed."

Results

This study presents some of the results of the activities which were performed during Project "Look forward, recycle: Recycler teacher", which compared waste management in modern and ancient times. Participant diaries were inspected in order to find out how teachers evaluated waste management in both eras. Results indicated that teachers' opinions could be categorized into for themes. These themes were learning, self-criticism, emotion, and comparison of ancient and modern eras. Most of the teachers stated that most of the concepts regarding recycling were new to them. Some of the teachers criticized themselves and they stated that their previous knowledge on the issue included many misconceptions. These teachers emphasized that they corrected their misconceptions during the project activities. Another topic about which teachers criticized themselves was not being conscious enough about the environment. They said that they understood the negative effects of their negligent behaviors on nature. This fact caused fear, anxiety, or distress to some of the teachers.

Teachers seriously criticized our modern age in means of harming the nature following the activities conducted in ancient city of Kibyra. Most of them considered the waste management in Kibyra ancient city more natural in comparison to modern era. Furthermore, one of the teachers explicitly expressed this fact by writing "...Would it be better if we lived in the ancient age". Many teachers were amazed by the waste storage and bothros fields, sewer systems, and water drainage pipes of

ancient Kibyra city, all of which survived until today. Some of the teachers stated that waste types of modern era were compound of materials that can hardly degrade and stressed the negative effects of this difference to nature. In short, teachers sadly admitted that the people who lived in ancient city of Kibyra valued their nature more than we do today. The expressions in the diaries of participant teachers indicated that their knowledge, awareness, and consciousness about wastes, recycling and environment increased and they admired ancient era.

Waste management principles hierarchy, which forms the basis of European Union's waste management strategy and is adopted by our national legislation, outlines the basic policies of a healthy and effective waste management system. These principles include reducing the wastes at the source/preventing waste production, maximizing the reuse of the wastes that cannot be prevented by recycling, composting, or converting to energy, and safely storing the wastes that cannot be reused (Court of Accounts, 2007). These principles and targets can only be applied and achieved by the applications of local administrations. But the most important thing in this process is making every individual of the community believe and adopt it. Recycler teachers are the important keys to grow recycler students who will be recycler parents, leading to a recycler society. In this context, the expected outcome of this project is contributing to national targets by educating recycler students via teachers who have this vision.

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Note: Details about our project and Kibyra ancient city are available on <http://www.mehmetakif.edu.tr/projeler/ileriyebakgeridonustur/> and <http://www.burdur.gov.tr/kibyra.asp>.

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The SME in a Globalized Economy. Challenges of the Albania's SME in the Optic of Small Business Act

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Abstract

In the context of globalization, SMEs tends to consolidate and the question of how SMEs manage the competition is intriguing. Besides larger competitors with visible, physical premises, other processes related to globalization are presenting SMEs with both opportunities and threats. The next 5 years are an important benchmark for a number of EU political processes that indirectly effect the well-being of the SME's. SBA is a bright idea how to follow-up and reinvigorate the Lisbon Strategy so that the continuing efforts of Entrepreneurs are focused on the real reforms that they desperately need to implement. All SME face rigid labor markets that keep a large part of the work-force outside the labor market. They have tax systems that not only discourage innovation and creativity but also actually destroy incentives and risk-taking. Entrepreneurs need secure and stable rules. Otherwise they might become disillusioned about the European project as a whole. They know that closer integration can give them increased competitiveness, growth and jobs. They must therefore be able to continue to believe in Europe as their natural platform for trade and investment. The Small Business Act, launched by the European Commission, identifies the right priorities to unleash the potential of the SME. This paper analysis the characteristic of the Albania SMEs, advantages and disadvantages in relation to Globalization and present the solution of the ten principles of SBA as a way forward to improve their performance.

Keywords: Globalization, SME, Small Business Act, European Commission, Albania

1. The Small Medium Enterprises in a globalized economy

The importance of SMEs lies in the key role they have in the growth of the states (Feeney and Riding, 1997), the large number of people who rely directly or indirectly on them (Fida, 2008), the contribution they have in achieving certain socio-economic objectives, including poverty reduction (Cook and Nixon, 2000).

Peter Drucker asserted in respect of SMEs that "small businesses represent the main catalyst of economic growth". Entrepreneurship, flexibility and responsiveness to change are attributes of SMEs and are real driving forces of economic development. We can also say that SMEs contribute largely to the increasing standard of living and prosperity. The main reasons of this paper for the impact of the SME in the economic growth are connected with the following factors:

- SME are the 99 % of the active enterprises
- Turnover of SMEs constitute about 71% of the total
- SMEs provide the majority of employment
- SMEs are the most dynamic enterprises

Micro, small and medium-sized enterprises (SMEs) represent an overwhelming proportion of the entrepreneurial structure of the EU. They contribute in large measure to the economic growth, job creation and innovation (essential

for the competitiveness of European companies). In the European Union about 20,70 millions of small and medium-sized enterprises (SMEs) ensure around 2/3 of the jobs in the private sector and represent 99,80% of the total enterprises¹.

Small and medium enterprises contribute raising the living standards of society by stimulating the economic activity, the diversity of products offered to consumers and creating new jobs.

According Graham Bannock (2005) small and medium enterprises have always played a very important role in economic and social life of any country, being the basis of the development of the economy. Dynamism, flexibility, adaptability, mobility and their innovative potential are considered to be essential for the harmonious development of the economy of any Member State, and may ensure the cohesion of the economic structure, good economic growth and, of course, creation of new jobs.

The globalization process for SMEs can be realized through cross border activities, including trade, international investment, and participation in strategic alliances, partnerships and networking arrangements. The globalization of business has increasingly drawn SMEs, especially those in sectors subject to strong globalization forces, into global value chains through different types of cross-border activities. There is evidence that a group of SMEs with high-growth potential require early access to international markets to ensure their development and growth. Generally SMEs evidence suggests that the contribution they make to local and national economies remain underrepresented in the international economy but this situation is changing.

Those SMEs which are internationally active tend to be larger than the average SME. The average SME employs less than 10 people, whereas the bulk of SME exports and international investment comes from SMEs which employ more than 50 or 100 employees. Most net job creation and wealth creation seems to come from either fast growth firms or from net startups and large firms are net destroyers of jobs. Therefore, only if the globalized economy is conducive to the startup and growth of entrepreneurial SMEs then the process of globalization will be seen as a positive force of net job.

It is suggested that to a number of factors such as rapid changes in ICT and access to the worldwide web which appear to make it easier for SMEs to move across borders, are added other factors at play which may be contributing to impede SME access to the global economy. Another factor that continue to hurdle the SMEs contribution to the global economy is the complexity and differences in the regulatory systems and business environment between countries. The success and growth of international SMEs will be enhanced by a more internationalized infrastructure oriented to the smooth growth of firms across borders. This have to be applied to the infrastructure for financial markets, advisory services, information access, telecommunications, intellectual property rights markets and regulation, dispute resolution processes, etc. they all need to be internationalized. All of this requires active collaboration between governments, international agencies and the private sector to address these issues with the view of reaping the significant potential benefits that should accrue from the creation of a simpler, more business friendly, and more integrated economy at international levels.

This paper highlights the need for a more comprehensive approach to SME development in Albania, combining on going reforms to improve the general business environment with targeted interventions to support specific segments of the enterprise population, such as innovative enterprises, start-ups or export oriented enterprises.

The recommendations of this article go to the government action to create a level playing field for all SMEs, through the regulatory reform and administrative simplification, as well as investments in human resources, provision for better services in business development, better access to finance and stimulating the technological transfer.

2. The Characteristics and the obstacles in the international performance of SME

2.1. Features of SMEs

The concept of the SME seems at first glance to be a clear notion. However, after following a review of the literature, it reveals that researchers do not agree on a single definition of SMEs. Diversity is reflected also in the market occupied by SMEs, making a distinction between SMEs activating in the field of artisanal and those working in high-tech sectors. The

¹ EU SMEs in 2012: at the crossroads Annual report on small and medium-sized enterprises in the EU, 2011/12

legal status of SMEs is also very diverse. SMEs can be incorporated as limited liability partnerships, stock companies and limited liability companies. In a single market such as the European Union, where there are no internal borders, it is clear that measures to encourage SMEs should be based on a common definition, in order to increase their efficiency, for comparability of data released and in order to limit distortions. This is absolutely necessary due to the alignment of national measures with those required by the European Union to support SMEs in areas such as regional development and finding funds. The current definition is contained in the Recommendation No. 2003/361/EC which was adopted by the European Commission on 6 May 2003. In accordance with that recommendation, the classification of SMEs is based on staff levels, turnover or total balance sheet. According to EU definition, SMEs are made of firms that employee less than 250 people and that have an annual turnover of no more than 50 million Euros and/or a total balance sheet that does not exceed 40 million Euros. The identification of SMEs in Albania is regulated by law (Law Nr. 1042, dated 22. 12. 2008). According to this law, the identification of small and medium enterprises is made by taking into consideration the number of employees and annual turnover or balance sheets of their assets. These indicators for each category are defined as below.

Table 1. SME Definition according Albanian Legislation

	No. of employees	Annual Turnover or Balance Sheet
Micro enterprises	0 to 9 persons	0 -10 million ALL
Small enterprises	10 to 49 persons	50 million ALL
Medium enterprises	50 to 249 persons	250 million ALL

Source: Adapted from Albanian Legislation (Law Nr. 1042, dated 22. 12. 2008)

Another distinct difference between Albania and the EU is the importance of the different SME size categories. The services and trades sectors are dominated by micro-enterprises, while industry and construction sectors are dominated by medium enterprises. In 2012, about 90. 2 percent of enterprises were with 1-4 employed. The most part, 67%, have only 1 self-employer¹. Therefore we can say that the structure of enterprises in Albania is based on micro enterprises.

An important aspect of the development of Albanian economy is the size of the companies operating in the market. As it has been shown by the past and current studies, the main percentage of the companies operating in the Albanian market are micro firms, small and medium enterprises, with only a number of companies, which can be categorized as large companies.

During 2010 - 2012, around 95% of these employees work in micro enterprises. According to Albanian Ministry of Economy during the period of 2008-2020 the contribution of SME sector was 73% of GDP. As a result, it can be said that the SME sector continues to play an important role in the economy of the country. Unfortunately, the companies operating in this sector are the ones that face the most challenges and obstacles during their daily operation.

The share contribution of agriculture sector is 21% of GDP in 2010. The rest of GDP, is covered by industry approximately 20% and 59% services. During the three years 2009-2011, the Albanian economy was increased with an average estimated at 3. 4% of GDP, inflation 2 - 4%. Unemployment rate has shown decline, reaching 13. 3% from 13. 5% in 2010. Exports of goods increased by 23%.

2. ¹ INSTAT 2012, Business Register 2012

Number of active economic enterprises in 2013 was 111. 083, which increased 4,41percent compared with 2012. By economic activity, enterprises that operate in trade sector comprise 43. 3 percent, while enterprises with 1-4 employed are those which prevail with 89. 4 percent where services producers dominate with 78. 9 percent.

Table 2. Total Active Enterprises 2008 – 2013

	2008	2009	2010	2011	2012	2013
Active enterprises	104750	106477	100687	103038	106387	111083

Source: Adapted from INSTAT Albania, Business Register 2013

Figure no 1. Total Active Enterprises 2008 – 2013



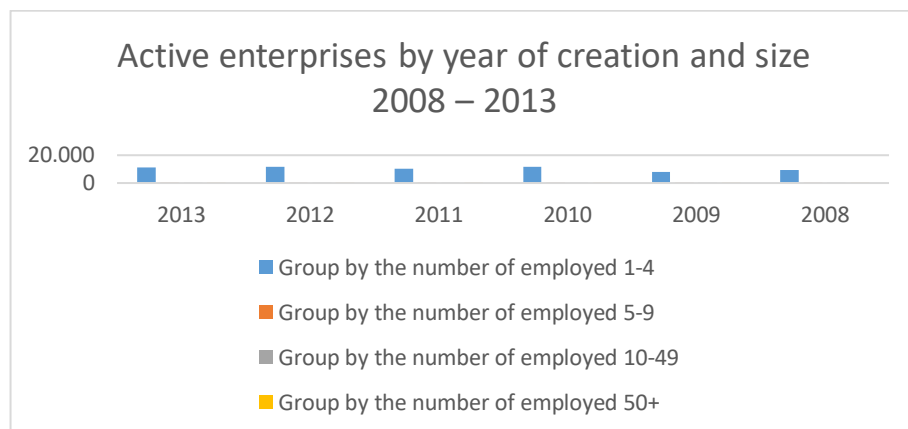
Source: Adapted from INSTAT Albania, Business Register 2013

In 2013 the number of new enterprises is 12,131 while in 2012 it was 12,248, 36. 9 % of new enterprises carry out trade economic activity. In trade group "wholesale trade, except of motor vehicles and motorcycles" dominate by 72. 5 %;

Table 3. Active enterprises by year of creation and size 2008 – 2013

Year of Creation	Total	Group by the number of employed			
		1-4	5-9	10-49	50+
Total	66. 198	62. 139	2. 507	1. 271	281
2013	12. 131	11. 358	539	196	38
2012	12. 248	11. 644	369	183	52
2011	11. 033	10. 458	349	190	36
2010	12. 091	11. 436	430	193	32
2009	8. 685	8. 032	365	225	63
2008	10. 010	9. 211	455	284	60

Source: Adapted from INSTAT Albania, Business Register 2013

Figure no 2. Total Active Enterprises 2008 – 2013

Source: Adapted from INSTAT Albania, Business Register 2013

Among other specific characteristics of SMEs there is identified the vulnerability to losing customers. Furthermore, SMEs are usually reluctant to adopt regulations and are less sensitive to institutional pressures as large companies are (H. Jenkins, 2004).

2.2. The Limitations of SME access to international markets

In addition to opportunities, globalization can also pose challenges and threats for SMEs which from a resource viewpoint, are less well-equipped than larger firms to confront. These challenges can expose them to heightened international competition from foreign firms, and may result in the loss of traditional markets to lower-priced competition from overseas. Challenges and threats can concern the following: standards and international compatibility issues; intellectual property protection; political risks, corruption; and rule of law issues.

To date, there has been little research undertaken to quantify the amplitude of impediments to SME globalization or their economic impact, for either OECD member countries or non-member economies. While a majority of SMEs have the vocation to serve only local markets, a significant share of enterprises need to access foreign markets to ensure their survival and expansion, among which is a group of high-growth, export-oriented enterprises (OECD, 2002). Many of the barriers that SMEs can face originate at the level of the national economy, institutions, and general infrastructure. Competition policy, legislative and regulatory frameworks, telecommunications infrastructure, research and education policy contribute to SME preparedness for globalization. In particular, barriers can concern intellectual property rights; political risks; corruption and rule of law issues. They can relate to the entire range of business operations, having implications for business and organization models, managerial and technological capability; and innovative capacity. As mentioned earlier, SMEs are less well-equipped than larger firms to address these difficulties.

Owners of SMEs, more often, identify the business environment factors as factors hindering the development of their activity. Shortages and supply disruptions of the electric energy is the most important factor that inhibits the activity of SMEs.

The second factor that prevents SMEs is the unclear fiscal legislation and its incorrect implementation.

Also the consumer demand factor, is a barrier for SMEs in Albania. In terms of material supply, it is noted that the competition with the imports production, is identified as a limiting factor for the development of SME business. In the construction sector, the main obstacles for SMEs are dishonest way to implement the fiscal legislation and the procurement.

Difficulties in obtaining credit and financial liquidity problems are also important for the development of SME in the building sector. The fear of an insufficient profit is the most important factor that limits the future planning of investments for SMEs. While profit is the only tool for investment in the SME sector, such results shows that during the future years the benefit of SMEs is to slow down.

One of the main challenges faced by the Albanian SME is the financing. Even though in the last years the burden of obtaining external financing, mainly bank/financial institution loan, has been reduced, yet the Albanian SME continue to be very concerned by the long, difficult and very bureaucratic administrative aspect of the lending procedures. The main problem that concerns SMEs is the collateral since the conditions required to be met by the collateral to be considered as good and acceptable collateral are heavy for SMEs. Usually, banks require that collateral is either in the form of a real estate property, or collateral may be in the form of a bank deposit. Therefore, being that most of the Albanian SMEs can hardly reach reasonable profit margin, let alone make enough profit to own various properties and bank deposits to act as collateral for a bank loan, in most of the cases many excellent business ideas do not become true due to the lack of collateral. Moreover, The Albanian SMEs find the amount of forms required to be filled in by them very excessive and time wasting.

Nevertheless, in contrast to the European SMEs, the Albanian SMEs do not have any external assistance while filling them in or to make these procedures easier for them. Additionally, the high interest rates offered by the banks are another problem encountered by the Albanian SMEs. Even though, the degree of competitiveness between the banks operating in the banking sector have increased in the last few years, yet the interest rates have not experienced a substantially decrease. Infrastructure has always been, and it continues to be a big problem for the normal development of the Albanian economy. Even though, in the last years, the infrastructure has undergone major improvements, still there are many problems with it. One of the main problems of the infrastructure worth to be mentioned is that, nowadays the rail system in Albania is badly damaged and its usage level is very small due to the lack of necessary investments. Usually, railway network is used for people transportation and not for goods transportation and as a result, nowadays the only method of transporting the commercial goods is by using the road system making the transportation process very long and expensive for SMEs.

Albania as the rest of Europe has understood the importance of the entrepreneurship in the further development of the national economy. Nevertheless, Albania in contrast to other countries in the region of Western Balkans has done little to develop the entrepreneurial attitude. Over the last years, the Albanian state has introduced entrepreneurship as a module in various educational levels with a more an academic approach of it where its basic concepts are explained. Nonetheless, the module is not taught continuously and following a logical increasing level of knowledge throughout an educational level, but it experiences gaps and the taught things may be repeated at various levels. As a result, the Albanian youngsters are not ready yet to face the challenges that comprise being an entrepreneur when they finish studies.

Even though, Albania has undertaken various measures to develop the innovation spirit among the enterprises, innovation still is not at the desired levels. Online services such as e-business and e-signature, which are commonly used in EU, in Albania exist merely as a concept and are not widely used by Albanians. The main reason for this lack of usage is that Albania does not have a proper developed infrastructure for online services. Another problem

related to innovation is that Albanian enterprises do not focus as much as they should on R&D. Usually, the Albanian enterprises focus more on increasing their profit forgetting that successful R&D ideas will help them generate more profit.

3. Challenges of Albanian's SME in the optic of Small Business Act

3.1. SMEs in the Albanian economy – Key indicators

Since the place occupied by the SME-s in the Albanian market resemble that of the EU market, then it is vital for Albania to give to them the same importance and pay the same attention that it is given to the SME-s in the EU. As it can be seen, the challenges faced by the SME-s in the European Union are the same challenges faced by the SME-s in Albania. Although the Albanian economy is still an emerging economy, the severity of these challenges is higher and the measures to be undertaken should be greater.

The role of SME in the Albanian economic growth has been quite satisfactory. In particular, the progress has been more important in the construction and transport sectors. The Small and medium enterprises that operates in the industry and

construction sector are the main contributors to employment growth compared to other sectors of non-agricultural. Albania is a very attractive market for the foreign investors because the country possesses the very favorable geographic position of Albania and the rich natural resources and very skilled and at low cost human resources Albania is an economy dominated by services.

There exist many important challenges to be faced by Albania in order to achieve the desired levels of economic development and become a very competitive in the regional and global market. The major part of the Albanian market that bear the most difficult challenges have result to be SMEs. Some of the SMEs challenges are financing, very excessive and time wasting the amount of forms required to be filled and the high interest rates offered by the banks. Infrastructure is another challenge due to the damaged rail system which would have resulted to be a good alternative and a cheaper way of transportation for SMEs.

In Albania the innovation spirit among the enterprises, is still not at the desired levels and online services merely exists due to the lack of proper developed online services infrastructure. Moreover, Albanian enterprises that successful R&D ideas generate more profit and focus very less on them.

In 2013, the number of total employed increased by 28,565 employed or 9.0 percent compared to 2012. Goods and services producers have contributed respectively by 2.1 percent and 6.9 percent in the total increase of employed. Turnover in 2013 reached 1,637 billion ALL, which indicated an increase of 5.8 percent compared with 2012. Turnover of services producers constitutes 65.3 percent of total turnover for 2013 and contributed by 4.8 percent in total increase of turnover.

In total active enterprises in 2013, were employed 344,528 persons. Enterprises with 80 and more employed have engaged 31.5 percent of the total number of employed which have realized 38.6 percent of total turnover and have invested 53.9 percent of total investments. In this size class of enterprises with 80 and more employed, goods producers dominate on the number of active enterprises (57.5 percent), employed (56.7 percent) and investments (60.5 percent). Enterprises with 1-4 employed engaged 34.5 percent of the total employed and realized 15.9 percent of total turnover. Small enterprises dominate in services producers on number of active enterprises (88.3 percent), employed (86.3 percent) and turnover (85.4 percent)¹.

In the below table are presented basic indicators like number of enterprises, employed, turnover and investments for 2013 by size class of enterprises.

Table 4. Enterprises, employed, turnover, investments by size class of enterprise, 2013

Ndërmarrjet Enterprises		Të punësuarit Employed		Shitjet neto Turnover		Investimet Investments		Size class of enterprise
nr. / no.	%	nr. / no.	%	mln Lekë/ mln ALL	%	mln Lekë/ mln ALL	%	
84.790	100	344.528	100	1.637.015	100	162.899	100	Total
75.823	89	118.988	35	259.485	16	25.773	16	1-4 employed
6.957	8	58.619	17	393.137	24	28.170	17	5-19 employed
1.561	2	58.427	17	352.603	21	21.165	13	20-79 employed
449	1	108.494	31	631.790	39	87.791	54	80+ employed

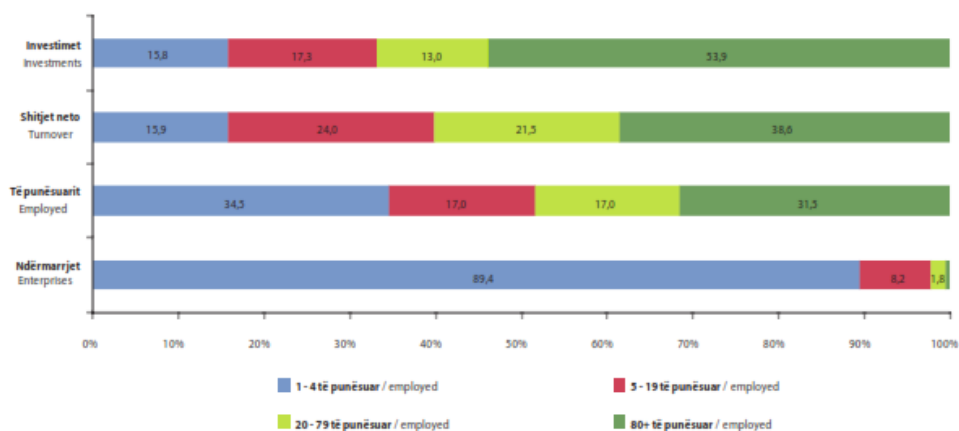
Source: INSTAT Results of structural survey of economic enterprises, 2013

¹ INSTAT Results of structural survey of economic enterprises, 2013

Enterprises with 80 and more employed has contributed by 2. 3 percent in total annual growth rate of turnover even they have the highest share of turnover by 38. 6 percent. Enterprises with 5-19 employed have the major contribution by 2. 7 percent.

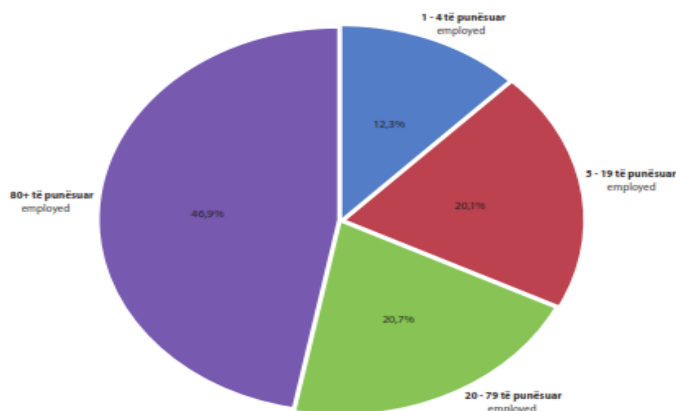
In the figure no. 3 is presented the basic indicators structure by size class of enterprise. Enterprises with 5-19 employed and 2079 employed constitute respectively 8 percent and 2 percent of total number of active enterprises. The share of number of employed, turnover and investments for both groups of enterprises with 5-19 enterprises and 20-79 enterprises are similar.

Figure no 3. Basic indicators structure by size class of enterprise, 2013



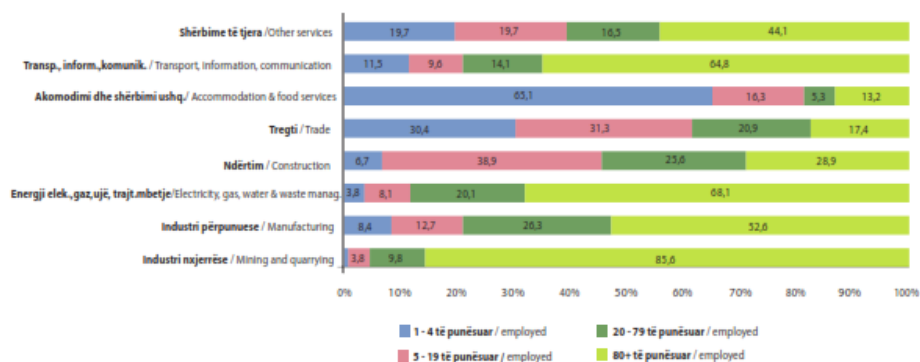
Source: INSTAT Results of structural survey of economic enterprises, 2013

Enterprises with 80 and more employed although with the smallest share (0. 5 percent) in the total active enterprise population generated 46. 9 percent of total production. In the below figure 4 is presented the structure of production value as a percentage of each of the enterprises size class for 2013.

Figure no 4. Production value structure by enterprise size class, 2013

Source: INSTAT Results of structural survey of economic enterprises, 2013

Accommodation and food services sector is the only sector where enterprises with 1-4 employed generate the major percentage of total value added. Enterprises with 5-19 employed generate the major percentage of total value added in construction and transport, information and communication sectors. In all other sectors, the major percentage of the total value added is generated by enterprises with 80 and more employed. In the figure 4 is presented the structure of value added as a percentage of each of the economic activities and enterprise size class for 2013.

Figure no 5. Value added structure by economic activities and enterprise size class, 2013

Source: INSTAT Results of structural survey of economic enterprises, 2013

3.2. Albanian's SME in the optic of Small Business Act

The Small Business Act for Europe adopted in 2008 and updated in 2011 reflects the Commission's political will to recognize the central role of SMEs in the EU economy. The some 21 million SMEs create 58% of the value-added, employ 87 million people and account for 85% of the net job creation. SMEs also have a central role in the Commission's overall reform strategy, Europe 2020 and its flagship initiatives, in particular on Industrial policy¹.

The Commission is monitoring the implementation of the SBA in the Member States with an annual report and country-specific facts sheets² which highlight both progress as well as deficiencies.

This work tried to provide a framework to assess convergence of national SME policies with the ten principles of the Small Business Act for Europe (SBA), identifying strong and weak points in policy design and implementation of SBA in Albania, and tried to provide an updating list of priority actions for reform in Albania economy.

It is very important having a dynamic entrepreneurship and a productive industry, able to respond to the challenges of development and integration, regional and global competition. This vision should be focused on:

- a) Continuing improvement of business and investment climate, reducing administrative barriers and business costs;
- b) Development of a productive industrial and mining sector, capable of processing raw materials in the country and increasing the added value through investments and application of new technologies, increasing professionalism and employment, which stimulates creation of a competitive industry.
- c) Creating a partnership between government and business regarding the needs for improved technology, innovation and ability to prepare "skilled workforce".
- d) Creation of a competitive and dynamic industry, foreign investment, growth and diversification of exports, and stimulating the creation of new businesses.

The challenge of this strategy is to enable and to guide investments, which will gradually transform the economic structure to an economy with sectors and products with more added value.

One of the tools to measure the impact assessment of the SBA is recommended by the EU. They talk about the "SME Test", that is the idea to analyze the effects of a legislative proposal on SMEs. It is a key action to implement the "Think Small First" principle - the core principle of the Small Business Act (SBA) for Europe.

The first step of the "SME Test" is maintaining a continuous dialogue with business community. And then according to the ten principles of SBA continuing other suggestions:

1. Entrepreneurship development; drafting and implementation of entrepreneurship and lifelong learning strategy; creative economy; the CSR program; support for start-ups, women in business and youth, expansion of micro credit in rural and urban areas;
2. Increasing competitiveness of SMEs and strengthening technological capacities: establishment of the National Competitiveness Council, the implementation of the innovation program; drafting legal framework for the creation of financial schemes for innovation like voucher, business angels, etc., strengthening the BRIC, the establishment of parks and technological incubators, clusters development, financial support for innovation etc.
3. Improve business services.
4. Improve SME lending - the extension of credit guarantee schemes, the creation of schemes to subsidize bank loan interest, the creation of venture capital schemes, etc.

¹ http://ec.europa.eu/enterprise/policies/industrial-competitiveness/industrial-policy/index_en.htm

⁴ SME Performance Review, see :

http://ec.europa.eu/enterprise/policies/sme/facts-figuresanalysis/performance-review/index_en.htm

5. Strengthening institutional capacities – AIDA, etc.
6. Encouraging investment in technology, modernization, diversification and specialization of industrial products in regional & global markets.
7. Manufacturing sector towards value-added products using raw materials of the country (import substitution).
8. Use of existing industrial facilities and cheap labor cost in disadvantaged areas for product development.
9. Promote and support the industry sector in terms of innovation, offering new products and services to market.
10. Enhancing professional capacity and support them in establishing joint ventures for competitive products.

There are also other strategic objectives for accessing the global market:

- ✓ Integration in regional and European markets.
- ✓ Promotion of trade mark "Made in Albania".
- ✓ Support for export product's certification.
- ✓ Promoting cooperation between manufacturers will allow the potential use of "economies of scale".
- ✓ Developing and implementing new credit support schemes for the development of exports.
- ✓ Support to business associations and exporting companies operating in sector and product base.
- ✓ Implementation of an export promotion program with the support of the Diaspora.
- ✓ The disbursement of government funds for competitiveness, ECGF, etc.

The impact assessment of the SBA should follow different steps. As mentioned below its better to start with a guidance to get information about number of business and their sized, proportion of the employment concerned in the different categories of enterprises affected, weight of the different kind of SMEs in the sectors (micro, small and medium ones). To better measure the impact on SMEs should be done an analysis qualitative and then quantitative of the distribution of the potential cost and the benefits with the respect to the business size, differentiating between micro, small medium, and large enterprise. It is important to know to which extent this policies affects the SMEs competitiveness or the business environment. After the result of this analysis, we have to consider the specific operations in order to use possible mitigating measures. The choice of specific measures to use will be made on case by case basis.

4. Conclusions

The monitoring and the coordination of the programs arising from the implementation of the European Charter of SMEs is among the most important objectives. Focusing in the improving of the legal framework will facilitate SME financing by aligning it with European standards, to increase access to more SMEs in the banking sector, the development of training programs, the reduction of administrative barriers so that will increase the competitive capacity of SMEs in international markets.

The main objective of the Government's policy for private sector development has consisted of comprehensive reform of the legal and regulatory framework in the field of business aiming prioritized improving the business climate, reducing administrative barriers, and implementation of the Small Business Act (SBA).

Improving the Business Climate and Institutional Strengthening is also another important objectives of the government. Reforming the inspection system in Albania through the consolidation of the number of inspectorates and enforcement of the Central Inspectorate is necessary to support the implementation of this programmes. Update the registry of Electronic Business Legislation now is something that it completed and amending and further improvements of laws and regulations that affect the cost reduction of doing business in Albania is in continuing progress.

5. Recommendations:

Governments have a role to play in order to lower the barriers faced by entrepreneurs who wish to globalize their activities – thereby benefiting, in particular, a category of entrepreneurs whose businesses have high growth and export potential and who could develop and exploit niche markets and expand their businesses on international markets. Governments need to ensure that regulatory, administrative and policy environments do not inhibit access to global markets

- Improvement of legislation in terms of accelerating the creation of new born firms, especially for micro enterprises.
- Alignment of Albanian legislation in the field of SMEs with European standards.
- Review of fiscal legislation in terms of enhancing tax transparency and easing the tax burden, especially for micro enterprises.
- Review of legislation in terms of territorial administration and public procurement rules
- Creating support programs, particularly in terms of financial and technical assistance to increase the competitiveness of SMEs towards regional markets, European and international markets.

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The Role of Finance on Achieving Companies Goals

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Abstract

The role of companies on economic development, in increasing employment and improving the welfare of its citizen by offering various products and services is continually increasing and having a higher significant role, especially in today's times of economic globalization that we have on. Different companies, whether private or public have their own goals and objectives to achieve where their main goal is profit maximization. The basic element to achieve company's goal and objective is to ensure and manage financial funds. Business owners determine in the accomplishment of objectives, including financial objectives, based on the high competition environment that is persistent and each time more aggressive, in order to survive and to achieve their foreseen goals, the company must continually make investments in (equipment, land, buildings, staff training, new staff engagement, marketing, etc.), and in order to make these investments possible the company needs to achieve these financial tools, successful management of funds, where the auditing plays a significant role in the successful management. The financial system is undoubtedly a correct catalyst or better yet a laboratory where economic developments take the right shape and form. Complexity and size of organization makes it impossible for the higher management to control each individual if the organization is running its activity in the most effective way. Financial statements are a passport of companies where the management, accounting and auditors are highly linked. The aims of these financial statements are intended to provide reasonable assurance regarding the achievement of key objectives such as: Effectiveness and efficiency of operations, reliability of financial reporting and management, compliance with laws and regulations and preservation of assets. In this paper we will focus on the sources of financial funds of companies, successful management of finances as a basic element of meeting the objectives and internal and external audit as a key element that ensures the success of companies.

Keywords: Finance, Maximization of goals, Financial Management, Financial Statement, Investment, Effectively, Financial System, Auditing

The role of finance in company

The financial manager plays a dynamic role in a modern company's development. Today, external factors have an increasing impact on the financial manager. Heightened corporate competition, technological change, volatility in inflation and interest rates, worldwide economic uncertainty, fluctuating exchange rates, tax law changes, and ethical concerns over certain financial dealings must be dealt with almost daily. As a result, finance is required to play an ever more vital strategic role within the corporation. The financial manager has emerged as a team player in the overall effort of a company to create value. Thus today's financial manager must have the flexibility to adapt to the changing external environment if his or her firm is to survive.

The successful financial manager of tomorrow will need to supplement the traditional metrics of performance with new methods that encourage a greater role for uncertainty and multiple assumptions. These new methods will seek to value the flexibility inherent in initiatives – that is, the way in which taking one step offers you the option to stop or continue down one or more paths. In short, a correct decision may involve doing something today that in itself has small value, but gives you the option to do something of greater value in the future.

Finance funds are very important in achieving company's objectives. They are divided into internal and external funds. Usually shareholders have high ambitions on achieving their ideas, and the tendency is to invest in correlation with sales or launching a new product in order to fill the gap the markets needs, if the internal finance funds aren't enough, the need for external funds and additional funds is seen, whether that is through loan, donation, partnership etc. Therefore finance management plays a crucial role to successfully manage the funds.

If you become a financial manager, your ability to adapt to change, raise funds, invest in assets, and manage wisely will affect the success of your firm and, ultimately, the overall economy as well. In an economy, efficient allocation of resources is vital to optimal growth in that economy; it is also vital to ensuring that individuals obtain satisfaction of their highest levels of personal wants. Thus, through efficiently acquiring, financing, and managing assets, the financial manager contributes to the firm and to the vitality and growth of the economy as a whole.

What is financial management?

Financial management is concerned with the acquisition, financing, and management of assets with some overall goal in mind. Thus the decision function of financial management can be broken down into three major areas: the investment, financing, and asset management decisions.

Investment decision

The investment decision is the most important of the firm's three major decisions when it comes to value creation. It begins with a determination of the total amount of assets needed to be held by the firm. Picture the firm's balance sheet in your mind for a moment. Imagine liabilities and owners' equity being listed on the right side of the balance sheet and its assets on the left. The financial manager needs to determine the dollar amount that appears above the double lines on the left-hand side of the balance sheet – that is, the size of the firm.

Financial Decision

The second major decision of the firm is the financing decision. Here the financial manager is concerned with the makeup of the right-hand side of the balance sheet. Some firms have relatively large amounts of debt, whereas others are almost debt free.

In addition, dividend policy must be viewed as an integral part of the firm's financing decision. The dividend-payout ratio determines the amount of earnings that can be retained in the firm. Retaining a greater amount of current earnings in the firm means that fewer dollars will be available for current dividend payments. The value of the dividends paid to stockholders must therefore be balanced against the opportunity cost of retained earnings lost as a means of equity financing.

The importance of the financial management in modern organizations

If we were to take into consideration certain financial objectives, we might come up with ideas such as: survival; avoiding the financial crises or bankruptcy; overcoming competition; maximizing sales or market rate; minimizing costs; maximizing profits; maintaining an earnings' sustained growth.

Each of these possibilities shows problems that have to be solved by the financial management. If we take each mentioned idea, we might say that, at first sight, the company does not need a financial manager. For example, the sales' increase can be achieved by increasing the loan period offered to the clients. To minimize costs, the company can reduce the research volume of the research-development activity. Bankruptcy can be avoided very easily: we do not take loans or we do not take risks. But are these solutions really the best ones?

We do not borrow money, so we will not have debts and consequently the possibility that the company may go bankrupt because of the impossibility to return the funds does not exist anymore. Then, how will the company be able to finance its investments? Internal sources will never be sufficient enough, especially if the company decides to extend the loan period offered to clients.

As a conclusion, does the company actually need a financial manager?

The answer is only one: obviously yes. The financial management plays a key part inside the company. The size and the importance of the financial management depend on the company's size. Inside small and medium-sized companies, the financial management's obligations are generally carried out by the accounting department. Once the company's size takes proportions, the importance of the financial management reflects in the establishment of certain distinct departments, directly subordinated to the company's president or the executive manager's by appointing a vice president of the finances, called financial manager.

Also, the financial management offers solutions for these major decisions of the company: the investment decision, the financing decision, and the dividend decision.

Assuming that the managers' objective is to maximize the company's value, the financial management has to find an optimal combination between the three major decisions. For example, the decision of investing in new assets supposes finding new financing sources. On the other hand, taking a financing decision influences, and is influenced by, the dividend decision because the retained incomes as internal financing sources would in fact belong to share-holders as dividends. The financial management's task is to analyze the effects of each decision and to find an optimal element to contribute to reaching the company's objective.

The financial management belongs to the company's decisional and control under-system, which processes and offers information both from the inside, as well as from the outside. Its basic concern is represented by the under-system's financial funds management, the success of this activity being vital for the company's survival.

The information received by the financial management refers to:

- the funds' investment cost on the capital markets;
- the current rates of exchange;
- the short-term interest rate, employed on the monetary markets;
- the information about the new investment opportunities available to the company;
- the innovation in the financial field and the existence of new financial instruments.

Regarding the decisional system, the financial management will give information about:

- the interest rates which the company is willing to take loans at;
- the future cash flow needs; - the recommendations of long-term debt increase, of shares' issue or a combination between these two;
- recommendations about taking short-term loans or about self-financing;
- the availability of risk management techniques;
- the economic units' productions and the impact on the existing and planned projects.

The financial dimension of a strategy is the one that better answers to the objectives of a company's shareholders: the company's market value maximization and the share's value maximization. Generally speaking, the basic purpose of the financial the basic purpose of the financial management's actions has to be company's survival and implicitly its situation's consolidation, demonstrated by getting some worthy market performances. For this reason, its role is to build a frame where the necessary connections between three fundamental variables are about to be established, namely: the company's objectives, the company's market value, the means and instruments used for measuring the company's financial and general performances.

Interferences and differences between the management of the accounting activity and the company's of the future financial management

The finances represent the means and methods through funds are obtained, controlled, allotted and used. Accountancy is defined by the American Association of Accountancy as it follows: "the identification, evaluation and communication process

of the economic information to allow the accomplishment of certain judgments and decisions by the users of that information”

The accounting activity has radically changed the content given by accountancy as a technique. Its purpose established centuries ago was to keep an evidence of the operations, of the incomes and expenses, to make the closing documents for an administration period. Nowadays, its basic purpose is to gather and analyze the information, contributing to the achievement of a competitive management, capable of capturing the future evolution of the economic activity. The risks faced by the company under the terms of a competitive economy make the information generated by qualitative accounting activity absolutely indispensable. Therefore, the accounting activity favours the effective and dynamic information process over the exploitation, financing and investment cycles developed inside the enterprise. Through the delivered data and information, it contributes to the increase of the economic efficiency, being able to determine the performed and employed expenses, the activity's due costs and their level inside the obtained incomes. Moreover, based on the accounting information managers can formulate the company's future strategy. However, it must be mentioned that these information can not be taken as such from the financial statements. They have to be thoroughly analyzed, from the point of view of the indicators that might be built, through the analysis of the external and internal environment, actually making an analysis of the strategic resources of the company.

Therefore, we consider that the accounting activity becomes the support of the financial management's accomplishment in any economic entity. The purpose of the financial activity is to offer the enterprise the financial and technical resources necessary to its functioning and development. The financial activity's practice is never entirely delegated and it stays in a close accounting activity dependency, but it also depends on the general management. Basically, the accountancy evaluates the financial transactions, while the finances manage the financial transactions and the company's basic financial position. Frequently, it has been considered that making reference to the accounting information in the financial statements for the financial analysis and prediction makes the financial management to become an “appendage” of the accounting activity. The vision has seized to exist when the financial management got specialized, even occupying a privileged place in the company's administration.

The investments' opportunity, the surveillance of performance indicators, the budgetary balance in case of unpredicted events, are considered obligations of the financial activity and of the financial management because all financing plans, income and expenses budget, the treasury budget are its scope. But these obligations can not be accomplished but on the information provided by the financial statements elaborated inside the accounting activity.

Although the accounting activity and the financial one might be considered as different functions, they are closely related. In many situations, it is impossible for managers to establish certain tasks just for the financial department. For example, when a before-calculation of the price is required, which is considered an obligation of the financial activity, will also require information about the costs, generated by the managerial accountancy. The interference between the two activities is therefore inevitable.

There are however two basic differences between the financial management and the accounting activity:

The funds' recognition method. The first objective of the accounting activity is to change and deliver information necessary to the measurement of the company's performances, declaring the financial status. Using some generally accepted and regulated standards and principles, the accountants prepare the financial statements that establish the profit or the incomes based only on the registered sales and expenses. On the other hand, the financial manager focuses on the entries and issues of cash flow. He keeps the company's solvency by analyzing and planning the cash flows necessary for paying the obligations and purchasing the assets needed by the company to reach its objectives. The financial manager uses the cash-flow method in order to acknowledge the incomes and expenses, being interested only in the cashflow entries and issues.

The decisional process. If the ones involved in the accounting activity focus on collecting the information and showing the financial statements, the financial manager evaluates the situations elaborated by the accounting activity, creates additional information and takes decisions based on following analyses. The purpose of the financial activity is to provide correct and easily interpretable information about the company's past, present and future operations. The financial manager uses this information, either in their initial shape, or after certain processing and analyses, as important entries for the decisional

process. Certainly, this does not mean that the personnel which contributes to the accounting activity's development does not take decisions or that the financial manager does not gather information, but it supposes that 599 the accounting and the financial management focus on certain different objectives.

Objectives

Unfortunately, most of the managers only study the financial statements when they want to value the company's performance. For example, the accounting balance reflects the assets at their accounting value. He does not take into consideration their value on the market and does not offer any information about the success of the investments.

A series of researches demonstrated that the role of those with financial or legal training, from the management's superior and the inferior echelons as well, has become more and more important. Therefore, it is more and more important that the employees in the accounting, marketing, production, personnel and other departments to understand the financial field in order to be good professionals in their own departments. For example, accountants should understand the way in which information, delivered by them through the financial statements and other similar reports, is analyzed by investors. The accounting activity's function is to provide the quantitative financial information so that it can be used when taking economic decisions, while the financial management has as basic tasks to plan, to provide, to assign and to use the financial funds, so that the economic entity's value and efficiency to be maximal.

The role and function of external auditors

Financial statements are used for a variety of purposes and decisions. For example, financial statements are used by owners to evaluate management's stewardship, by investors for making decisions about whether to buy or sell securities, by credit rating services for making decisions about credit worthiness of entities, and by bankers for making decisions about whether to lend money. Effective use of financial statements requires that the reader understand the roles of those responsible for preparing and auditing financial statements.

Financial statements are the representations of management. When using management's statements, the reader must recognize that the preparation of these statements requires management to make significant accounting estimates and judgments, as well as to determine from among several alternative accounting principles and methods those that are most appropriate within the framework of generally accepted accounting standards.

In contrast, the auditor's responsibility is to express an opinion on whether management has fairly presented the information in the financial statements. In an audit, the financial statements are evaluated by the auditor, who is objective and knowledgeable about auditing, accounting, and financial reporting matters.

During the audit, the auditor collects evidence to obtain reasonable assurance that the amounts and disclosures in the financial statements are free of material misstatement. However, the characteristics of evaluating evidence on a test basis, the fact that accounting estimates are inherently imprecise, and the difficulties associated with detecting misstatements hidden by collusion and careful forgery, prevent the auditor from finding every error or irregularity that may affect a user's decision. The auditor also evaluates whether audit evidence raises doubt about the ability of the client to continue as a going concern in the foreseeable future. However, readers should recognize that future business performance is uncertain, and an auditor cannot guarantee business success.

Through the audit process, the auditor adds credibility to management's financial statements, which allows owners, investors, bankers, and other creditors to use them with greater confidence. The auditor expresses his assurance on the financial statements in an auditor's report. The report, which contains standard words and phrases that have a specific meaning, conveys the auditor's opinion related to whether the financial statements fairly present the entity's financial position and results of operations. If the auditor has reservations about amounts or disclosures in the statements, he modifies the report to describe the reservations. The auditor's report and management's financial statements are only useful to those who make the effort to understand them.

The Financial Statement Audit

The objective of the financial statement audit is to add credibility to management's financial statements. Access to capital markets, mergers, acquisitions, and investments in an entity depends not only on the information that management provides in financial statements, but also on the degree of assurance that the financial statements are free of material error and fraud. In the process of providing reasonable assurance that financial statements are fairly presented, an auditor assesses whether:

Transactions and amounts that should have been recorded are reported in the financial statements.

The assets and liabilities reported in the financial statements existed at the balance sheet date, and the transactions reported in the financial statements occurred during the period covered by the statements.

Reported assets are owned by the entity and liabilities owed by the entity at the balance sheet date are reported.

The financial statement amounts (assets, liabilities, revenues, and expenses) are appropriately valued in conformity with accounting standards.

The financial statement amounts are properly classified, described, and disclosed in conformity with accounting standards.

The independent auditor forms an opinion on the overall fairness of the financial statements by testing the above representations. The opinion is communicated in the auditor's report. The standard auditor's report contains an unqualified opinion, which means that an auditor believes, without reservation, that the financial statements present fairly the entity's financial position and results of operations in conformity with accounting standards. A qualified report, in contrast, notifies financial statement readers about concerns the auditor has about matters affecting the financial statements (such as the selection of accounting policies or the method of their application or the adequacy of financial statement disclosure) or about limitations in the scope of the auditor's work. Therefore, a user should understand the implications of a qualified opinion and read this type of report carefully.

Therefore we can easily say that an internal and external audit plays a very important role for showing a real state of company to its owners for avoiding risks during decision taking process, especially while investing which are oriented on increasing product quality and services, as a tool of achieving foreseen objective

Responsibility for Financial

Statements Effective use of financial statements requires that the reader understand the roles of those responsible for preparing, auditing, and using financial statements. Management is responsible for the content of its financial statements, regardless of an organization's size or form of ownership. The preparation of these statements requires management to make significant judgments and estimates. Management's responsibility for financial statements is not lessened by having the statements audited.

The Independent Audit

An audit allows creditors, bankers, investors, and others to use financial statements with confidence. While the audit does not guarantee financial statement accuracy, it provides users with a reasonable assurance that an entity's financial statements give a true and fair view (or "present fairly") its financial position, results of operations, and changes in financial position in conformity with accounting standards. An audit enhances users' confidence that financial statements do not contain material error and fraud because the auditor is an independent, objective professional who is knowledgeable of the entity's business and financial reporting requirements.

Using Financial Statements

The auditor's report and financial statements presented by management are useful only to those who make the effort to understand them. Effective use of audited financial statements also requires a basic understanding of accounting

standards, the related concepts of financial measurement and disclosure, and the inherent limitations of financial statements caused by the use of accounting estimates, judgments, and various alternative accounting principles and methods.

Safety and Financial Statements

The purpose of the audit is to enable the auditor to express an audit opinion on whether the financial information gives a true and fair view (or is "fairly presented") in accordance with the basis of accounting indicated. Auditors perform procedures designed to obtain reasonable assurance regarding the reliability of management's representations in the financial statements.

Guidelines established by the International Committee of the Auditing Practices recognize three types of services that an accountant can provide financial statements: an audit, a review, and a compilation. Each type of service provides a different level of security, in connection with the presentation of financial statements and disclosures.

Financial Statement Audits

An audit provides a high degree of security for users. The independent auditor's tests of basic data entity's financial statements to obtain evidence that, along with its other procedures, provides the basis for our audit opinion on whether the financial statements are free from material misstatement or fraud (that is, Irregularities).

In an audit of financial statements, the auditor forms a general conclusion about whether -

- financial information has been prepared using appropriate accounting standards, which are applied consistently;
- The financial information in accordance with the statute or the relevant laws;
- The view presented financial information is entirely consistent with business knowledge auditor of the entity;
- There is adequate disclosure of all material matters relevant to the proper presentation of financial information.

Conclusions

Knowledge through financial management will not restrict only to numerical data. For a complete image of the cause and effect type of relations, it is necessary to combine the structured information – data – with the non-structured information – text.

- Consequently, in a society of latest generation information technology knowledge, a Web environment at the level of the whole company allows the interaction, the distribution of results and achievement of the organization's personality.
- The financial management offers the possibility to plan the "way" to achieve the proposed objectives, to cover a well-defined path and to take advantage of the new opportunities which come along.

At the same time, it offers an image of the compatibility between the company's internal processes, the existing financial sources, their cost and way of appropriation, offering strategic recommendations to avoid unpleasant events that may occur. The most decisive matter regarding the financial management is represented by the managing team's level of involvement into the necessary changes. Without a strong involvement, the financial management can not be implemented.

Recommendations :

- Effective management of finance affects company performance
- The effect of auditing on accountability and increasing of efficiency on management of finance

- The function of audit system on companies to have effective control
- Auditing ensures a high security for users resulting for a fair presentation of financial statement

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Integrated Marketing Communications and International Advertising in Kosovo

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Abstract

Integrated Marketing Communications are composed of ads, sales promotion, personal sale, direct sale and public relations. The main challenges in Integrated Marketing Communications are the recognition of communication means of mixed marketing, the advantages of International Advertising, the methods of determining promotional budgets, the steps in developing an effective communication of marketing. Integrated Marketing Communications are means with which the firms try to remind the consumers about their products and services. A very important challenge is the measurement of marketing's results and the analysis about what percent of these costs are reversed or have exceeded beyond the margin of spending. The firms have to invest more in Integrated Marketing Communications, where the importance of investments is seen from two points of view: the growth of profit and their role towards the public. International advertisements have a great impact in introducing the products and services in international markets. The costs of international ads have changed depending on the periods of economic development; the periods of global developments are associated with the increase of advertisements costs, while the periods of global recessions are associated with the decrease of these costs. In this paper it is explained how the importance of marketing's integrated communications affects the growth of sales and the connection with the public and the role of international ads in promoting new products in international markets. The first part of the paper is composed of reviewing the adequate literature and the second part has to do with the part of the study about Integrated Marketing Communications and international advertisements. Primarily data was realized through questionnaires, through direct contact with marketing managers, general managers, owners and directors of companies that have sufficient knowledge about their companies.

Keywords: Integrated Marketing Communications, International Advertising, International markets

1. THE REVIEW OF LITERATURE

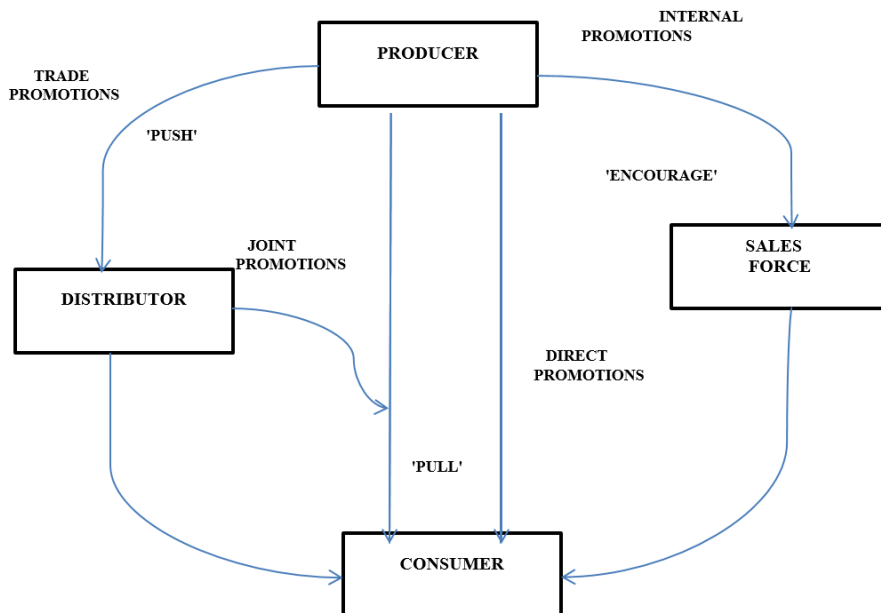
1.1 Integrated Marketing Communications

Integrated Marketing Communications (IMC) are composed of advertisements, sale promotions, personal sale, direct sale and public relations (Cateora & Gilly & Graham, 2011). Integrated communications of marketing (IMC) are being practiced all over the world at a very high range. IMC is connected with some positive results of the brand, client's satisfaction, brand loyalty, brand's positive image, the growth of sales and cost reduction (Saeed & Naeem & Bilal & Naz, 2013). Integrated Marketing Communications is a powerful measure that has an impact in the effectiveness of the development and implementation of marketing's communication (Shakeel-Ul-Rehman & Ibrahim, 2011). IMC programs have to be in accordance with company's policies, and have to be part of the management and all other aspects of company's communication, informing the company about corporation's brands which have to be in accordance with all the brands of the company's markets (Percy, 2008). Integrated Marketing Communications is a process of communication with customers about the brand's capital through different measures of communication. Except the used communication methods, the main rule is that the message flows have to be in the same directions and have the same objectives (Suwantara &

Taechamaneesatit, 2012). The integrated communications of marketing include the identification of the targeted audience and the design of a promotional program which has to be well-coordinated in order to receive the desired response from the audience. Often, marketing's communications focus on in immediately receiving the information, in the image or in the preference goals of the targeted market. Today, marketing specialists are moving towards naming the communications as time management in the relations with clients (Kotler & Armstrong, 2011). Anyway, maybe the clearer definition for the Integrated Marketing Communications is given by the American Association of Advertising Agencies (1993): The integrated communication of marketing is a concept of planning the marketing communication that recognizes an added value of a comprehensive and strategic plan that evaluates the roles of a variety of communication disciplines and combines them to ensure clarity, consistency and a maximal communication impact through an ongoing and discrete integration of messages (Baker, 2003).

1.2 Sales Promotions in International Markets

Sales promotions are marketing activities that stimulate consumer purchases and improve retail sales. Samples, coupons, gifts, promotional products, competitions, lotaries, the sponsorship of special events such as concerts, olympiads, fairs and points of purchase are measures to promote sales (Cateora & Gilly & Graham, 2011).



Source: Baker (2003).

Sales promotion are defined as marketing activities that are usually specific for a period of time, that encourage a direct response from the consumers or market mediators, through the offer of additional benefits (Baker, 2003). Sales promotion are a direct incentive that offers additional values for the product, distributors, consumers and the main objective is to achieve an immediate sale. First, promotional sales include a variety of incentives that provides additional incentive to buy. This incentive is usually the main factor in a promoting program; it can be a coupon or a reduction of the product's cost, the opportunity to enter a competition or lottery, reimbursement or discount in the products price (Belch & Belch, 2003).

Figure 2: Types of sales promotion activities

Source: Belch & Belch (2003).

In general, more than the half of marketing communication costs goes to the promotion of trade. A trade promotion is a program of discounts that aims the growth of retail sales (Percy, 2008).

International Advertising

The growth of International Advertising costs has slowed, especially during the global recession of 2008-2009. An important study has showed that advertisement costs are generally cyclic (Cateora & Gilly & Graham, 2011).

Table 1: Top 20 Global Advertisers (\$ millions)*

2008	2007	Advertiser	Headquarters	2008	Percent Change
1	1	Procter & Gamble Co.	Cincinnati	\$9,731	0.0%
2	2	Unilever	London/Rotterdam	5,717	1.8
3	3	L'Oreal	Clichy, France	4,040	10.8
4	4	General Motors	Detroit	3,674	5.4
5	5	Toyota Motor Corp.	Toyota City, Japan	3,203	-3.2
6	8	Coca-Cola Co.	Atlanta, GA	2,673	13.5
7	7	Johnson & Johnson	New Brunswick, NJ	2,601	4.5
8	6	Ford Motor Co.	Detroit	2,448	-14.0
9	11	Reckitt Benckiser	Slough, Berkshire, UK	2,369	13.0
10	9	Nestle	Vevey, Switzerland	2,314	1.0
11	12	Volvo	Gothenburg, Sweden	2,309	15.4
12	10	Honda Motor Co.	Tokyo	2,220	4.6
13	15	Mars Inc.	McLean, VA	1,998	5.0
14	19	McDonald's Corp.	Oakbrook, IL	1,968	6.9
15	14	Sony Corp.	Tokyo	1,851	-3.3
16	17	GlaxoSmithKline	Brentford, Middlesex, UK	1,831	-3.2
17	20	Deutsche Telekom.	Bonn, Germany	1,812	7.7
18	18	Kraft Foods	Northfield, IL	1,792	-2.7
19	16	Nissan Motor Co.	Tokyo	1,716	-9.7
20	21	Walt Disney Co.	Burbank, CA	1,586	-2.0

* Figures are U.S. dollars in millions and are *AdvertisingAge* estimates.

Source: (Cateora & Gilly & Graham, 2011).

Table 2: Top 100 Advertisers' Global Spending by Category (\$ millions)

Category	2008	Percent Change from 2007	Advertiser Count
Automotive	\$25,613	0.1%	18
Personal care	25,480	3.4	11
Food	11,914	4.9	9
Drugs	10,323	1.8	11
Entertainment & Media	9,608	-1.8	7
Retail	5,968	17.8	8

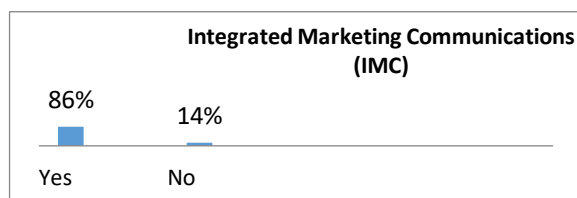
Restaurants	4,289	9.6	4
Soft drinks	4,064	5.3	2
Telephone	3,974	2.7	4
Cleaners	3,829	10.7	3
Beer, wine, & liquor	2,681	2.1	5
Financial	2,595	-9.0	6
Electronics & imaging	2,100	8.9	3
Technology	2,035	-11.5	4
Electronics	1,846	20.7	2
Toys	1,607	12.8	3

Source: Cituar: (Cateora & Gilly & Graham, 2011).

Table 1 and 2 illustrate the world's largest advertisers by expenditure and product's categories. Even though car companies dominate the lists, Procter & Gamble was a world champion of costs. From all the elements of mix marketing, the decisions that include advertisements are the ones that affect more often the cultural differences of different markets. We have to adjust to the client's culture, their style, value system, attitudes, beliefs and perceptions, because the function of advertisements is to interpret or translate the product values in the aspect of the consumer needs and desires. The agreement for a more unique international advertising campaign of markets is a challenge that is getting in front of international marketing. The framework and concept of international advertisements are essentially the same in every country (Cateora & Gilly & Graham, 2011). Standardized advertisements have raised the financial and strategic performance of the firms, provided that the internal and external environment is favorable for standardization. There are three general categories of factors that affect the level of advertising standardization that a company hires, and they are: external factors of the environment, strategic factors and the factors that are related to the internal organizational characteristics (Okazaki & Taylor & Zou, 2006). The standardization of international advertisements is a marketing strategy adopted by many companies nowadays. Its main priority is related to the reduction of cost and the development of image for an organization and its products in a global range. Unfortunately, this strategy hasn't considered some other important factors for the effectiveness of advertising, such as cultural sensitivity and physical barriers, which are related with the legal and technical regulation of advertisements, even though the adaption of international advertisements can fill these gaps (Ruževičius & Ruževičiūtė, 2011).

2. RESEARCH RESULTS

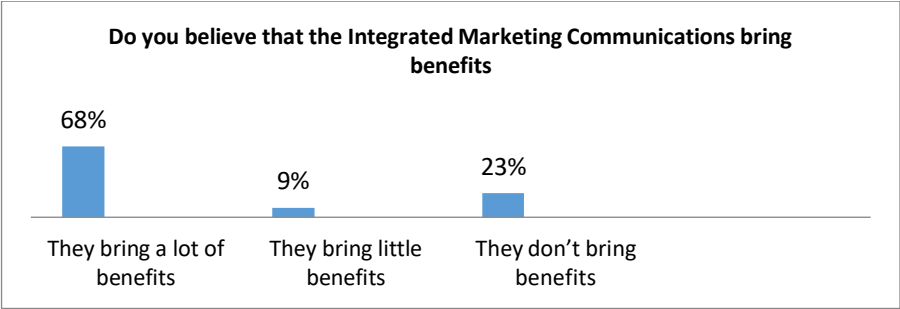
Figure 3: Do you have knowledge about the Integrated Marketing Communications (IMC)



Source: Calculating the authors based on the results of research

The increasing practice of Integrated Marketing Communications all over the world is increasing the role of IMC. Based on the results, 86% said that they are informed about the concept of integrated communications of marketing and only 14% said that they don't know about them. So, based on the research results we can see that most of businesses are familiarized with the concept of IMC.

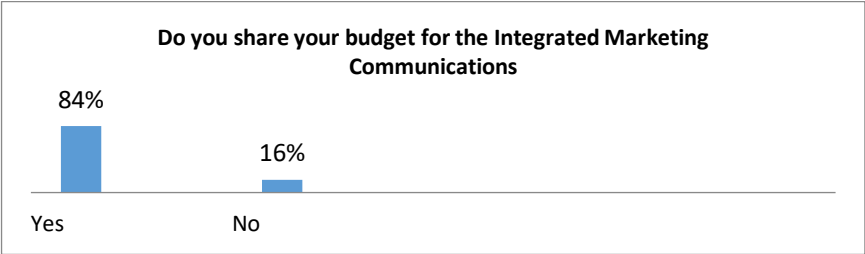
Figure 4: Do you believe that the Integrated Marketing Communications bring benefits



Source: Calculating the authors based on the results of research

Most of the respondents think that the Do you believe that the Integrated Marketing Communications bring benefits, 68% think that they bring a lot of benefits, 23% think that they don't bring benefits at all and 9% think that the integrated communications of marketing bring a little benefits.

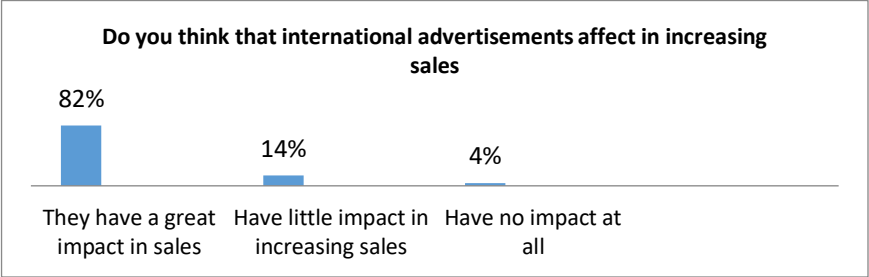
Figure 5: Do you share your budget for the Integrated Marketing Communications



Source: Calculating the authors based on the results of research

From the results we can see a favorable situation because most of the businesses share their funds for the Integrated Marketing Communications, and this allows the businesses to get closer to the consumers and the consumers to be more informed about the company's products, and based on this to realize more sales. From the respondents, 84% said that they share their budget for the Integrated Marketing Communications and only 16% said that they don't share their budget for Integrated Marketing Communications, hoping that in the future they will.

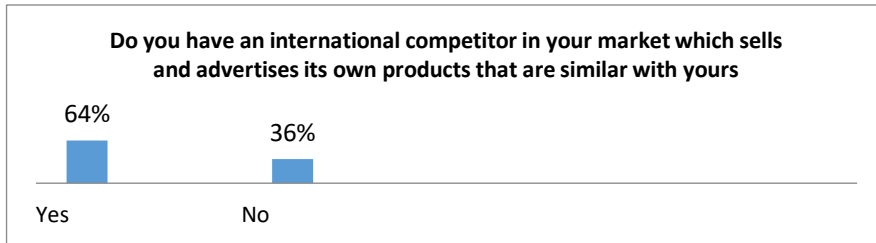
Figure 6: Do you think that international advertisements affect in increasing sales



Source: Calculating the authors based on the results of research

International advertisements have a great impact in consumer's beliefs about the products and services, and also have a positive impact in increasing the sales; therefore many global companies share most of their profit for advertisements. We can see that most of the respondents think that advertisements have a positive impact in increasing sales. 82% of the respondents think that international advertisements affect in sales growth, 14% think that international advertisements have a little impact and only 4% of the respondents think that they have no impact at all.

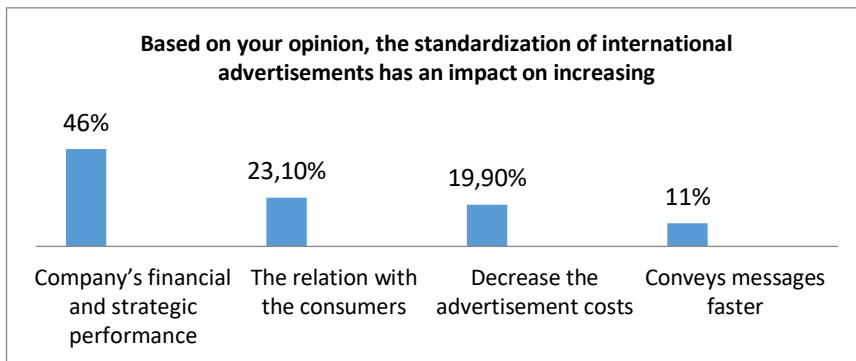
Figure 7: Do you have an international competitor in your market which sells and advertises its own products that are similar with yours



Source: Calculating the authors based on the results of research

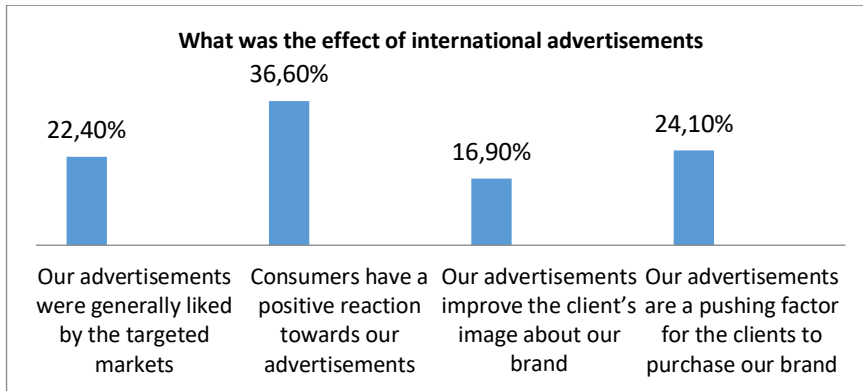
Based on the results we can see that many international competitors operate and advertise their products in our country. 64% of the respondents said that they have international competitors in their market, while 36% of them said that they don't have international competitors which advertise and sell their products.

Figure 8: Based on your opinion, the standardization of international advertisements has an impact on increasing



Source: Calculating the authors based on the results of research

Based on the results we can see that 46% of the respondents think that the standardization of international advertisements has an impact in increasing the company's financial and strategic performance, 23.1% think that the standardization affects the relation with the consumers, 19.1% of the respondents think that the standardization of international advertisements reduces the advertisement costs and 11% think that it conveys messages faster.

Figure 9: What was the effect of international advertisements

Source: Calculating the authors based on the results of research

Advertisements have an important impact in increasing businesses performance, in the relation with consumers, improving the brand's image. From the research results, 22.4% said that international advertisements were generally liked by the targeted markets, 36.6% said that consumers have a positive reaction towards their advertisements, 16.9% of the respondents said that their advertisements improve the client's image about their brand and 24.1% said that their advertisements are a pushing factor for the clients to purchase their brands.

3. Conclusions and recommendations

The Integrated Marketing Communications are measures through which we connect with our clients, bringing them closer to our brands, having more information about our brands, and based on this realizing more profit. It is very hard to know exactly how big the advertisement market is and what percentage goes to newspapers, radios or TV. But this is not the only challenge. Another important challenge is the measurement of the results of Integrated Marketing Communications and the analysis of how much of these costs have been returned or have overcome the costs margin. International advertisement costs are cyclical and are depended on the global economic development. From the research results we can see that most of the respondents are familiar with the concept and importance of Integrated Marketing Communications. We can also notice that most of the businesses share their budget for these communications, which is a very positive factor for the companies that are aiming to increase their performance. The standardization of international advertisements affects in increasing the financial and strategic performance of companies. The advertisements had impact on the relations with the clients, who purchased our brand, the image of which was highly increased. So, as an end, the Integrated Marketing Communications and international advertisements are a safe base in increasing company's performance.

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The Firm-Specific Determinants of the Target Capital Structure: Evidence from Bosnia and Herzegovina Panel Data

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Abstract

The purpose of this study is to carry out a comprehensive and robust analysis of the determinants of the capital structure of the Federation Bosnia and Herzegovina (FBiH) companies at the industry level. A large number of hypotheses of different classes of theories are tested. Estimating the dynamic panel models using the system of generalized method of moments (GMM) estimator, we captured both cross-sectional and inter-temporal relationships between the leverage in companies and its determinants. The results show that profitability, collateral value of the assets and the risk, measured by earnings volatility, negatively affect company's leverage, while inconsistent results were for the relationship between different proxies for firm's future growth opportunities and leverage, whereby the firm size overall has no relationship with the firm's leverage. The findings reflect the transitional nature of the FBiH corporate environment. They suggest that some of the insights from modern finance theory of capital structure are applicable in the FBiH in that certain firm-specific factors that are relevant for explaining capital structure in developed economies are also relevant in the FBiH. Overall, the empirical evidence presented in this Study finds it difficult to demonstrate the validity of the trade-off and the pecking order theories as stand-alone models. The Study's results also point at several unique aspects of financing behavior in developing countries, from which specific implications for further research follow.

Keywords: capital structure, transition economy, pecking order theory, trade-off theory

1. Introduction

Determinants are variables successfully used as leverage predictors. A large number of factors have been identified in the extent literature that influence the financing decisions of companies based on financial theories of capital structure. However, there is no consensus in the literature whether such theories adequately explain the capital structure adopted by firms in the context of developing economies. Therefore, this chapter empirically investigates the effects of firm-specific determinants on firms' capital structure. Of course, for a number of reasons, we would expect the capital structure to vary considerably across industries and moreover, for the capital structure to vary among firms within a given industry. In an attempt to clarify those variations, the academics and practitioners have developed a number of theories and the theories have been subjected to many empirical tests.

This Study is an attempt to give a comprehensive and robust analysis of the determinants of the capital structure of FBiH firms at the industry level to reveal the differences between the industries in the capital structure during the period of ten years including the economic up - and down turns. The empirical analysis focused on 10 years (2003-2012) of the data on a sample of private non financial companies in order to test the relationship between the capital structure and the leverage determinants, combining all variables affecting the determination of the capital structure. The explanatory variables included

in the model vary across both firms and time and in our empirical investigation we use two capital structure measures.

This Study will answer the question as to which factors determine the capital structure of FBiH companies and whether existing financial theories of capital structure hold true in that context. The determinants of the capital structure decisions should guide companies on how to choose their strategic financing mix. In other words, this research results may draw the attention on those factors, which are worth considering if the corporate structure is determined. Those findings will certainly advance our understanding of a firm's financing behavior.

Such a Study would contribute to the current references in several ways. Firstly, as far as we are aware, it is the first attempt at a direct testing of the affect of company variables on the capital structure decisions in the companies in the FBiH. Secondly, despite the fact that there is evidence that features of an industry do matter in the capital structure decisions of companies, we are yet to find a study that examines variations across industries in the capital structure decisions in the companies in FBiH. To our knowledge, there no empirical work that focuses on inter-industry variation in the financing decision of firms in FBiH. As in other developing countries, FBiH government sometimes institute policy interventions to foster investment in certain sectors/industries by way of subsidies and directed credit. Understanding the place of the industry factor in the financing decisions of a firm is crucial for the purpose of crafting appropriate policy interventions. In the context of FBiH, there is no published work that investigates the dynamic partial adjustment of a firm's capital structure. This chapter aims to fill this gap by investigating whether firms in our sample adjust their capital structures to a certain target level.

The remainder of this chapter proceeds as follows. The next section lays out the firm-level determinants of capital structure. Section 3 provides explains the construction of variables, with the specification of the hypothesis presents the research methodology and models and discusses the empirical models. Section 4 reports the statistical analysis and empirical results. The findings and conclusions are presented in the last section.

2. Empirical Literature Review

The firm's capital structure can be determined through several factors. Those observable elements for leverage should be linked to the theories on the capital structure since they are the assumed proxy for the forces that underpin theories, such as the financial distress and information asymmetry costs. However, the this relationship is not always clear, and hence it is important to resolve the elements that are reliable and economically important in order to predict the leverage. Some of the attributes which affect the choice of capital structure are the same for firms within the same industry. However, the effects of some of these attributes, for example, type of output market and type of products, are not testable because these attributes themselves are not easily measurable. Therefore, in the table below the existing theoretical framework are set out to explain the determinants of the capital structure.

Table 1. Summary of the Capital Structure Theories Predictions

No	Variables	Static trade-off theory		Asymmetric information theory	
		TBT	Agency	POT	ST
1	Firm Size	+	+	-	+
2	Profitability	+	+	-	+
3	Growth opportunity	-	-	+	+

4	Asset tangibility	+	+	+/-	
5	Tax shield	-			
6	Risk	-	+	-	
7	Dividend policy		-	+	+/-
8	Uniqueness of product	-			
9	Managerial equity ownership		-	+	+/-

Source: H. Asgharian, Essays on capital structure, 1997, p.41

Note: The table shows the expected effects of different attributes on capital structure, as implied by the capital structure theories. TBT refers to the tax-bankruptcy static trade off theory. POT denotes the pecking order theory. ST refers to the signalling theory. The + (-) sign shows the expected positive (negative) relationship between the leverage and the designated variable. The (+/-) sign signifies the possibility that plausible arguments could be made for a positive as a negative relationship using a given theory. * The profitability has a positive sign for Static trade of theory, whether the Dynamic one foresees the negative sign.

Fifty years after Modigliani and Miller's (1958) made their ground-breaking analysis, there is yet no unifying theory on the capital structure for the corporate finance. Despite this, the applicable theories serve as analytical tools in order to probe the empirical findings. However, none are capable of explaining all the aspects in the capital structure choice. Even though some of the stylized facts can be successfully accounted for in each theory, there are incongruities with some of the others. The current reference materials say that the most reliable elements explaining the corporate leverage are the market-to-book ratio (-), tangibility (+), profitability (-), company size (+), expected inflation (+), and median industry leverage (+ effect on leverage). Frank and Goyal (2009) refer to these factors as the "core leverage factors" affecting the decisions on the capital structure. On the sample of publicly traded U.S. firms from 1950-2003, they examined an extensive list of elements which could arguably reason why there is heterogeneity between capital structures across companies. With a market-based definition of leverage, they found out that those six factor account for more than 27% of the variation in leverage, while another 19 factors improve the explanatory power of the model by only 2%. Furthermore, those six core factors provide a more powerful explanation of a market-based definition of leverage than a book-based definition of leverage. According to the authors if focus would be on a book-based definition of leverage, the market-to-book ratio, firm size and expected inflation would have all have been excluded from the core model (Bessler, et.al, 2011). The table below provides the summary of selected empirical findings regarding the relationship between chosen firm-specific characteristics and leverage.

Table 2. Summary of Empirical Evidence from Selected Empirical Studies

Summary of empirical evidence from selected empirical studies					
Study	Determinants of capital structure				
	Firm size	Profitability	Growth opportunity	Asset tangibility	Risk
Bradley et.al (1984)				+	-
Kim and Sorensen (1986)			-		+

Kester (1986)		-	+		*
Friend and Lang (1988)	*	-		+	*
Rajan and Zingales (1995)	+	-	-	+	-
Asgharian (1997)	+	-	+	+	
Titman and Wessels (1998)	-	+/-	*	*	*
Shyam-Sunder and Myers (1999)		-		+	-
Fan, Titman and Twite (2003)	+	-	-	+	
Flannery and Rangan (2006)	+	-	*	+	
Antoniou et.al (2008)	+	-	-	+	*
Talberg et. al (2008)	-	-	-	+	
Clark et al. (2009)	+	*		*	
Chang et al. (2009)		+/-	+/-	+/-	+/-
Frank and Goyal (2009)	+	-	-	+	

The + (-) sign indicates a significant positive (negative) relationship between leverage ratio and the capital structure determinant. The * designates an included but insignificant variable in the model. Empty cells mean that there was no testing of the variable.

Another important remark to be done is those "six core factors" together only explain about 25% of the total variation. Additionally a recent paper of Lemmon, Roberts and Zender, (2008) argues that determinants of traditional leverage explain a minor part of the leverage variation (30% at most), while 60% is yet to be explained. The foregoing variation stemming from an unobserved firm-specific, time-invariant component responsible for the persistence of leverage ratios over time. Due to the fact that the authors focused on the economy in the US, which can be considered as relatively stable economy, it is actually unclear if the leverage ratios show a similar level of persistence if there are rapid changes in the economic environment over time (Shamshur, 2012). Therefore, a Study like this one, is more than welcome when carried out using the example of a transitional economy.

The theory of capital structure has developed considerably in the last ten years, but empirical work is still far from analyzing all the implications of the theories. Research into the empirical corporate finance gave many studies that tried to identify those elements which are driving the company's capital structure. The evidence on the capital structure determinants is strong between companies and various countries. These studies greatly differ in terms of the sample selection, variable definition, sample period, sample size, and the econometric methodology.

Obviously, there is no uniformity when it comes to the theoretical predictions or empirical results. Empirical research has been restricted by difficulties in finding appropriate proxies for attributes which are supposed to determine the capital structure of a company. In addition, the use of book versus market value for measuring the firm's equity and assets differs among studies.

Consistent with the above-mentioned study, but having in mind the availability of data required to calculate those variables, this Study includes a following set of firm level variables that capture the factors that are known to affect the capital structure: the firm size, profitability, growth opportunities, asset tangibility and earnings volatility. What follows is a brief description of each of them and the development of hypothesis in accordance with the dynamic tradeoff theory.

Namely, recent literature critiques the studies on determinants of capital structure on the grounds that they do not take into account the typical rebalancing behavior of firms as far as their capital structure is concerned. It draws on dynamic trade-off theory and develops a theory for dynamic capital structure (Flannery & Hankins 2007). We may group the literature on the study of dynamic capital structure into two succinct clusters: (i) those investigating whether firms adjust towards a

target capital structure; and (ii) those investigating the factors that influence the pace at which firms adjust their capital structure. This Study analyses the first one.

3. The Empirical Framework

The empirical analysis focused on 10 years (2003 – 2012) data pertaining to a sample of non-financial firms in Federation of Bosnia and Herzegovina (FBiH). The current study examines the influence of firm level factors in the determination of basic capital structure. As this Study involves an examination of the determinants of inter-industry differences, the firm-specific data used for the analyses in this chapter was extracted from the financial statements of non-financial, privately owned, listed as non-listed firms in FBiH. The analysis carries out both for the entire sample and for the individual industries.

The main *research objective* is to estimate the effects of firm's level determinants on their capital structure measures in different industries. Considering the research objective, the relevant *research question* is whether the stylized relation between capital structure measures and several firm level variables obtained from the literature can be generalized to firms in FBiH. This brings us to the following *hypotheses*:

✓ Firm level variables such as the firm size, profitability, growth opportunity, asset tangibility, risk are statistically significant determinants of capital structure measures.

Most of the research studies on capital structure have used the data from the US and European companies. This Study provides a unique opportunity to examine the validity of the above statements and whether the capital structure of FBiH firms can be explained by the finance theory. Survival and growth necessitates the resources, but financing of these resources has its limits.

3.1 Econometric Framework

A panel data analysis may capture both cross-sectional and inter temporal relationships between firm leverage and its determinants. Given that our empirical models have a dynamic panel data context, we use the robust two-step system dynamic panel data estimator also known as "system GMM" estimator—proposed by Blundell and Bond (1998). In contrast to the conventional ordinary least square (OLS), Within-Groups and first-difference GMM estimators, the system GMM estimator not only mitigates potential endogeneity problems, controls for heterogeneity across individual firms, and removes unobserved firm-specific fixed effects, but it also allows researchers to make use of different instruments with different lag structure for both the levels and the first-differenced equations (Blundell & Bond, 1998, 2000; Bond, 2002).

Arellano and Bond (1991) suggest using a dynamic panel data estimator based on the GMM methodology that optimally exploits the linear moment restrictions implied by the dynamic panel model. GMM estimator uses both lagged values of all endogenous regressors and lagged and current values of all strictly exogenous regressors as instruments. Models can be estimated using the levels or the first differences of the variables. For the difference estimator, the variables are measured as first differences and their lagged values are used as appropriate instruments.

The Arellano-Bover/Blundell-Bond (Arellano & Bover, 1995; Blundell & Bond, 1998) dynamic panel estimator augments Arellano-Bond by making an additional assumption that first differences of instrument variables are uncorrelated with the fixed effects. According to this estimator, the lagged levels of variables are likely to be weak instruments for current differenced variables when the series are close to random walk. In these conditions, the differenced GMM estimates are likely to be biased and inefficient. The authors suggest the use of a more efficient system GMM estimator that combines the difference-equation and a levels-equation in which suitably lagged differenced variables are the appropriate instruments. It builds a system of two equations (the original and the transformed one) and is known as system GMM. The `xtabond2` command implements these estimators (Roodman, 2009).

We applied the Hansen (1982) test for over identifying restrictions and the Arellano and Bond (1991) test for autocorrelation to ensure the validity of the instruments that we use in our estimations. More precisely, to test for the validity of the instruments, we use the J-statistic of Hansen (1982). This statistic is asymptotically distributed as χ^2 with degrees of

freedom equal to the number of over identifying restrictions (i.e., the number of instruments less the number of estimated parameters). Under the null hypothesis, the instruments are orthogonal to the errors. We employ the Arellano and Bond (1991) test for autocorrelation. Under the null of no serial correlation, the test asymptotically follows a standard normal distribution. It also provides a further check on the correct specification of the System-GMM process. In a dynamic panel data context, the first-order serial correlation is likely to be present, but the residuals should not exhibit the second-order serial correlation if the instruments are strictly exogenous.

3.2 Operationalisation of Variables

For the purpose of this study we have chosen to measure leverage by two variables (Welch, 2011):

[pcs1] the financial-debt-to-capital ratio (financial leverage) that does not consider non-financial liabilities as debt

- [pcs3] the total-liabilities-to assets ratio (balance sheet leverage) that treats financial and non-financial liabilities alike

There are five variables expected to be important as determinants of the capital structure. The remainder of this section discusses the exogenous variable and their proxies.

To control for any possible heteroscedasticity, the natural logarithm is used, while to ensure linearity in the data, due to its capabilities to standardize values thus, bringing them on the same platform for a more efficient analysis to be done:

- [pfsa] natural logarithm of the total assets (Padron et al., 2005)
- [pfsr] natural logarithm of the total revenue (Titman & Wessels, 1988; Rajan & Zingales, 1995; Wiwattanakantang, 1999; Graham, 2000; Ozkan, 2001; Gaud et al., 2005)
- [pfse] natural logarithm of the number of employees (Asgharian, 1997).

We use following ratios to measure **profitability**:

- [pp1] the return-on-total assets ratio (ROTA) that measures a company's earnings before interest and taxes (EBIT) against its total net assets (Rajan & Zingales, 1995; Ooi, 1999; Ozkan, 2001; Gaud et al., 2005)
- [pp2] the return-on-assets ratio (ROA) that measures a company's net income against its total net assets (Wiwattanakantang, 1999)

The proxies for the **growth opportunity** include as follows:

- [pg1] the ratio of difference in the book value of total asset between year_{t-1} and year_t divided by the book value of the total assets in year_{t-1} (Titman & Wessels, 1988; Ooi, 1999; Chen, 2004)
- [pg2] the ratio of difference in total revenues between year_{t-1} and year_t divided by total revenues in year_{t-1} (Asgharian, 1997)
- [pg3] the ratios above are based on a two-year difference in values; we also estimated growth using information spanning several years. We run the regression of book value of total assets over ten years on a time trend and use the coefficient of the trend, scaled by the book value of the total assets, as a proxy for growth (Asgharian, 1997)

We use the following indicators to measure collateral and/or liquidation value of assets (**assets tangibility**) which are considered to be good candidates for borrowing.

- [pat1] the ratio of tangible/physical assets to total assets; this measure is the most common one applied to determine the collateral value of the assets (Asgharian, 1997). This measurement is expected to be positively related to the collateral value of the assets.
- [pat2] the ratio of tangible/physical assets to total assets; Some intangible assets are not good candidates for debt financing because it is difficult to put them to an alternative use (Shleifer & Vishny, 1991) and cannot be transferred to

another industry when the industry they are employed in suffers an adverse shock. This measurement is expected to be negatively related to the collateral value of the assets (Titman & Wessels, 1988).

- [pat3] the ratio of inventories to total assets; This measurement is expected to be negatively related to the collateral value of the assets. Although debts are used partly to finance inventories, and in most cases inventories maintain some value when the firm is liquidated, they do not serve as good collateral.
- [pat4] the ratio of receivables to total assets; Because of difficulties associated with the collecting receivables, including high collections costs, they are not good as collateral. (Asgharian, 1997). This ratio is expected to have negative effect on the collateral value of the assets.

The total revenue volatility [pev] is used as a proxy for a firm-specific *risk*. Since the focus of this Study is mostly non-publicly traded firms, we follow Morgan, Rime and Strahan (2004) to compute the time-varying measure of the firm-specific risk. We regress the firms' total revenue-to-total assets ratio on firm and year fixed-effects and then we use the absolute value of the residuals obtained from this regression as proxy for the firm-specific risk.

4. Results and Discussion

The data are collected from 26506 companies during the period from 2003 to 2012. Data are unbalanced and for 50% of companies, the data are available for a period of 7 years minimum.

Table 3. Number of Companies per Industry and Year

Industry	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
A	255	279	353	355	375	350	413	368	370	377	3.495
B	14	13	17	13	14	15	17	12	14	15	144
C	108	117	133	134	139	137	145	144	148	145	1.350
D	2.961	3.062	3.328	3.567	3.672	3.473	3.537	3.358	3.392	3.399	33.749
E	74	75	90	100	110	108	132	150	148	145	1.132
F	1.316	1.365	1.469	1.579	1.639	1.542	1.583	1.454	1.464	1.456	14.867
G	6.058	6.419	7.164	7.686	7.891	7.306	7.589	6.900	6.996	6.922	70.931
H	417	437	477	514	524	486	515	489	485	499	4.843
I	1.301	1.342	1.445	1.561	1.594	1.548	1.552	1.520	1.528	1.525	14.916
J	46	56	67	78	84	97	98	88	85	87	786
K	1.624	1.727	1.952	2.148	2.328	2.343	2.570	2.500	2.551	2.620	22.363
M	94	95	137	111	113	118	185	125	124	129	1.231
N	64	65	221	77	85	75	217	101	102	110	1.117
O	326	337	418	415	444	405	492	458	466	473	4.234
Total	14.658	15.389	17.271	18.338	19.012	18.003	19.045	17.667	17.873	17.902	175.158

Under the assumption that proposed regressors/independent variables are exogenous, estimation of dynamic panel models are conducted using the two step Generalized Method of Moments (GMM) through `xtabond2` formula in STATA, as proposed by Roodman (2009).

Dynamic panel models are developed for entire sample and subdivided by each industry. Each dynamic panel model is tested against the existence of serial correlations with residuals using the Arellano-Bond test and if the instruments are exogenous using the Sargan/Hansen test of over identifying restrictions. All two models at the level of entire sample (as including some industries) perform rather poorly against Arellano Bond test and Sargan/Hansen test indicating issues with serial correlations and endogeneity of instruments.

In the first Dynamic panel model with **Financial Leverage** - Debt to Capital Ratio= $\text{Debt}/(\text{Debt} + \text{Equity})$, only industries C, M and N don't have serial correlations significant. Instruments in all industries have issues with proposed exogeneity of independent variables. As presented in the Table 4 in the Dynamic panel model with **Balance-sheet Leverage** - Total liabilities to assets= $\text{Total Liabilities}/\text{Total assets}$ per most of industries don't have problems with serial correlations (except for industry K, and total sample model) where industries A, B, C, E, H, K, and M don't have issues about endogeneity of instruments.

Applied remedies to improve serial correlations and endogeneity (higher lags, changing variable lists from `iv` style to `gmm`) yields no better results. Both dynamic panel data models are statistically significant at the level of entire sample and per industry. But since the post estimation tests within the first panel model (financial leverage), do not yield the required levels, it is going to be left out from the further discussion. The dynamic panel model as describe above do not fully respond to data and should be further analyzed using other dynamic panel data models and/or using the balanced sample. In this Study, we will focus only on the results of the Dynamic panel model with **Balance-sheet Leverage** since the post-estimations tests are met by most of industries and therefore can be generalized.

The proposed dynamic panel model (balance-sheet leverage) of the capital structure fails to provide a model that describes capital structure change for the entire sample, due to remaining serial correlation between regressors and residuals and their endogeneity, but does succeed in providing a model of the firm-level determinants for most industries. The results confirm the view that differences in industry characteristic lead to an inter-industry variation in the capital structure. We observe differences in the basic capital structure of firms in our sample attributable to firm-specific characteristics.

The number of analyzed companies working at the agriculture, hunting and forestry industry (A) over the period of ten years is 2238. The study found that only **profitability and asset tangibility** is the statistically significant leverage predictor for this industry. Profitability, measured with ROA, has a negative influence on leverage. The nexus between asset tangibility and leverage is dependent on how the latter is defined. We document that ratio of tangible and intangible asset to total assets negatively influences leverage whether the ratio of accounts receivable to total assets has a positive influence on leverage. The number of analyzed companies in the fishing industry (B) over the years varies from 10 to 13. Although the results are statistically significant and post-estimation tests are satisfactory, due to low number of companies further analysis is not completed for fishing industry.

The number of analyzed companies in the mining industry (C) over the ten years amounts to 882. We find a robustly significant and inverse relationship between **profitability** and the capital structure. The results also relieved a negative relationship between the **asset structure** measured by tangible assets and the capital structure choice. The number of analyzed companies in the production and distribution of electric energy, gas and water industry (E) is 701. Among all the firm-level variables, only **profitability** (ROE) is observed to have a negative relationship with the leverage.

Table 4. Dynamic Panel Model - Balance sheet Leverage

	Total sample		Industry A		Industry B		Industry C		Industry D		Industry E		Industry F	
N of instrumen	35		35		35		35		35		35		35	
Wald chi2	77861.6		2458.43		5398.15		1492.05		19252		1892.5		6428.08	
N of obs	121648		2238		81		882		23533		701		10235	
N of groups	22980		466		20		158		4300		151		1862	
	Coef.	p	Coef.	p	Coef.	p	Coef.	p	Coef.	p	Coef.	p	Coef.	p
L1_pcs1	0.7910	0.000	0.9047	0.000	0.0000		0.7403	0.000	0.8362	0.000	0.8828	0.000	0.7928	0.000
pfsa	0.0032	0.392	-0.0405	0.088	0.0000		-0.0670	0.498	-0.0085	0.333	-0.0717	0.327	0.0315	0.026
pfsr	0.0052	0.151	0.0337	0.121	-0.3649	0.000	0.0774	0.357	0.0098	0.241	0.1074	0.206	0.0135	0.322
pfsr	-0.0020	0.829	0.0070	0.614	-0.1496	0.035	0.0059	0.875	0.0044	0.326	-0.0536	0.136	-0.0070	0.386
pp1	-0.0105	0.000	0.0079	0.628	-0.0210	0.462	-0.0280	0.365	-0.0023	0.666	0.0260	0.471	-0.0035	0.695
pp2	-0.2164	0.000	-0.2064	0.000	-0.1921	0.000	-0.1456	0.000	-0.1946	0.000	-0.1159	0.014	-0.2313	0.000
pat1	-0.0549	0.000	-0.0443	0.028	-0.3892	0.000	-0.1168	0.011	-0.0672	0.000	-0.0902	0.237	-0.0676	0.000
pat2	0.0025	0.184	-0.0370	0.021	0.0085	0.856	0.0233	0.375	0.0012	0.779	0.0180	0.366	-0.0007	0.921
pat3	0.0097	0.000	0.0091	0.477	-0.0262	0.681	-0.0251	0.213	0.0037	0.369	0.0176	0.556	0.0104	0.088
pat4	0.0126	0.000	0.0355	0.010	0.0451	0.378	0.0037	0.883	0.0072	0.111	0.0038	0.935	0.0185	0.016
pg1	-0.0322	0.000	-0.0193	0.205	-0.0424	0.384	-0.0307	0.361	-0.0214	0.000	-0.0188	0.561	-0.0553	0.000
pg2	-0.0072	0.000	-0.0022	0.858	-0.0714	0.069	0.0146	0.376	-0.0115	0.001	0.0079	0.693	-0.0150	0.006
pg3	0.0538	0.000	0.0033	0.881	0.0935	0.003	0.0378	0.167	0.0423	0.000	0.0653	0.129	0.0644	0.000
pev	-0.0287	0.000	0.0077	0.627	-0.2020	0.000	0.0124	0.783	-0.0258	0.000	0.1077	0.183	-0.0335	0.000
_lyearn_2004														
_lyearn_2005	-0.0119	0.000	-0.0121	0.308	0.0238	0.523	0.0195	0.169	-0.0183	0.000	-0.0420	0.027	-0.0144	0.005
_lyearn_2006	-0.0123	0.000	0.0107	0.381	-0.0339	0.305	0.0030	0.845	-0.0152	0.000	0.0043	0.837	-0.0158	0.003
_lyearn_2007	-0.0095	0.000	-0.0037	0.739	0.0667	0.092	0.0202	0.154	-0.0167	0.000	-0.0014	0.933	-0.0045	0.357
_lyearn_2008	-0.0004	0.758	-0.0090	0.446	0.0443	0.261	0.0027	0.849	-0.0013	0.672			0.0069	0.181
_lyearn_2009	-0.0160	0.000	-0.0139	0.245	0.0224	0.536	0.0103	0.508	-0.0177	0.000	-0.0306	0.214	-0.0169	0.001
_lyearn_2010					0.0181	0.637					-0.0121	0.617		
_lyearn_2011	-0.0132	0.000	-0.0051	0.670			-0.0018	0.899	-0.0138	0.000	-0.0160	0.346	-0.0115	0.033
_lyearn_2012	-0.0117	0.000	-0.0101	0.367	-0.1126	0.003	0.0016	0.917	-0.0123	0.000	-0.0164	0.258	-0.0108	0.027
cons	0.2468	0.000	0.1759	0.000	1.1988	0.000	0.2507	0.003	0.2255	0.000	0.0770	0.939	0.2511	0.000
AR(1)	-39.47	0.000	-5.82	0.000	-2.32	0.020	-4.27	0.000	-17.90	0.000	-3.83	0.000	-13.37	0.000
AR(2)	3.72	0.000	0.36	0.715	1.45	0.147	-1.32	0.188	2.41	0.016	0.06	0.952	1.79	0.073
Sargan test (chi	68.32	0.000	8.72	0.794	14.36	0.349	13.13	0.438	25.22	0.022	12.61	0.478	30.86	0.004
Hansen test (chi	56.94	0.000	6.57	0.923	0.00	1.000	10.71	0.635	19.45	0.110	14.29	0.354	23.03	0.041
Adj. Speed (%)	20.9		9.5		100.0		26.0		16.4		11.7		20.7	
Half life	3.0		6.9		-		2.3		3.9		5.6		3.0	

Industry G	Industry H	Industry I	Industry J	Industry K	Industry M	Industry N	Industry O
35	35	35	35	35	35	35	35
41314.6	4713.2	5183.48	547.54	7611.21	1099.09	855.56	2018.66
49655	3233	10492	533	15766	800	599	2900
9381	667	1920	124	3077	171	109	574
Coef.	Coef.	Coef.	Coef.	Coef.	Coef.	Coef.	Coef.
0.7843	0.7871	0.7509	0.8232	0.7636	0.8127	0.8471	0.8358
-0.0042	-0.0194	0.0117	0.1413	0.0553	0.0404	-0.0614	-0.0204
0.0094	-0.0020	0.0002	-0.0498	-0.0094	-0.0569	-0.0896	0.0380
-0.0050	0.0015	0.0028	-0.0412	-0.0067	0.0249	0.1090	-0.0017
-0.0102	-0.0347	-0.0273	-0.0494	-0.0151	-0.0599	0.0211	0.0086
-0.2233	-0.1885	-0.2091	-0.2282	-0.2259	-0.1796	-0.1595	-0.2625
-0.0462	-0.0861	-0.0615	-0.0090	-0.0480	0.0010	-0.0764	-0.0423
0.0095	0.0069	-0.0156	-0.0452	-0.0037	-0.0683	-0.0736	0.0002
0.0102	0.0224	0.0074	0.0049	0.0111	-0.0070	0.0208	0.0000
0.0172	-0.0062	-0.0166	-0.0151	0.0134	0.0112	0.0332	0.0080
-0.0311	-0.0026	-0.0288	-0.0910	-0.0553	-0.0251	0.0299	-0.0375
-0.0036	0.0199	-0.0072	-0.0068	-0.0129	-0.0151	-0.0488	0.0007
0.0516	0.0192	0.0846	0.1752	0.0562	0.0475	-0.0053	-0.0329
-0.0255	-0.0631	-0.0230	-0.0605	-0.0269	-0.0360	-0.0512	-0.0412
-0.0170			0.0016		-0.0194	0.0597	0.0219
-0.0151	-0.0040	-0.0007	-0.0078	-0.0046	-0.0823	0.0305	-0.0189
-0.0120	0.0019	0.0023	-0.0078	-0.0008	-0.0565	0.0716	-0.0001
-0.0003	0.0041	0.0021	0.0088	-0.0029			
-0.0215	0.0025	-0.0071	-0.0360	-0.0106	-0.0470	0.0527	0.0134
	0.0091	0.0053	0.0006	0.0022	-0.0222	0.0550	0.0070
-0.0152	-0.0099	-0.0044	-0.0383	-0.0108	-0.0544	0.0570	-0.0026
-0.0131	-0.0096	-0.0071	-0.0041	-0.0068	-0.0829	0.0562	-0.0013
0.2459	0.2720	0.2668	0.2414	0.2568	0.3130	0.1917	0.2404
-24.34	-6.91	-11.90	-2.00	-14.35	-3.98	-4.67	-6.59
1.14	-0.07	0.66	0.85	2.09	0.76	1.52	-0.21
49.07	11.68	21.40	18.97	19.61	15.79	17.57	27.67
34.56	9.54	20.93	25.29	12.75	14.87	17.79	10.69
21.6	21.3	24.9	17.7	23.6	18.7	15.3	16.4
2.9	2.9	2.4	3.6	2.6	3.3	4.2	3.9

The number of analyzed companies in the accommodation and food service industry (H) over the ten years is 10235. The results suggest that four out of five analyzed firm-level variables are statistically significant for this industry. We found a strong negative relationship between **profitability** and leverage ratio. The estimated coefficients for our two profitability proxies are both statistically significant, though with bigger magnitudes when we use ROTA then ROA. We also find evidence that **tangible assets** are negatively related to the leverage while the ratio of inventories to total asset positively affects the leverage ratio. Another robust result is positive relationship between leverage and the **growth rate** measured by total revenue growth. The results demonstrate that riskier companies (measuring risk as the within-firm volatility of earnings) tend to be less total leveraged.

The number of companies in the real estate industry (K) over the ten years has been 15766. This is the only industry for which all firm-level determinants showed significant coefficients. The **firm size**, measured by total assets, has a positive relationship with the leverage ratio, which can be interpreted that larger firms (firms with larger total assets) have more access to outside financing in general. ROA as proxy for **profitability** document an inverse relationship with leverage. **Asset composition** measured by level of tangible assets available is negatively related to the leverage ratio while the same variable measure by the ratio of accounts receivable to the level of total asset is positively related to the leverage. All three proxies for growth opportunities are statistically significant predictors of total leverage but with inconsistent direction. There is a negative relationship between leverage and the **growth rate**, if the latter one is measured by the annual asset and total sales growth, while there is a positive relationship between the leverage ratio and growth opportunities measured as the size of the deviation from average growth of total revenue. Finally, the study indicates that **risk variable** negatively affects the leverage.

The number of companies in the education industry (M) over the years accounts for 800. For companies operating in this industry we could find only two statistically significant firm-level determinants, **the profitability and the growth opportunities**. The first one is negatively while the second one is positively related to the leverage ratio.

Overall, the variation in the capital structure - total liabilities to assets is explained by 1st lag of the capital structure - total liabilities to assets, **profitability** (both regressors), **assets tangibility** (except for - the ratio of intangible assets to total assets), **growth** and **earnings volatility**.

A highest change in the capital structure - total liabilities to assets have companies with highest difference in the capital structure - total liabilities to assets in comparison with the previous year (change in 1 unit of difference, make app. 79% of unit increase in the capital structure - total liabilities to assets). The second highest change in the capital structure - total liabilities to assets have size of ROA, where for each positive change of **ROA** for 1 unit it is expected to have app. 22% of unit decrease in the capital structure - total liabilities to assets. Remaining significant repressors' affect the change in the capital structure - total liabilities to assets from 1 to 5%. In all models per industry change in ROA has negative relationships with change in the capital structure - total liabilities to assets and coefficients vary from -0.12 to -0.26.

A consistent negative relationship with the capital structure - total liabilities to assets is in the ratio of **tangible fixed assets** to the total assets and **earnings volatility**. Remaining regressors have an inconsistent relationship with the capital structure - total liabilities to assets, mainly statistically insignificant. The results indicate that one-period lagged dependent variable (total liabilities to assets) has a significant and positive effect on leverage (except for the industry B), indicating the existence of adjustment to the target capital structure.

5. Conclusion

The research aimed at testing the validity of capital structure theories in the FBiH. In this paper we have developed a model to explain firm characteristics (the micro-factors) determining the capital structure, measured by two dependent variables. We conducted our empirical analysis using an unprecedented database with non-financial firms from 14 different industries based in the FBiH, spanning 10 years of data from 2003 through 2012. The data are strongly unbalanced, meaning that we allow firms to enter or leave the sample during the referred period, thus avoiding any survivorship bias. We examined the data using a dynamic panel System GMM estimator, which is robust to firm heterogeneity and data endogeneity problems.

The proposed dynamic panel models of the capital structure measured **by the financial leverage** fails to provide the models that describe the capital structure change, mostly due to remaining serial correlation between regressors and residuals and their endogeneity. The proposed dynamic panel model of the capital structure measured **by the balance-sheet leverage** fails to provide a model that describe the capital structure change for the entire sample, due to remaining serial correlation between regressors and residuals and their endogeneity, **but** succeed to provide model of firm-level determinants at the industry level. The industry in which a firm operates seems to have an influence on the basic capital structure decisions of firms in our sample. We observe that the inter-industry differences appear to be a function of how the capital structure is defined. This signifies the role that the industry specific operating characteristics and regulations play in the firm's capital structure decisions.

The empirical analysis also investigates the dynamic behavior of the leverage ratios in our sample. We find that capital structure is highly persistent. Indeed, a lagged leverage is the best predictor of subsequent leverage in all regressions. So, the proposed regressors have statistically significant relationships with the capital structure of which most important is first lagged period of dependent the capital structure variable that explains most of explained variance of the capital structure, while profitability (ROA) follows as the next most important determinant of the capital structure. Assets tangibility, growth, firm size and earning volatility are statistically significant proxies of the capital structure, but with low effects on the capital structure change (2-7%).

To examine the relationship between the profitability and capital leverage in the FBiH corporate sample, we find a strong and robust negative relationship between **profitability** and the leverage ratio, consistent with most of the extant empirical literature (Friend & Lang, 1988; Rajan & Zingales, 1995; Antoniou et al. 2008). Therefore, we evidenced that more profitable firms tend to have less leverage, while less profitable firms tend to have more leverage. Table 4 indicates that this inverse

relationship persists even after accounting for the influence of industry. The trade-off theory can be denied, which assumes a positive connection between the two factors—saying, that the profit making firm strive to utilize the interest tax shield via rising loans. This is in line with the pecking order hypothesis suggesting that a company's financing process - due to the asymmetric information and thus a high transaction costs, does follow a specific hierarchy—using first internal sources available, and only then resort to external finance; first debt and only as a last choice to equity. In other words, the evidence that more profitable firms tend to have less leverage while less profitable firms tend to have more leverage may also be interpreted as evidence of the firm's limited access to outside financing.

In the Study, we found inconsistent results for relationship between different proxies for **growth opportunities** and leverage. For the proxies based on the two years differences, whether in total assets or total revenue, the relationship was negative. That is in line with the trade-off theory and similar to the findings for developed countries (Banerjee, Hesmati, & Wihlborg, 2004). But the positive correlation was found when the growth rate was measured as the coefficient of the trend, scaled by the book value of the total assets, from the regression of book value of total assets over ten years on a time trend, which supports the pecking order hypothesis rather than other theories.

The negative correlation of share of **tangible assets** and leverage is valid for the whole period, which is in line with the evidence from the previous studies (Cornelli, Portes & Schaffer, 1996; Nivorozhkin, 2002). This is due to the dominance of short-term debt in total debt, which does not necessarily require collateral. The trade-off theory and the agency theory obviously didn't prevail in this period in FBiH. This means that the company with high fixed assets value should employ less debt in its capital structure components and it is vice versa. The company with low level of tangible assets seeks for external source of fund, in terms of short-term debt, which does not necessarily require collateral, or other forms of non-financial financing.

We have found the connection proposed by the theory between the volatility of earnings and the level of capital leverage. This type of **risk** negatively influences the liabilities/equity ratio significantly in the examined period. This suggests that firms appear to reduce their use of total debt in their capital structure when they face higher risks in their own business activities.

Neither positive nor negative relationship between the **firm size** and the capital leverage cannot be proved, expected for two industries. Those results are opposite with the assumption of the trade-off theory, agency theory and signaling approach of positive relationship existence as with the assumption of negative relationship made by pecking order theory. None of them could be proved from the FBiH corporate database.

Finally, the empirical evidence displayed in this Study finds it difficult to demonstrate the validity of the trade-off and pecking order theories as stand-alone models. This contradicts the standard academic view that they are mutually exclusive perspectives or models. The two models provide very different predictions as to what we should expect to observe empirically about financial leverage. However the employment of fairly flexible targets for financial gearing, accounts for this discrepancy between the theory and practice.

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Chance to Experience Non-Traditional Work Involvement

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Abstract

When it comes to performance of duties, professional activity in flexible forms of employment, regardless of attachment to an organisation, perceived welfare of an employee, job satisfaction and efficiency of one's own professional activities work engagement plays a vital role. This means that regardless the organization, variability in employment, jobs and posts, an individual employed in flexible forms of employment may experience, precisely as permanent staff and employees employed in traditional forms of employments, all the components of job involvement such as vigour, absorption and dedication. To test this hypothesis the author carried out a survey on a group of employees employed in nine flexible forms of employment. This paper presents the most important conclusions of the survey and a theoretical review of the analysed variable.

Keywords: work engagement, flexible forms of employment

1. Introduction. On work engagement

When it comes to ways of measuring work commitment in the latest Polish literature, the phenomenon was described by Szabowska - Walaszczyk, Zawadzka, Wojtaś (2011). The authors analysed $n = 199$ employees of organizations of different sizes, from three sectors, using the already mentioned UWES- PL scale. Original questionnaire Utrecht Work Engagement Scale consists of three scales: vigour, dedication and absorption. Answers are placed on seven-grade scale, the Polish version has 17 items on it. In the Polish version the factor analysis is followed by statements of high correlation, so one can treat them as a single factor - work involvement - without a distinction between three factors, as it is the case in the original version. The soundness of the Polish version according to Cronbach's alpha is 0.94, and according to the original version the ratio is 0.93. Positive correlations in the research have been obtained between involvement and age and post. No importance of the remaining socio-demographic variables such as sex, seniority, education, city size and organization size have been confirmed (pp. 62- 64).

2. Presentation of the author's research

Work involvement variable, diagnosed according to Utrecht Work Engagement Scale - UWES by Schaufeli and Bakker. UWES is based on the already mentioned dimensions of work involvement - vigour, dedication and absorption.

The average score on UWES in the analysed group of flexible employees was 64.16 with the variable scope ranging from 1 to 102. The median was 65, which means that half of the analysed scores below 65 points. Skewness and kurtosis only slightly differ from zero, therefore it can be concluded that the distribution does not exhibit a significant asymmetry from the normal distribution. Involvement in work with emphasis on forms of employment of the analysed flexible employees was analysed. Unfortunately it was impossible to apply variance analysis, since assumptions concerning normality of distribution in the subgroups and homogeneity of variance in the subgroups were not met. Therefore the non-parametric Kruskal- Wallis test was applied. Analysis of the relationship by the Kruskal -Wallis test has shown, that a form of employment significantly differentiates the test results on the scale of work involvement: Chi-square (df 8) = 47.248; $p < 0.001$.

The median in all the sub-groups are located is between 5 and 6, they are therefore the average results for the whole population $N = 2070$ (nine forms of employment: telework, replacement work, temporary work, seasonal work, work under

civil and legal agreements, part-time work contracts, specific time work contracts, contracts for the employed in social economy and the self-employed) and nine specific flexible forms of employment. By far the highest median on the scale of work involvement was obtained by the self-employed (70.0). Whereas the lowest median was observed in the following groups: employed under specific task contract (61.0), working under substitute work contracts (61.5) and teleworkers (62.0). Such a distribution of results can be justified by specific conditions of employment in a given group. Among the self-employed high work involvement translates directly into obtaining orders and, consequently, financial gratification. In the case of low results in work commitment among persons working under civil-and-legal contracts, substitute work contracts, teleworkers, the type of a contract itself may be disheartening for work involvement.

Moreover, the results of the specific sub-scales of the work involvement scale have been analysed. The average score on the sub-scale of vigour in the analysed group of flexible employees was 22.94 with the variable scope ranging from 0 to 36. The median was 23, which means that half of the analysed scores below 23 points. Skewness is negative, which indicates that the distribution left-sided - slightly too many high results. Kurtosis is positive, slightly above zero - slightly more values are concentrated around the average value. Vigour of the flexible forms of employment of employees has been analysed. Unfortunately it was impossible to apply variance analysis, since assumptions concerning normality of distribution in the subgroups and homogeneity of variance in the subgroups were not met. Therefore the non-parametric Kruskal-Wallis test was applied. Analysis of the relationship by the Kruskal-Wallis test has shown, that a form of employment significantly differentiates the test results on the scale of vigour: Chi-square (df 8) = 37.519; $p < 0.001$. Values of the median in all the analysed groups fall within stens 5 and 6, which means that the values are average. Relatively the lowest results in comparison with other groups have been obtained by employees working under specific task contracts, teleworkers and temporary workers. Whereas the highest results have been obtained by the self-employed. Distribution of the results in this sub-scale of involvement is high and low in the similar groups of flexible employees.

The average score on the sub-scale of vigour in the analysed group of flexible employees was 19.43 with the variable scope ranging from 0 to 30. The median was 20, which means that half of the analysed scores below 20 points. Skewness is negative, which indicates that the distribution is left-sided - slightly too many high results. The kurtosis is positive, close to zero, which means that there is no significant asymmetry of the distribution. Analysis of dependency of results on the scale of dedication on the form of employment of the analysed flexible employees have been carried out according to the Kruskal-Wallis test, since the assumptions of variance analysis were not met. Analysis of the relationship by the Kruskal-Wallis test has shown, that a form of employment significantly differentiates the test results on the scale of dedication: Chi-square (df 8) = 38.669; $p < 0.001$. Values of the median in all the analysed groups fall within stens 5 and 6, which means that the values are average. Relatively the highest results, when compared to the other groups, have been obtained by the self-employed - similarly to the scale of involvement in general and the sub-scale of vigour. In the remaining groups the results are similar to the median in the entire analysed sample.

The average score on the sub-scale of absorption in the analysed group of flexible employees was 21.89 with the variable scope ranging from 0 to 36. The median was 22, which means that half of the analysed scores below 22 points. Skewness and kurtosis only slightly differ from zero, therefore it can be concluded that the distribution does not exhibit a significant asymmetry from the normal distribution. Analysis of dependency of results on the scale of absorption on the form of employment of the analysed flexible employees have been carried out according to the Kruskal-Wallis test, since the assumptions of variance analysis were not met. Analysis of the relationship by the Kruskal-Wallis test has shown, that a form of employment significantly differentiates the test results on the scale of absorption: Chi-square (df 8) = 52.712; $p < 0.001$. Values of the median in all the analysed groups fall within stens 5 and 6, which means that the values are average. Relatively the highest results, when compared to the other groups, have been obtained by the self-employed - similarly to the scale of vigour and dedication and in general in the scale of involvement. The lowest results have been obtained by the respondents working under specific work contracts. In the remaining groups the results are similar to the median in the entire analysed sample.

Moreover, work involvement variable was significant with respect to sex, age, occupation, sector and seniority. No relation has been identified with respect to a sector, number of employers so far, duration of a present work contract, place of residence, marital status and a number of children.

According to the obtained results, sex differentiates significantly the results of the respondents on the scale of work involvement, which is confirmed by the results of U-Mann-Whitney test: $U = 415738$; $p < 0.001$. Women achieve higher results on the scale of work involvement ($M = 67.72$; $SD = 18.802$) than men ($M = 61.42$; $SD = 19.106$). Variance analysis

has shown that there is a significant dependency between age and work involvement: $F(2, 1995) = 23.722$; $p < 0.001$. The older the respondent, the higher result on the work involvement. In the age group 18-30 years the average is 60.91%; in the age group 31-40 years = 63.19, and in the age group 41-65 years = 68.34. There is a statistically significant dependency between work involvement and education, which is confirmed by the results of the Kruskal-Wallis test: Chi-square (df 2) = 51.465; $p < 0.001$. The highest results are scored by the respondents holding a university degree: the median = 68. Slightly lower results are obtained by persons with primary education (the median = 63), and the lowest results are obtained by the respondents with secondary education (the median = 60). Also occupation significantly differentiates the results of the respondents on the scale of work involvement, which is confirmed by the results of the Kruskal-Wallis test: Chi-square (df 4) = 22.420; $p < 0.001$. The respondents on higher positions generate higher results than the employees on lower career level. The median values in each of the said groups are as follows: managers, CEOs, business owners = 68; experts and free lancers = 66; technicians and officials = 66; trade employees and services = 63; workers = 62. The results of the Kruskal-Wallis test exhibit a statistically significant dependency between a sector and a result on the scale of work involvement: Chi-square (df 4) = 22.170; $p < 0.001$. The highest scores are obtained by employees of such sectors as: heavy industry (the median = 67), public administration (the median = 66) and other sectors (the median = 70). Whereas in the remaining sectors the results were lower: services (the median = 63), trade (the median = 61). Also seniority has a significant meaning for the results of the respondents on the work involvement, the results of the Kruskal-Wallis test: Chi-square (df 2) = 12.118; $p < 0.01$. The longer the seniority, the higher results on the work involvement scale: in the group of employees with seniority between 0 - 5 years the median = 64, in the group of employees with seniority between 6-10 years the median = 65, in the group of employees with seniority between 11-15 years the median = 68.

While comparing specific subscales of vigour, dedication and absorption with socio-demographic factors, the following correlations have been identified. Vigour depends on sex, age, education and occupation. No significant dependency has been identified between vigour and sector, industry, seniority, number of employers, duration of a present work contract, place of residence, marital status and a number of children.

Sex also differentiates significantly the results of the test on the scale of vigour - which is confirmed by U-Mann-Withney test: $U = 448652$; $p < 0.001$. Women achieve higher scores ($M = 23.86$; $SD = 6.765$) than men ($M = 22.23$; $SD = 7.117$). Age differentiates significantly the results of the respondents on the scale of job satisfaction, the results of Kruskal-Wallis test: Chi-square (df 2) = 27.974; $p < 0.001$. The oldest employees (41- 65 years) receive the highest scores (median = 25). The respondents of the younger age groups obtained slightly lower results: in the group of 31-40 years the median = 23, in the age group of 18 - 30 years, the median = 22. There is a statistically significant dependency between vigour and education, which is confirmed by the results of the Kruskal-Wallis test: Chi-square (df 2) = 32.994; $p < 0.001$. The highest results are scored by the respondents holding a university degree: the median = 24. Slightly lower results are obtained by persons with primary education (the median = 23), and the lowest results are obtained by the respondents with secondary education (the median = 22). Occupation also differentiates significantly the results of the test on the scale of vigour - the result of Kruskal-Wallis test: Chi-square (df 4) = 23.740; $p < 0.001$. The poorest results are obtained by trade workers (the median = 22) and the highest results are obtained by specialists and freelancers (the median = 24). In the remaining groups the median was 23.

The subscale of dedication correlates in a statistically significant way with sex, age, education, occupation, but has no significant relation with such socio-demographic factors as: sector, industry, seniority, number of employers, duration of a present work contract, place of residence, marital status and a number of children.

Sex also differentiates significantly the results of the test on the scale of dedication - which is confirmed by U-Mann-Withney test: $U = 437188$; $p < 0.001$. Women achieve higher scores ($M = 20.44$; $SD = 6.346$) than men ($M = 18.65$; $SD = 6.465$). Age differentiates significantly the results of the respondents on the scale of dedication, the results of Kruskal-Wallis test: Chi-square (df 2) = 35.448; $p < 0.001$. The oldest employees (41- 65 years) receive the highest scores (median = 21). The respondents from the younger age groups obtain slightly lower results, in the both younger groups the median was 19. There is a statistically significant dependency between dedication and education, which is confirmed by the results of the Kruskal-Wallis test: Chi-square (df 2) = 29.615; $p < 0.001$. The highest results are obtained by the respondents holding a university degree and with primary education (the median in the both groups = 20). Slightly lower results are obtained by persons with secondary education (the median = 19). Occupation also differentiates significantly the results of the test on the scale of dedication - the result of Kruskal-Wallis test: Chi-square (df 4) = 20.026; $p < 0.001$. The lowest

results are obtained by workers and trade workers (in the both groups the median = 19). Slightly results are obtained by persons on higher posts - in the remaining groups the median = 20.

Absorption correlates with age, sex, education, occupation, seniority, place of residence. No relation has been identified between this sub-scale and a sector, industry, number of employers, duration of a work contract, marital status and a number of children.

Sex also differentiates significantly the results of the test on the scale of absorption - which is confirmed by U-Mann-Withney test: $U = 4000272$; $p < 0.001$. Women have higher results ($M = 23.49$; $SD = 6.924$) than men ($M = 20.66$; $SD = 7.181$). Age differentiates significantly the results of the respondents on the scale of absorption, the results of Kruskal-Wallis test: Chi-square ($df\ 2$) = 66.435; $p < 0.001$. The oldest employees (41-65 years) receive the highest scores (median = 24). The respondents of the younger age groups obtained lower results: in the group of 31-40 years the median = 21, in the age group of 18-30 years, the median = 20. There is a statistically significant dependency between absorption and education, which is confirmed by the results of the Kruskal-Wallis test: Chi-square ($df\ 2$) = 74.199; $p < 0.001$. The highest results are obtained by the respondents holding a university degree (the median = 23) and with primary education (the median = 22). Slightly lower results are obtained by persons with secondary education (the median = 20). Occupation also differentiates significantly the results of the test on the scale of absorption - the result of Kruskal-Wallis test: Chi-square ($df\ 4$) = 18.846; $p < 0.001$. The lowest results are obtained by workers (the median = 21). Slightly lower results are obtained by persons working in trade and services (the median = 22) as well as specialists and freelancers (the median = 22). The highest results are obtained by technicians and civil service officers (the median = 23) and directors, CEOs, owners of companies (the median = 24). Also seniority has a significant statistical influence on the results of the absorption scale, the results of the Kruskal-Wallis test: Chi-square ($df\ 2$) = 21.926; $p < 0.001$. In the group of the respondents with seniority between 0 - 5 years the median is 21. The same applies to the group of the respondents with seniority of 6-10 years. The highest results are scored by the respondents with the longest seniority: the median = 23. Also place of residence has a significant influence on the results on the scale of absorption, the results of the Kruskal-Wallis test: Chi-square ($df\ 2$) = 39.083; $p < 0.001$. Inhabitants of villages and small towns generate lower results (the median = 21 in the both groups) than inhabitants of big cities (the median = 23).

3. Conclusions

It should be emphasised that flexible forms of employment are a good form of work at a certain stage of human life, which had been described by Nollen (1996) in the characteristics of an average temporary employee and can also be seen in the Author's research. Natural drive for stabilisation in principle stands in opposition to temporary forms of making a living. Irrespectively of this fact, each employee has a chance to experience work involvement.

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Electrical Equipment and Electronic and Their Impact of Waste in the Republic of Kosovo

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Abstract

Managing waste electrical and electronic equipment is a challenge both for Kosovo and for all developed countries in the world bugs. Waste electrical and electronic equipment (MPEE) , or ' e-waste ' , are a growing challenge for governments around the world . It is clear that we must change the way that designed, manufactured, used and managed electronic equipment after their exit from use, if we wish to continue to harvest the benefits that brings technological development, while at the same time not hurt people and the planet. In some states have not yet defined legal instruments, and also continue to see how e-waste going from rich countries, which have the capacity to handle it safely and appropriately. Kosovo so far no special legal regulation which would be included this type of waste, but as part of the process for adoption of EU legislation, the Ministry of Planning should prepare the Law on Waste Management of electrical and electronic equipment. While consumption of computers and electronic equipment is growing slowly in all parts of the world, it is not in balance with the associated increase in infrastructure for safe management of such waste electrical and electronic equipment. There are some problems that are caused by the use of increasingly large electronic devices and which pose a risk to human health, and also represent the ecological disaster. In Kosovo have different types of electrical and electronic waste such in this paper will be presented some data which will show how to manage respectively handle e- waste electrical and electronic equipment such.

Keywords: electrical and electronic equipment, waste management and ecology

Introduction

E -waste is a generic term, used to describe electronic equipment old, obsolete or disposed, which contains electrical components. This includes a large part of the waste electrical and electronic equipment, and not just those related to the electrical grid, but also working with battery products, gain energy from wind or solar power other. These include many items, ranging from household white goods such as refrigerators and tester, up devices such as laptops and smart phones, extensive use items such as televisions and MP3 PlayerNet, to tools such as borer electric and sewing machines.

Waste electrical and electronic equipment (MPEE), or ' e-waste ' , are a growing challenge for governments around the world. Environment Programmed United Nations estimates that some 50 million tons of e-waste generated each year around the world. Given current trends in the design and manufacture of electronic devices, which give impetus to more frequent cycles of replacement of these waste generation will not be reduced for a certain time. It is clear that we must change the way that designed, manufactured, used and managed electronic equipment after their exit from use, if we wish to continue to harvest the benefits that brings technological development, while at the same time not hurt people and the planet.

In this regard, steps have been taken in terms of policies, such as the European Union's Directive MPEE (WEEE Directive), which regulates the regime of e-waste management, with emphasis on the responsibility of producers to cover management costs after the obsolescence of electronic products. However, some states have not yet defined legal instruments, and also continue to see how e-waste going from rich countries, which have the capacity to handle it safely and appropriately, in some countries, do not have to fix this issue. Kosovo so far no special legal regulation which would be included this type of waste, but as part of the process for adoption of EU legislation, Ministry of Environment and Spatial Planning Law must be prepared to manage electrical and electronic waste electrical and electronic equipment in Kosovo. The document should be prepared starting point for all that should follow after the Law on management of electrical and electronic equipment and waste electrical and electronic equipment , as well as the obligations and challenges that will be its result . Qualitative research method is used where the first hand sources, such as interviews and legal documents, as well as secondary

sources such as analysis of the perception of citizens of the Republic of Kosovo for e- waste and e - waste quantities in households

1.0 Electronic Equipment modern short path towards seniority

Electronic devices have special features that manufacture and their use make influential source of ecological and social, and therefore they represent waste problematic and challenging. Some of the ways in which bad design and other practices make modern electronic devices obsolete very quickly and they are:

- ✚ Hardware problems - according to one report, 24 % of laptops will break down in the first three years as a result of hardware problems.
- ✚ Software upgrades - New software can increase the volume of e - waste due to non-compatibility with older computers. For example, many computers do not have enough memory or processor speed to work with Windows Vested new.
- ✚ Shifts of the best phones - Companies often offer customers the best phones, for free or for very cheap price, encouraging frequent replacement of functional mobile phones.

In this regard, steps have been taken in terms of policies, such as the European Union's Directive MPEE (WEEE Directive), which regulates the regime of e-waste management, with emphasis on the responsibility of producers to cover management costs after the obsolescence of electronic products .

1.1 The design of the evil and aggressive marketing by the companies that produce electrical and electronic equipment.

Modern electronic devices quickly become obsolete and discarded. Innovations, such as mini - devices, resulting in equipment increasingly smaller and more functional , which are increasingly difficult to dismantle or to split into parts that are recyclable. In fact, many products are cheaper to replace than to fix, even if there who do it. Also , in addition to technological development , which renders obsolete equipment , as well as aggressive marketing of electronic companies doing that work equipment, to become obsolete after just one or two years of use. This results in rapid cycle's replacement artificially. When I would not want these devices are facing a big problem of waste that occurs in Kosovo.

1.2 Electrical and electronic equipment contain many toxic substances.

Over 1,000 materials used to produce our electronic devices and their components - semiconductor chips, circuits, drives (disk drives), and so on. Many of them are toxic, among which PVC, heavy metals (such as lead, mercury, arsenic and cadmium), Hexavalent Chromium, plastics and gases, which are harmful to human health if not properly managed. Disposal to landfill is one of the most common methods of e- waste disposal, despite the fact that due to the toxic contents of electronic devices, e-waste is very dangerous.

1.3 Some of the risks to your screen television

In your TV are toxic substances that can cause serious pollution, if your old TV sends to landfill. Old televisions with cathodes tube (CRT), containing from two to four kilograms of lead, which can release toxic chemicals when disposed in landfills, by contaminated groundwater.

New LCD TVs are starting to dominate the market, mercury containing lamps to illuminate their screen. Every LCD television uses only a few milligrams mercury. However , this metal is so toxic that even just one gram of mercury, and carried through the air each year to a lake of 80 meters, is enough to keep contaminated lake water at that level, the fish of the lake not be safe to eat.

EU accepted the toxic nature of the materials used in electronics and tries to respond to this situation through the Directive on the restriction of hazardous materials (DKMR), which bans and controlled use of certain materials in electronics, to all

products sold in the European Union. If manufacturers would agree to make safer design with which to eliminate toxic materials, will be diminished risks after emerging from the use of our electronic devices.

Electronic devices contain precious materials and rare. Besides that contain many harmful and toxic substances, electronic devices also contain substances that are very valuable. Much of precious substances found in printed circuits board (printed circuit boards). The computers can be found iron, aluminum, copper, lead, nickel, tin, gold, silver, platinum and palladium. Metals and other precious materials exist in other electronic components, such as copper wire, aluminum and iron and household equipment. Quantities of 14 minerals that are used in modern electronics are critical level, while it is expected that the demand for these materials to triple by 2030. Many materials that are of great importance for the production of ICT equipment, are extremely rare, which makes them valuable. Rare materials, such as gallium indium and begin to play an important role due to their implementation of new technologies (for example, flat screens and touch screens, as well as photovoltaic solar energy). In addition, some of the materials used in electronics come very unreliable sources, places where crimes against humanity are made to extract them. With the disposal of old equipment in landfills or recycling no qualitative not use again materials that can be drawn from them despite the fact that some of them are really rare and due to criminality in society.

Even in Kosovo will deal with this very serious problem and the communities and environment in Kosovo would have been the victim of toxic and bad design and inadequate management e-waste. Reuse and recycling e- waste is difficult, because it contains components dangerous and unstable. A large number of electronic devices that do not need them anymore, end (illegally) in the landfill, the waste incineration ovens, along with other municipal waste, or removed in any other way inappropriate. Given the dangerous nature of certain materials in electrical and electronic equipment, mismanagement of e-waste means that people and the environment pay the price for toxic and bad design manufacturers.

Minimizing the impact of electronic devices and the real - technology spending wastes include social and environmental impacts throughout its life cycle. Current trends in production and consumption of electronic equipment, together with the lack of options for safe management of e- waste in many countries suggest that, as communities and the environment pay the price for toxic and inefficient design. The current situation in Kosovo is unfair and unsustainable simultaneously.

To prevent e-waste crisis and to protect the environment and human health in the chain of electronic products have all parties to take action.

Manufacturers should:

- ✚To make cleaner products
- ✚To make a more lasting products
- ✚Let's take back their products for reuse and recycling safe

Government of Kosovo should:

- ✚To prohibit the import and export of e - waste
- ✚Prohibit dumping of e - waste in landfills - promote reuse of hardware and make it mandatory recycling e - waste.
- ✚Bring law and producer responsibility to promote design.
- ✚To supervise actors and punish offenses

Consumers should:

- ✚Buy less, and buy ecologically.
- ✚To return their goods back to the manufacturer for reuse and safe recycling.

Any approach to minimize the negative impact of electronics and e-waste, requires that manufacturers take primary responsibility for their products throughout the lifecycle. However, this does not mean that others should not play any role. For example, the government of the Republic of Kosovo should ensure the right policies and laws which will encourage design and ensure respect for the rights. Also, to minimize the negative impact of electronic equipment and waste is, should

be treated the issue of skills for consumption and disposal of equipment by consumers, which means that customers have key roles.

Categories of products MPEE Directive are:

- Large household appliances
- Small household appliances
- Equipment for IT and telecommunications
- Equipment for entertainment electronics
- Equipment for lighting
- Electrical and electronic tools
- Games, facilities for leisure and sport
- Medical Apparatus
- Instruments for inspection
- The machines

For wastes that do not come from families, manufacturers have individual responsibility for MPEE new, but the old MPEE have responsibility only when offering new products during product exchange old with new. Other major obligations include access for users to information necessary for Antes how to avoid e-waste properly and manufacturers to mark their products and provide information for re-use and safe handling of their products. Also, countries have an obligation to do checks and monitoring the situation, to make appropriate implementation, including appropriate penalties for possible violations of law Directive.

2.0 Limitation of hazardous substances

The European Parliament adopted the Directive on the restriction of hazardous substances (DKMR) in 2003, but it entered into force in July 2006. DKMR considered as a supplement Directive MPEE, because the limited production phase, although there impact on products that are obsolete. It aims to restrict the use of certain hazardous substances in electrical and electronic equipment. In this way, the protection of human health and ecological assisted is restoration and waste removal. With this Directive, the Member States are required to adopt the national legal framework, which will limit the use of four heavy metals (lead, cadmium, mercury and chromium hexavalent) and two groups of refractory materials with bromine (GDP and PBDE) the production of new electronic devices (although there are exceptions for certain uses of these substances until replacements are found). The Directive has a global impact because it treats the products imported into the EU, not just those that are produced within its borders

2.1 Products that use energy

These products have intended to improve the environmental performance of products throughout their lifecycle, through systematic integration of environmental aspects into product design phase. As a framework directive, it has no direct provision for the necessary requirements for certain products, but only defines the conditions and criteria for determining the conditions for each product separately.

Products candidates for measures to be implemented are those that:

- ✚ Have a considerable impact on the environment.
- ✚ Circulation in the EU.

✚ Clear potential and significant environmental improvements.

Measures for implementation may be different forms, including the necessary regulation, voluntary industry initiatives etc. Until now adopted a number of measures for implementation, including those for computers and monitors, TV sets, refrigerators and refrigeration appliances, and home lighting. In 2009 it was decided that ordinary bulbs are contrary to the Directive and started their gradual removal from use, in the context of the Directive.

2.2. How would Kosovo faces e-waste management law for electrical and electronic equipment and waste electrical and electronic equipment.

Kosovo with this law regulates the requirements for environmental protection that must meet legal and physical persons who produce and bring to market the Republic of Kosovo electrical and electronic equipment and who treat waste electrical and electronic equipment, and other entities that participate in the production and marketing of electrical and electronic equipment, limiting the use of certain hazardous substances in the manufacture of electrical and electronic equipment, method of collection, handling, processing and waste disposal electrical and electronic equipment, as well as other issues relating to the management of waste electrical equipment and electronics.

The goals of this draft law should have been:

- ✚ Reducing the negative impact of waste electrical and electronic equipment on the environment and human health at the lowest level possible;
- ✚ advancement of standards for environmental protection by producers, traders and end users throughout the life cycle of products, especially during the treatment, processing and disposal of waste electrical and electronic equipment;
- ✚ obstructing the creation and disposal of waste electrical and electronic equipment;
- ✚ achieve high levels of reuse, recycling and other types of waste processing electrical and electronic equipment, as well as reducing the disposal of waste electrical and electronic equipment in landfills;
- ✚ creating conditions for the establishment and development of the market for reuse, recycling and other types of processing waste electrical and electronic equipment, and
- ✚ Ensuring equal position in the market for natural and legal persons domestic and foreign, as well as avoidance and removal of trade barriers that can distort the market of electrical and electronic equipment.

3.0 Analysis and Recommendations

Proposal Preparation and Management Law electrical and electronic equipment and waste electrical and electronic equipment and its entry into parliamentary procedure mean a lot for Kosovo. Draft law should be harmonized with the European directives and the proposed text is clear aim of proposing to contribute to preserving the environment in the Republic of Kosovo

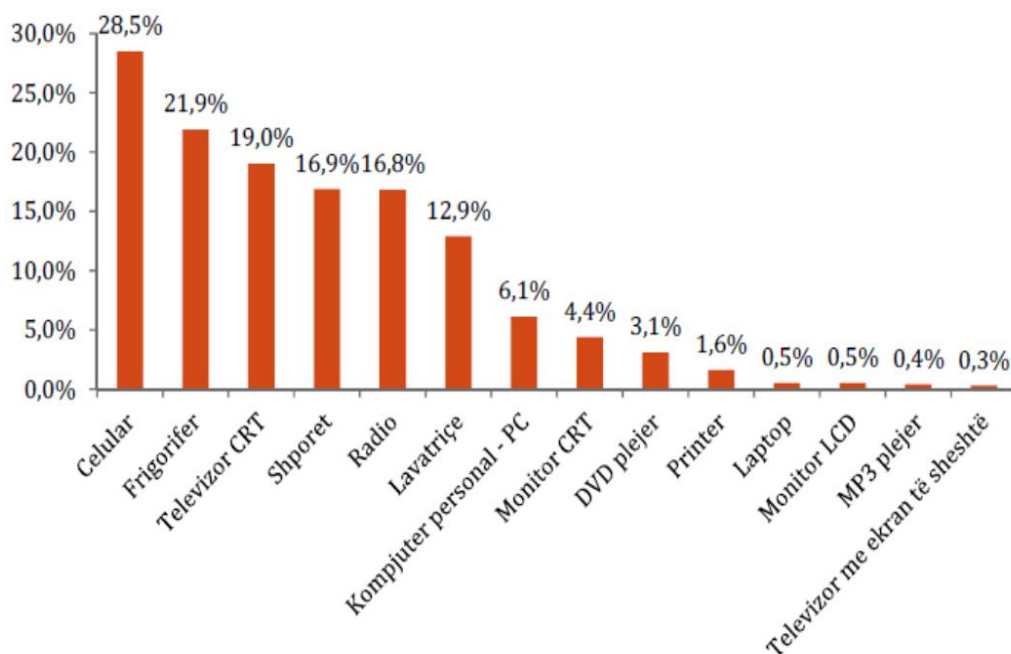
3.1 Draft Law adaptation according to EU directives

Draft law includes key needs for waste management of electrical and electronic, but, however, consider that in some articles must be some necessary changes, which will facilitate the interpretation and application of the law in the future.

3.2 Goals of the collection.

In the territory of the Republic of Kosovo, until December 31, 2020, must be collected at least 4 kilograms of household waste per capita per year. Revision of Directive 2002/96 / EC showed MPEE fixed targets such collection does not address the problem in the best way. A large part of the Member States has failed to meet its target, while for some other countries, it definitely was not a challenge. Therefore, the proposal for revision of the directive is that the collection targets to be a certain percentage of equipment put on the market, and that 65 % of the average amount of electrical and electronic

equipment put on the market during the past two years. Research shows that families, as well as companies, have large amounts of equipment to throw , so that this target can be met quickly .



Percentage of household not already used, but kept at home

This graph shows the percentages of household not already used to being kept in the houses of Kosovo. These devices represent potential e-waste can be found soon cast along with other municipal waste. All these devices are stored in the house a long time and enabling their disposal, will probably reach the target set by law, but coming years could be coming to a reduction of the amount of e- waste collected.

4.0 The simple way to remove household waste

Currently, the draft law envisages to have a collection center 30 000 inhabitants and citizens have the opportunity to leave free waste electrical and electronic equipment from which traders buys new equipment.

Some data indicate that a citizen of prefer the system that is proposed by this law, but a part considers that there should be some solution / center to left as Gift waste electrical and electronic equipment, close to home them.

4.1 Activities of the Government of Kosovo

Government can play an important role in policy development and regulation of habits, in order to promote good practices related to electronic equipment and e-waste. Therefore, the Kosovo government should implement the following recommendations:

Should not be allowed to e-waste:

✚Get in - or out.

- ✚ The essentials are restrictions on import and export of e-waste, in order to protect communities and the environment in countries without safe infrastructure for e-waste.
- ✚ Waste exported represent lost valuable resource for the recycling industry in the country of import, while imported waste can overflow waste management systems of importing countries. Also, is-waste export suffocates innovation that is needed to address the problem from the beginning, during the design and production.
- ✚ Do not let e-waste going to landfill.
- ✚ E-waste dumped in landfills, or in any other location, not only deadly, but it also presents an opportunity to release.
- ✚ Toxic materials in e-waste can contaminate soil, water and air, but when electronic devices are not reused or recycled, lost valuable resources. Instead, they should be handed legitimate waste operators.
- ✚ If that is functional, the device must be re-used, and if it is not functional, it must be recycled safely. Adopt a legal framework for responsibility of the manufacturer, design encouraged.

To enable electronic equipment manufacturers pass from toxic and inefficient design in that it is safe for people and the planet, the Kosovo government should:

- ✚ Planning to introduce a ban on substances that initially manufacturers to reduce, with no time even to eliminate toxic substances in electronics.
- ✚ Transfer the individual responsibility for managing the products after the obsolescence of their manufacturers.
- ✚ To implement ambitious goals for collection and retrieval, in order not to allow e-waste end up in landfills and motivate manufacturers to develop appropriate and effective infrastructure for collection, disassembly, reuse and recycling.
- ✚ To implement serious and applicable standards for treatment and processing.

Since an end to harmful practices for waste treatment (for example, dumping in landfills, burning in oven and exports), and to encourage continuous improvement of e- waste management , all operators of collecting and treatment waste must be licensed and have passed inspection by the relevant national agency for the environment.

Termination

Managing waste electrical and electronic equipment poses a challenge for developed countries. The adoption of the Law on electrical and electronic equipment and waste electrical and electronic equipment, Kosovo begins long war with the hazardous waste, which representing one of the most dangerous destroyers of the environment in modern society. Harmonization of Kosovo legislation with European legislation and the approach to the European Union is an additional motive for behavior and implementation of this law. Metamorphosis will continue to follow the law and implement activities that will assist in its implementation in Kosovo.

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Measuring the Size of Output Gap in Sukuk Issuing OIC Member Countries

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Abstract

The aim of this study is to estimate the size of output gaps for sukuk issuing Organization of Islamic Cooperation (OIC) member countries. The output gap is measured based on univariate Hodrick-Prescott (HP) filter for the period 1980 until 2011. Data are sourced from the World Economic Outlook and SESRIC databases. The findings reveal that Bahrain, Pakistan and Malaysia have smooth trend between real GDP and its trends. Most countries display fewer fluctuations in business cycles and changes in inflation during mid-2000s. The results suggest that output gap estimations contain key information for monetary policy since the estimate of output gap can contribute towards identifying and assessing the effectiveness of monetary policy framework over time. For cross-border sukuk issuance, the ability to sustain economic growth in the long run without inducing inflation will boost investors' confidence.

Keywords: Sukuk, output gap, HP filter, inflation, Islamic finance, OIC economies

1. INTRODUCTION

One of the important issues in macroeconomics is understanding macroeconomic fluctuations. One way to measure the fluctuations is by estimating output gap. Output gap, or business cycle, is defined as the difference between actual and potential output. Potential output is an unobservable variable that reflects the maximum output an economy can sustain without inducing inflation. It is the level of Gross Domestic Product (GDP) that is consistent with full utilisation of all factors of production under conditions of stable inflation. Since output gap is unobservable, it has to be estimated.

Output gap captures the effect of shifts in domestic demand thus represents demand shocks. Higher domestic demand would tend to raise domestic and import prices (Bussiere, 2006). Output gap captures the notion that with increasing sales, firms are more likely to pass-through increases in costs to final prices. The reverse is also true. Therefore, the current output gap estimations should provide information regarding future inflation. Since economic policies have direct impact on the size of the gap, the gap model is central to almost all inflation models.

The present study contributes to the Islamic financial economics literature by investigating whether the degree of excess capacity in the economy is an important determinant of inflation in sukuk issuing Organization of Islamic Cooperation (OIC) member countries. The countries involved in the study are Brunei, Bahrain, Indonesia, Kuwait, Malaysia, Pakistan, Qatar, Saudi Arabia, Turkey and the United Arab Emirates (UAE). Sudan is excluded due to data constraints. Since inflation is one of the key determinants affecting sukuk performance the present study investigate whether output gap estimation is a

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good indicator of inflationary pressures for these economies. The present research contributes to the Islamic finance literature by attempting to examine the issue from output gap perspective.

The remainder of the paper is organized as follows. Section 2 discusses literature review. Section 3 examines the research method while Section 4 presents the findings. Section 5 concludes the discussion.

2. BACKGROUND

Output Gap

There are at least five different methods of estimating output gap namely linear time trends, Hodrick-Prescott (HP) filter trends, multivariate HP filter trends, unobservable components models and a production function model. In general, these methods produced similar broad time profile of the output gap (deBrouwer, 1998). Coe and McDermott (1997) find the estimated output gap is in the range of ± 3 percent for the 13 Asian economies under their investigation.

Output gaps are estimated for two reasons. Firstly is to provide information about excess capacity in the economy at a particular point in time. From the perspective of monetary policy, the output gap over the forecast horizon is of most interest. Secondly, time series of the output gap is to be used in modelling exercises. The inclusion of output gap produce better estimates of inflation. For example, given that excess demand pressures are a key driver of rising inflation, the output gap can be included in price or wage inflation equations to obtain a more precisely estimated equation and more accurate forecasts (deBrouwer, 1998). Hence, the importance of output gap in macroeconomic models is due to its importance in assessing inflationary pressure and the cyclical position of the economy.

Potential output and output gap estimates also help to assess macroeconomic policies. The estimate of output gap can contribute to identifying and assessing patterns of monetary policy framework over time. A positive output gap is indicative of demand pressures and a signal that inflationary pressures are increasing and that policy may need to tighten. A negative output gap has the opposite implication.

Sukuk Issuance

Table 1 below shows the regional break-up of sukuk issuance country over the period 2001 to 2010. The Gulf Cooperation Council (GCC) and Middle East Countries dominate in terms of number of issuance and percentage of total value. The United Arab Emirates (UAE) has the highest percentage of total value (in USD million) of 52 percent, followed by Malaysia and Bahrain each contributed 12 percent and Saudi Arabia - 11 percent. The United States, United Kingdom, Japan and Turkey represent only two percent of the overall international issuance. Based on the current trend, sukuk are most likely to be issued in the Asia and the Far East and the GCC and Middle East economies in the future.

Table 1: Regional Breakdown of Total International Sukuk Issuance, 2001- 2010

	Amount		
ASIA & FAR EAST	(USD million)	Number of Issues	% of Total Value
Malaysia	5,496	12	12%
Indonesia	650	1	1. 4%
Pakistan	600	1	1. 3%
Brunei Darussalam	200	2	0. 42%
Total	6,946	16	15%
GCC & MIDDLE EAST	Amount		
	(USD million)	Number of Issues	% of Total Value

Bahrain	5,633	90	12%
Qatar	2,020	4	4%
Saudi Arabia	5,440	9	11%
UAE	25,050	30	52%
Kuwait	1,575	9	3%
Total	39,718	142	83%
Amount			
AFRICA	(USD million)	Number of Issues	% of Total Value
Sudan	130	1	0. 3%
Total	130	1	0. 3%
Amount			
OTHERS	(USD million)	Number of Issues	% of Total Value
Japan	100	1	0. 2%
Turkey	100	1	0. 2%
UK	271	2	0. 6%
USA	600	2	1. 3%
Total	1,071	6	2%
Grand Total	47,865	165	100%

Source: IIFM Sukuk Issuance Database (Jan. 2001 – Dec. 2010) and Sukuk Annual Report 2011.

In short, the economic structure and level of development of a country will determine the appropriate exchange rate regime. In developing countries, with fairly new financial systems, trade variables will most likely determine the exchange rate. For the developed economies, the movements of capital and financial assets will affect exchange rates. Hence, selecting appropriate exchange rate arrangements and moving from a fixed to flexible regime requires a good understanding of macroeconomics fluctuations.

3. METHOD

The sample consists of ten OIC sukuk issuing member countries. Data are annually, covering the period from 1980 to 2011 and are sourced from the World Economic Outlook Database. For annual data, Gross Domestic Product (GDP) is used as the proxy for real output and trend estimates. The study also includes data on annual percentage changes in Consumer Price Index (CPI). Data are in log values, in constant USD 2005 prices. Output gap is measured in growth rates and CPIs are measured in percentage changes.

Output gap is estimated as the log difference between actual output and its Hodrick-Prescott (HP) filter. The Hodrick-Prescott filter (HP filter) decomposes output into permanent and transitory components generating a smoothened trend of output. The generated smoothened series is the estimated potential output. The HP filter is defined as follows. Suppose a time series $ygap_t$ can be decomposed into trend (growth) component, $ygap_t^s$ and cyclical component, $ygap_t^c$:

$$ygap_t = ygap_t^g - ygap_t^c \quad (1)$$

The HP filtering process will choose the growth component, $ygap_t^g$ that minimize the following problem:

$$Min(1/T) \sum_{t=1}^T (ygap_t - ygap_t^g)^2 + (\lambda/T) \sum_{t=2}^{T-1} [(ygap_{t+1}^g - ygap_t^g) - (ygap_t^g - ygap_{t-1}^g)]^2 \quad (2)$$

where T is the sample size. The first term is the sum of the squared deviations and indicates the goodness of fit. The second term is the sum of the squares of the trend component's second differences and measure the degree of smoothness. The parameter λ is the smoothness parameter, set at 100 for the annual data, following the literature in the subject. The λ parameter penalizes the variability in the growth component. If the value of λ is zero, then the second term becomes zero, the sum of squares is minimized when $ygap_t - ygap_t^g, \forall_t$, and the HP filter would return the original series $ygap_t$ as the growth component. Meanwhile, the second term is minimized when $ygap_t^g - ygap_{t-1}^g$ is the same \forall_t . The objective of the minimization problem is to select the trend component that minimize the sum of squared deviations from the observed $ygap_t$ series, subject to the constraint that changes in the trend component ($ygap_t^g$) vary gradually overtime.

4. RESULTS

The output gaps are estimated for each country and results are presented below in Figure 1. Real GDP are in log values, constant 2005 USD prices. The countries are arranged according to their monetary policy framework in order to compare their performance. Real GDP and its estimated trends for each country are displayed in the top panels in all figures. Real GDP is measured on the vertical axis in all figures. The annual rates of inflation and the estimated changes in output gaps are displayed in the bottom panels. In all figures, output gap is measured on the left-hand side on the vertical axis in terms of growth rates. Inflation is measured on the right-hand side on the vertical axis in terms of percentage changes. Note that the scale for each country is different.

Based on the visual plots, the estimated trends are relatively smooth for countries under 'inflation targeting' and 'other' monetary policy framework for the period under study. For the countries under 'monetary aggregate target', there are some noticeable deviations between the actual and the estimated trend during certain years, particularly during early 1980s. These might be due to the rising oil price during this time because most countries under this category are oil producers.

There was a large negative output gap spikes during mid-80s in the countries under Exchange rate anchor framework, probably affected by the Persian Gulf War. The highest inflation spike at approximately 16 percent was recorded by Qatar in 2008 during global financial crisis. Indonesia was adversely affected by the 1997 Asian financial crisis in which there was the largest negative output gap and the highest inflation spike reaching almost 60 percent. Turkey, on the other hand, has high inflation and high fluctuations in output gaps estimations. Beginning mid-2000, inflation seems to stabilize at a much lower level. Pakistan shows rising inflation at the end of 2000s while Malaysia, with the largest negative output gap spike during 1997 Asian financial crisis, still have rising inflation even though output gaps are stable.

On the other hand, visual inspections on the output gap and inflation suggest that most of the inflation spikes tend to be associated with smaller spike in the output gaps. However, there are certain periods where the spikes in output gap are not

accompanied by similar rise in inflation for some of the countries. We examine the output gap on level (instead of growth rates as shown here), and found that the rise in inflation in most cases occurred after the spike. This might be due to persistent large output gaps (PLOGs), in which the trade-off between inflation and unemployment is tight when output gaps are large but disinflation decelerates at very low inflation rates (R. A. , 2013). This might indicate that inflation, at both level and changes, are equally important to policy makers.

After mid-1990s, most countries under ‘exchange rate anchor’ arrangement, except Qatar, show almost similar patterns in their output gap changes. There is also a smoother trend between real and potential output. However, further empirical works are required to ascertain that output gaps are a good predictor for inflationary pressures for these countries.

Figure 1: Real GDP and Estimated Trends, 1980 - 2011

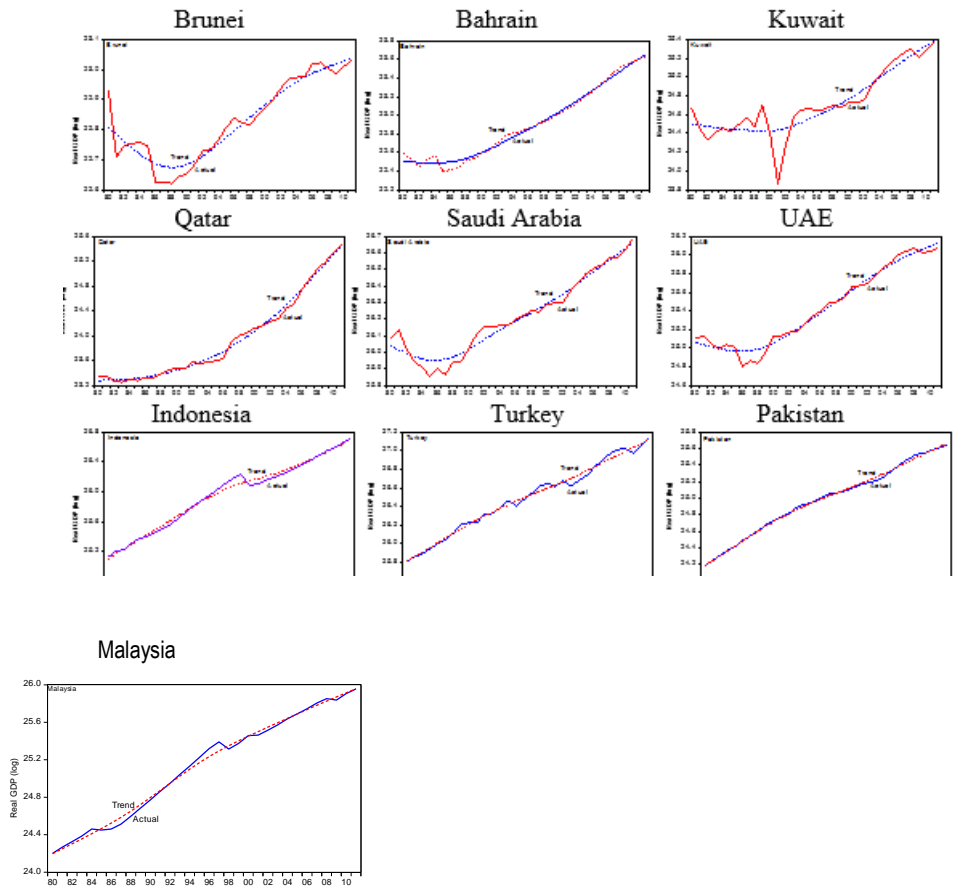


Table 2 below shows the GDP and output gap average annual growth rate for the period under study. Based on the estimations, the average growth rate of the output gap estimates is approximately 1% over the period of study. The GDP growth rate is 4% and inflation is 8. 58%. Turkey and Indonesia, both adopting Inflation Targeting policy framework, registered double-digit inflation rate. Qatar registered highest average growth rate at 7. 19%, followed by Malaysia with 5. 97% and Indonesia at 5. 16%. For the 2000s period, Turkey inflation management policy saw an almost 300% reduction of

the growth rate as compared to the 1980-1990 period. Bahrain, Kuwait, Qatar and Indonesia has annual growth rate in GDP exceeding 5% in the 2000s.

Table 2: GDP and Output Gap, Average Annual Growth Rate, 1980 - 2011

Country	Full Sample, 1980 - 2011				1980 - 1990s				2000s			
	Actual GDP	Trend GDP	CPI	Output Gap	Actual GDP	Trend GDP	CPI	Output Gap	Actual GDP	Trend GDP	CPI	Output Gap
Average for all countries	4.06	1.38	8.58	1.01	3.17	1.29	12.19	1.00	5.37	1.57	5.58	1.01
<i>Countries under Exchange rate anchor arrangement</i>												
Bahrain	3.49	1.45	1.61	0.99	2.26	1.30	1.70	0.99	5.56	1.73	1.44	1.00
Brunei	0.22	1.08	1.29	1.00	-0.59	1.03	1.65	1.00	1.58	1.16	0.70	1.01
Kuwait	2.92	1.30	3.58	0.99	1.01	1.11	3.63	0.98	6.09	1.68	3.51	1.00
Qatar	7.19	1.94	3.93	1.00	3.83	1.44	3.47	1.00	12.79	3.11	4.71	0.99
Saudi Arabia	2.20	1.19	1.06	1.00	1.24	1.11	0.50	0.99	3.81	1.34	1.99	1.01
UAE	4.16	1.36	4.50	0.99	3.85	1.27	4.34	0.99	4.68	1.52	4.78	0.99
<i>Countries Under Monetary Aggregate Target Framework</i>												
Pakistan	4.96	1.60	8.27	1.00	5.29	1.60	8.47	1.00	4.41	1.48	7.92	1.00
<i>Inflation Targeting Framework</i>												
Indonesia	5.16	1.01	10.53	1.01	4.15	1.14	15.32	0.99	5.25	1.105	7.93	1.00
Turkey	4.30	1.14	47.86	0.99	3.44	1.11	79.08	1.02	4.61	1.11	20.55	1.01
<i>Other Monetary Policy Arrangement</i>												
Malaysia	5.97	1.69	3.13	1.10	7.25	1.80	3.70	1.06	4.96	1.52	2.24	1.10

Notes: The weighted average is based on GDP for the period 1980 - 2011, normalized to 1. The weights are calculated for each individual country based on monetary policy classifications. Figures are average values.

In short, countries under 'exchange rate anchor' arrangement might learn from both the 'inflation targeting' and 'other' monetary policy framework. The literature suggests that output gaps have valuable information content about movement in price and wage inflation (de Brouwer, 1998). However, the information should be used along with other broad set of information in policy setting. Assessing model predictions based on output gap produce better results when policy has clear targets.

5. CONCLUSION

The study compares the size of output gaps in ten selected OIC sukuk issuing member countries. The findings reveal that Bahrain, Pakistan and Malaysia have smooth trend between real GDP and its trends. Some of the countries under study display similar patterns of business cycles. Towards mid-2000s, most countries display fewer fluctuations in business cycles and changes in inflation. Indonesia seems to be able to track inflation well based on the visual plot of output gaps estimations. Hence, the results suggest that output gap estimations contain key information for monetary policy.

The output gap is an important concept in the preparation of inflation forecasts and assessments of the economic outlook and the stance of macroeconomic policies. The size of output gap helps policy-makers design appropriate policies to sustain economic growth in the long run without inducing inflation. Therefore, more accurate forecasts of inflation should help improve formulation of monetary policy in a particular economy.

For future research, the output gap estimations could be empirically decomposed into observable components such as inflation, unemployment, capacity utilisation or others in order to determine which components are important during high and low business cycle frequencies. The ultimate aim is to be included in the international currency basket. In addition, the output gaps estimations could be included in the empirical inflation equation to reduce *ex-post* prediction error.

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Safety in the Workplace: a Comparative Study between Albanian and Italian Law

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Abstract

The Labor law, as is known, establish and represents the culmination of a long history and evolution: as part of this discipline an important sector is, of course, from safety in the workplace, however, that the matter is the subject of depth studies only since few decades. The analysis of the production rules, within that sector, reveals a constant attention of various state legislators in Europe, and a number of adjustments that are followed over time, more and more specialized towards standards: what in the light of the evolution of the forms themselves and tasks in which today is manifested the work. In that regard, within the framework and with a view of modern industrial relations, and interesting to compare, always in the field of “job security” (work safety) today the legislation of a Country like the Italy - which is a member of the European Union - that the law in force in the Republic of Albania, which is not yet part of U.E. (although the Country has already obtained the official status of the “candidate Nation”). Albania, in particular, stood out for having issued a labor code, in which a section is dedicated to safety. The U.E. policy about the security of the workers, finally, as can clearly be seen by European legislation, is based on the continuous search for a progressive attitude and adequate labor protection, in the various forms in which it is expressed.

Keywords: labor law, work safety, Albanian labour code, Italian employment legislation, the European Union (U.E.)

1. Comparazione tra sistemi giuridici: la legislazione sulla sicurezza in Albania e in Italia alla luce dell'ordinamento U.E.

La legislazione in materia di sicurezza e salute dei lavoratori, all'interno del diritto del lavoro, non può essere considerata solo come un settore della materia, ma costituisce una specifica priorità normativa di ogni Paese evoluto. Infatti, in essa risiede una utilità evidente, sotto il profilo di cultura giuridica: nel senso che la legislazione in argomento persegue il fine precipuo di scongiurare il verificarsi di incidenti, sui luoghi e negli ambienti lavorativi, che possano portare nocimento alla integrità fisica di coloro che, per l'appunto, prestano l'attività lavorativa; ciò è valevole, evidentemente, sia nel segno del progresso, che in quello della civiltà giuridica vera e propria.

Con tali premesse, invero, risulta particolarmente interessante comparare in un singolare raffronto la legislazione lavoristica del settore sicurezza, che promana da un Paese appartenente alla Unione Europea, come ad esempio l'Italia, con quella appartenente all'ordinamento giuridico di un'altra nazione, come l'Albania (la quale è membro candidato alla U.E., ma ancora non è entrata a farne parte): i due Paesi, invero, intrattengono numerosi rapporti commerciali ed economici improntati alla reciprocità delle relazioni e, quindi, sono inevitabilmente investiti da problematiche comuni.

Cominciamo il breve excursus, dunque, con la legislazione vigente in argomento nella repubblica albanese.

2. L'ordinamento albanese

La legislazione lavoristica albanese non si discosta molto da quella che vige nei Paesi dell'Europa occidentale ¹. Invero, più nello specifico, i cosiddetti “principi- cardine”, in materia di sicurezza sul luogo di lavoro, sono stati sanciti nel capo VIII

¹ Sul punto si vedano: Business Law - Commented Syllabus, Holland Benjamin, Nottingham 2012, pagg. 22 e ss. , nonché Boccia Antonio V.P., L'antico sistema normativo albanese: tra diritto romano e protoeuropeismo, Lauria 2014, pag.17.

del codice del lavoro (approvato con la legge n.7961, che venne promulgata nel corso dell'anno 1995 e successivamente modificata con alcune novelle): pertanto conviene soffermarsi brevemente su tale normativa.

In particolare, e per prima cosa, si può agevolmente notare, anche solo in base alla mera lettura del codice (e, quindi, ad un livello ermeneutico elementare) che gli articoli che vanno dal 39 al 75 del codice albanese sono espressamente dedicati a questa delicata disciplina e, inoltre, che si tratta di principi molto validi: essi rappresentano dunque il punto di partenza concreto da cui gli imprenditori che operano in Albania non possono prescindere.

Il capitolo VIII, che è suddiviso in vari paragrafi che si occupano delle misure ritenute particolarmente necessarie in materia, è interamente basato sull'argomento in esame e, per l'appunto, è titolato in maniera programmatica come "sicurezza e protezione della salute".

Dunque, il codice del lavoro albanese detta delle precise disposizioni a carico dei datori di lavoro operanti nel territorio della repubblica di Albania: le quali, in effetti, costituiscono certamente il punto di partenza necessario della normativa medesima.

Non a caso, gli artt.39 e 40 stabiliscono che il datore sia obbligato a predisporre la sicurezza e la salute del lavoratore, e quindi che egli debba, per l'effetto, cercare di prevenire gli incidenti sul luogo di lavoro.

Egli deve inoltre informare il lavoratore circa i rischi connessi al lavoro e formare i lavoratori al rispetto dei requisiti nel campo della salute, della sicurezza e dell'igiene ¹.

Vero è che anche il lavoratore subordinato dovrà mettere in pratica le misure imposte dal datore di lavoro ².

Invece, per quanto riguarda il luogo di lavoro, esso deve essere idoneo ³.

Nel paragrafo dedicato all'ambiente lavorativo la nozione di pericolosità assume una accezione particolare ⁴.

¹ Articolo 43: Il datore di lavoro deve informare il lavoratore circa i rischi connessi al lavoro e formare i lavoratori al rispetto dei requisiti nel campo della salute, della sicurezza e dell'igiene. Formazione ed informazione di cui al paragrafo precedente sotto effettuati durante il periodo di lavoro e ripetuti in caso di necessità specialmente se le condizioni di lavoro subiscono cambiamenti. Il datore di lavoro deve spiegare ai lavoratori esposti ai rischi ciò che è indispensabile per rendere esecutive le misure relative alla sicurezza tecnica ed all'igiene.

² Articolo 44: Il lavoratore deve mettere in pratica le misure imposte dal datore di lavoro ed informare quest'ultimo, quando si incontrano difficoltà nell'effettuarle. Solo personale qualificato può far funzionare macchinari di trasporto, meccanici ed elettrici e attrezzature.

³ A tal proposito è il caso di riportare due articoli. L'Art. 45 così dispone: L'ambiente di lavoro, in tutte le parti che lo compongono, deve essere adatto alla natura del lavoro che vi si deve svolgere. La superficie e lo spazio del luogo di lavoro devono essere sufficienti per il lavoratore in modo che egli/ella può svolgere il proprio lavoro in completa sicurezza e senza intralcio per la circolazione nell'ambiente. La installazione di macchinari ed attrezzi oltre allo stoccaggio non devono intralciare la circolazione o occupare qualche area dove si svolge il lavoro. Mentre invece l'Articolo 49 dispone quanto segue: L'ambiente di lavoro deve avere aria a sufficienza ed un sistema di ventilazione per evitare una atmosfera dannosa alla salute dei lavoratori e polveri. L'aerazione deve essere realizzata in modo che sfati all'esterno. Se l'aerazione naturale non riesce ad essere sufficiente deve essere implementata con ventilazione artificiale adeguata allo spazio dell'ambiente ed al numero di persone che vi soggiornano. L'atmosfera dell'ambiente e del luogo di lavoro deve essere mantenuta pulita al fine di proteggere la salute dei lavoratori. È proibito fumare nell'ambiente dove lavora più di una persona. Se il processo lavorativo non consente di evitare la produzione di sostanze volatili importanti dannose alla salute, la polvere il fumo e il gas devono essere continuamente cacciati fuori dall'ambiente di lavoro attraverso appositi dispositivi.

Inoltre, l'articolo 75 dispone che in ogni azienda devono essere prese misure per garantire il primo soccorso per le persone che siano ferite sul proprio luogo di lavoro. In ogni azienda almeno una persona a gruppo deve aver ricevuto le istruzioni necessarie per prestare il primo soccorso in caso di emergenza. In ogni ambiente di lavoro deve essere presente il kit di primo soccorso, regolarmente corredato del materiale necessario.

⁴ Di fatti l' Art. 48 così dispone: Il Consiglio dei Ministri, o i corpi autorizzati, definiscono i limiti di legge per la protezione dalle polveri nell'aria, dalle sostanze chimiche, dalla radioattività, dal rumore e dalle vibrazioni nei luoghi di lavoro.

Segue, poi, quello dedicato ai macchinari: a tal proposito viene precisato che nessun lavoratore deve usare macchinari senza aver adottato prima tutte le prescritte misure di salvaguardia ¹.

Quanto, poi, alle condizioni di lavoro, nel codice vengono dettate norme generiche e valevoli indeterminatamente ².

Seguono, infine, una serie di normative più tecniche, che è inutile riportare in questa sede.

Ben si vede, perciò, che la materia della sicurezza lavorativa è stata trattata, nel codice, in modo esaustivo e adeguato, almeno per quanto concerne la enunciazione dei vari principi basilari che la regolano.

D'altronde c'è da aggiungere che, dopo avere firmato l'accordo di stabilizzazione e associazione, nel corso del 2006, l'Albania è entrata a far parte del cosiddetto processo di stabilizzazione e di associazione alla Unione Europea: per l'effetto, nel Paese adriatico, sono stati compiuti una serie di concreti progressi, soprattutto per quel che riguarda la salute e la sicurezza sul lavoro, legislativamente parlando.

Non a caso, è stata dapprima approvata dal Parlamento una normativa sulla "strategia nazionale per la salute e la sicurezza sul lavoro", che si occupa della materia in maniera più particolareggiata; ed, altresì, è stato elaborato un nuovo disegno di legge organico ad hoc sulla salute e la sicurezza sul posto di lavoro, che si trova già in fase di approvazione.

Da ultimo, c'è da rilevare che anche la repubblica di Albania, in attesa dell'ingresso nell'Unione, è entrata già a far parte dell'Agenzia europea per la sicurezza e la salute sul lavoro (EU-OSHA).

3. L'ordinamento italiano

Riguardo la materia che ci occupa, in Italia, è stato emanato un "testo unico" sulla sicurezza dei lavoratori, il quale raccoglie in maniera organica ed omogenea le disposizioni esistenti in materia: esso è stato promulgato nell'anno 2008 ³.

Mentre, successivamente, sono state approvate varie novelle modificative, l'ultima delle quali lo scorso anno, mediante la Legge 30/10/2014, n. 161, che reca "Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea - Legge europea 2013-bis".

In pratica, quindi, il testo unico detta alcune prassi generali da seguire, al fine espresso del miglioramento delle condizioni di sicurezza sui vari luoghi di lavoro.

Passando ad una rapida analisi del testo, in concreto, ben si vede che il titolo primo si occupa del sistema istituzionale e della gestione della prevenzione; laddove, invece, quelli che seguono entrano più nello specifico della materia ⁴.

¹ Articolo 51: Nessun lavoratore deve usare macchinari senza aver adottato prima tutte le prescritte misure di salvaguardia. Le parti pericolose dei macchinari devono essere dotate di misure di protezione.

² L'Art. 54 dispone: Quando il lavoratore lavora in modo continuativo o in modo discontinuo in posizione seduta nel suo luogo di lavoro, deve essere equipaggiata con una seduta appropriata per svolgere il suo lavoro. Se per svolgere il lavoro è richiesto di stare in piedi o fermi per lungo tempo, il lavoratore deve aver diritto, oltre alla paga, a brevi pause della durata di non meno 20 minuti ogni 4 ore di lavoro continuativo. Le donne incinte devono effettuare la pausa ogni 3 ore.

³ Decreto Legislativo n. 81 del 9 aprile 2008 e ss. modifiche.

⁴ Il testo unico è così suddiviso: Titolo I (art. 1-61): Principi comuni (Disposizioni generali, sistema istituzionale, gestione della prevenzione nei luoghi di lavoro, disposizioni penali); Titolo II (art. 62-68): Luoghi di lavoro (Disposizioni generali, Sanzioni); Titolo III (art. 69-87): Uso delle attrezzature di lavoro e dei dispositivi di protezione individuale (Uso delle attrezzature di lavoro, uso dei dispositivi di protezione individuale, impianti e apparecchiature elettriche); Titolo IV (art. 88-160): Cantieri temporanei o mobili (Misure per la salute e sicurezza nei cantieri temporanei e mobili. Norme per la prevenzione degli infortuni sul lavoro nelle costruzioni e nei lavori in quota, sanzioni); Titolo V (art. 161-166): Segnaletica di salute e sicurezza sul lavoro (Disposizioni generali, sanzioni); Titolo VI (art. 167-171): Movimentazione manuale dei carichi (Disposizioni generali, sanzioni); Titolo VII (art. 172-179): Attrezzature munite di videoterminali (Disposizioni generali, obblighi del datore di lavoro, dei dirigenti e dei preposti, sanzioni); Titolo VIII (art. 180-220): Agenti fisici (Disposizioni generali, protezione dei lavoratori contro i rischi di esposizione al rumore durante il lavoro, protezione dei lavoratori dai rischi di esposizione a vibrazioni, protezione dei lavoratori dai rischi di esposizione a campi

In buona sostanza, pertanto, il testo appare come una raccolta di soluzioni procedurali, coerenti con le normative di buona prassi, le quali in definitiva vengono sempre finalizzate alla gestione della "prevenzione" e, quindi, alla promozione della sicurezza dei lavoratori, attraverso il miglioramento delle condizioni di lavoro e, conseguentemente, con la riduzione dei rischi lavorativi.

In generale, quindi, si può dire che in Italia, in base al testo unico, il datore di lavoro ha oggi il dovere di considerare la salute e la sicurezza del lavoratore importante quanto e come la stessa produzione; nonché di valutare adeguatamente il rischio e prevenirlo con soggetti e strutture di supporto (quali il medico competente ed il servizio di prevenzione e protezione)¹.

Inoltre l'imprenditore, inteso nel senso più ampio, proprio in conseguenza delle attività di valutazione dei rischi da lavoro, dovrà attuare in ogni ambiente lavorativo le misure di prevenzione degli infortuni previste dalla Legge, senza eccezioni o ritardi.

Laddove, poi, se è vero che quanto appena asserito vale certamente per ogni forma datoriale, c'è da dire che anche i lavoratori medesimi devono essere consapevoli, in primis, di avere il diritto (irrinunciabile) ad un luogo di lavoro sicuro ed adeguato alle norme sulla sicurezza; ma - nello stesso tempo - essi hanno anche il diritto-dovere di partecipare attivamente alla formazione, di utilizzare i dispositivi di sicurezza e di seguire tutte le norme dettate dal datore di lavoro. D'altronde, il lavoratore ha il dovere specifico di segnalare al datore di lavoro - anche tramite il cosiddetto "rappresentante dei lavoratori" per la sicurezza - eventuali carenze del sistema, ovvero, suggerire i possibili miglioramenti in materia. Peraltro, in una ottica di piena collaborazione dello Stato, anche le Amministrazioni pubbliche sono chiamate a supportare sia i lavoratori che i datori di lavoro, al fine espresso di prevenire gli infortuni sul lavoro. Per tale motivo, sin dal 2012, il Ministero del Lavoro e delle Politiche Sociali ha intrapreso una serie di controlli, specialmente nel settore edile (dove purtroppo si verificano la maggior parte degli infortuni, soprattutto gli incidenti mortali).

4. La legislazione europea. Osservazioni conclusive

Per completezza espositiva, giova osservare che la legislazione europea in materia, che è sovranazionale, è fondata sull'Atto Unico del 1987. Da allora in poi, si sono susseguite una serie di direttive sull'argomento "sicurezza", che hanno acquisito i caratteri della sistematicità e che sono ispirate a criteri di maggior rigore, rispetto al passato, e che esamineremo tra breve.

Prima di entrare nel dettaglio, occorre dire che l'iniziativa comunitaria in materia ha radici antiche, che si sono sviluppate nel corso degli anni passati, grazie all'ausilio e alla adozione di una serie di raccomandazioni, decisioni, comunicazioni e di programmi di azione; i quali progressivamente hanno mostrato un crescendo di sempre maggior rigore sull'argomento "sicurezza", rispetto ai periodi precedenti.

Nel 1974, poi, si colloca una definitiva svolta, realizzatasi mediante la risoluzione comunitaria del 21 gennaio: giacché, con essa, le problematiche in esame circa la promozione della sicurezza dei lavoratori trovano un collocamento preciso: viene istituito, di fatti, il "Comitato consultivo per la sicurezza l'igiene e la tutela della salute sul luogo di lavoro".

Dopo di allora, comunque, sia l'igiene che la salute dei lavoratori sono state oggetto di interventi della Comunità Europea; soprattutto, con due azioni specifiche: rispettivamente nell'anno 1978 (risoluzione del 29 giugno) e nel corso del 1984 (risoluzione del 27 febbraio), le quali norme meritano di essere riportate in questa sede, quanto meno a livello di enunciazione, poiché sono le prime in materia.

elettromagnetici, protezione dei lavoratori dai rischi di esposizione a radiazioni ottiche, sanzioni); Titolo IX (art. 221-265): Sostanze pericolose (protezione da agenti chimici, protezione da agenti cancerogeni e mutageni, protezione dai rischi connessi all'esposizione all'amianto, sanzioni); Titolo X (art. 266-286): Esposizione ad agenti biologici (obblighi del datore di lavoro, sorveglianza sanitaria, sanzioni); Titolo XI (art. 287-297): Protezione da atmosfere esplosive (disposizioni generali, obblighi del datore di lavoro, sanzioni).

¹ Da segnalarsi, in quanto rilevante, la introduzione della figura professionale del cosiddetto "formatore per la salute e la sicurezza".

Già nel 1980, era stata emanata una "direttiva-quadro" inerente la protezione dei lavoratori dalla "esposizione" nei lavori cosiddetti a rischio (direttiva n.1107 del 27 novembre). Ad essa, successivamente, faceva seguito una nuova "direttiva-quadro", nel 1989 (la N. 391), che sottolineava l'importanza del dialogo tra le parti sociali a livello comunitario europeo ¹.

Tra le innovazioni previste, la direttiva n. 391 sulla sicurezza comprende disposizioni, che riguardano la valutazione dei rischi negli ambienti lavorativi.

Occorre, poi, citare la comunicazione n. 62 del 2004, che riguarda la attuazione pratica delle varie direttive europee concernenti la salute e la protezione del lavoratore.

Infine, come si nota con l'art. 118 A del Trattato Istitutivo, la produzione normativa della Unione Europea sulle tematiche della sicurezza del lavoro si è intensificata, assumendo i caratteri della sistematicità.

Da allora in poi, molta strada è stata fatta per garantire la sicurezza dei lavoratori nelle aziende. In particolare, e nel tempo, sono state emanate una serie di dettagliate direttive che riguardano i luoghi di lavoro, i dispositivi di protezione, le attrezzature e i macchinari in genere, i rischi e la protezione da esposizione ad agenti biologici e chimici e, infine, varie disposizioni specifiche per singoli settori ritenuti più pericolosi ².

In conclusione, come si è visto, entrambe le legislazioni in materia di sicurezza e salute del lavoro, sia quella albanese che quella italiana, tendono a dare un notevole impulso alla azione di tutela dei lavoratori, in una ottica che - per quanto riguarda la repubblica albanese - potremmo definire come "pre-comunitaria".

Peraltro, c'è da dire che, se è vero che il 2015 è stato dedicato - dalla U.E. - quale "anno europeo" per lo sviluppo, legislativamente parlando, a maggior ragione potrà essere funzionale ed utile proseguire la strada nell'ottica intrapresa dall'ordinamento comunitario, ossia in quella di perfezionare il coordinamento tra le istituzioni dei Paesi in un settore delicato e cruciale, quale è quello della tutela della protezione e della sicurezza sul lavoro.

Ciò, ovviamente, al fine esplicito di armonizzare e razionalizzare i sistemi giuslavoristici esistenti nelle nazioni europee e, nel contempo, per favorire e per consolidare il dialogo sociale tra le parti - imprenditori, datori ed aziende in genere, con sindacati e lavoratori - nei vari Paesi coinvolti da questo processo, che vede il comune impegno dei legislatori nazionali più avveduti (tra di essi, ovviamente, anche l'Albania e l'Italia) nel rendere sempre più sicuri gli ambienti di lavoro ³.

¹ Storicamente le prime iniziative comunitarie possono inquadrarsi già nell'ambito del Trattato Ceca del 1957, allorquando venne istituito l'Organo permanente per la sicurezza (nelle miniere di carbone), cui venne assegnato il compito di predisporre le proposte concrete sul tema della salute e protezione dei lavoratori da sottoporre ai vari governi degli Stati membri.

² Sono da menzionare, tra le altre, le seguenti direttive (aventi ad oggetto disposizioni specifiche): N. 2010/32, N. 2009/38, N. 2009/13 e N.1994/33.

³ Sul punto: D'Antona Massimo, *Mercato unico europeo ed aree regionali deboli*, in LD, Bologna 1992 pagg. 43 e ss; Biagi Marco, *L'ambiente di lavoro e la politica sociale comunitaria*, *ivi*, pag. 30 e pag. 237.

European Energy Exchange EEX - Alternative for the Development of the Bulgarian Electricity Market

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Abstract

The price of electricity in the Republic of Bulgaria was always a topic and permanent food for thought for both businesses and households as final consumers. The paper aims to show the specificity of trade in electricity - in principle and in its most features and imbalances on the Bulgarian market. To demonstrate the need for organized and working stock market for electricity and the need for their daily work transparent. The accession of Bulgarian electricity market to the European Energy Exchange EEX would be the best alternative for solving problems.

Keywords: Market Pricing; electric energy market, Energy Prices; European Energy Exchange – EEX

JEL: D 43; Q 43;

Introduction

A sector for sale of electric energy became operational in August 2000 with the Group of the German Exchange (Gruppe Deutsche Börse) in Frankfurt. The exchange is called European Energy Exchange – EEX. Transactions are made on EEX with all primary-energy sources: electric energy, natural gas, coal, oil and harmful emission quotas.

Cash power exchange market – EPEX SPOT is the cash power market uniting the markets of France, Germany, Austria and Switzerland. Together these countries represent more than a third of electricity consumption in Europe. The seat of the company is in Paris with offices in Leipzig, Bern and Vienna. It was established in 2008 based on the merger of the power exchanges Powernext SA of France and EEX AG in Germany. Gradually integrated to the market of these four countries are the markets of Italy, Spain, Czechia, Slovakia, Poland, Hungary, Greece and Romania.

The exchange mechanism allows the arrangement of offers as legally binding agreements for purchase or sale of a particular quantity of electric energy in a given zone, for supply at a determined price (the so-called market clearing price).

Completed deals are forwarded immediately to the central counterparty for each transaction – the European Commodity Clearing (ECC). It is a central counterparty for all buyers and sellers who, as a rule, do not know each other. The clearing organization will always step in as a universal intermediary between buyer and seller, i.e. it provides for both the liabilities of buyer versus seller (payment for the electric energy), and for those of seller to buyer (the delivery of electricity).

As an important result of the exchange trade EPEX SPOT publishes daily exchange prices which are determined in a direct meeting of demand and supply. As such transactions are the result of extensive, open and transparent competition between orders by members of the Exchange they reflect the best available information as at this point of time in the market environment. Usually the cash market is organized 'a day ahead' and 'within the day'.

The number of players on the EPEX SPOT cash market is continuously growing and at this point of time they are 236 firms from 24 countries, and there are licensed traders including from Romania and Greece. It is enough to look at the map with the geographical location of players in trade on the European Energy Exchange and the legitimate question will arise – why no Bulgarian participation on this market. While the exchange market guarantees:

- fair and adequate behaviour of members of the Exchange;

- safe delivery and payment for the traded electric energy;
- anonymity of transactions – producers do not know to whom they sell and buyers do not know from whom they will buy actually;
- transparency in determination and variation of the price in accordance with demand and supply for every moment of the day.

Calculated by the cash market of the EEX exchange are also the respective indexes by which graphically presented is the variation in electricity price from various sectors of the market:

Phelix – index for physical delivery (Physical Electricity Index) – reporting on a daily basis a published price for base load (Phelix Base) and the peak load (Phelix Peak) on the market of electric energy for the area of Germany and Austria market. The index is calculated from prices on the EPEX SPOT cash market (the exchange acronym for such market). It is calculated as unweighted arithmetic average in two variants: with *base load* and with *peak load*. The index is used as a base (underlying) asset for Phelix futures and options traded actively on the European Energy Exchange.

Daily PHELIX index for base load (Phelix Day Base) is the unweighted arithmetic average price of electric energy for the hours from 1 to 24 traded on the spot market. It is calculated for all calendar days of the year.

Daily PHELIX index with peak load (Phelix Day Peak) averages the prices of electric energy traded on the spot market for the hours from 9th to 20th hour for all business days of the year.

Monthly PHELIX index for base load (Phelix Month Base) is calculated as an arithmetic average of all day values of the index for all calendar days of the month.

Monthly PHELIX index with peak load (Phelix Month Peak) is calculated as the average (unweighted) of all values of the PHELIX Day for all days from Monday to Friday of the respective month.

The wholesale price of electric energy varies within wide limits yet it is always the result of the momentary ratio of electricity demand and supply.

In line with the cash transactions also possible are three main types of term transactions – futures with physical delivery, financial futures and options. They feature a similar method of determining the price – in auction or an ongoing price fixation. Traded on the European Energy Exchange are also options, yet for the territories of Germany and Austria only. They are called PHELIX options as they are based on the PHELIX index and have a possible maturity – month, quarter, year.

Futures contracts for supply of electric energy are two main types – futures with physical delivery and financial futures.

Traded on the European Energy Exchange are futures with physical delivery of electric energy for the territories of France, Belgium and Denmark. Such futures come to an end with physical delivery of the whole quantity of electric energy for the entire period of the contract. Calculated in the last trading day (for week futures) and two exchange days before the period of delivery for the months futures is an 'ending price' for the futures. Usually this is the last price at closure of the trade in such futures. The buyer of a futures contract is obliged to receive the entire contracted quantity of electric energy for the whole period of the contract and to pay it at the ending price. The seller of the futures contract is obliged to deliver the contracted electric energy at constant parameters for each day and hour of the period of supply. Generally the contracts make provision for delivery of 1 MWh of electricity per each astronomical hour of the period of supply.

Financial futures admitted for trading are for the territories of Germany/Austria, France and Italy:

Review will be made here only of financial futures for the territory of Germany and Austria based on the PHELIX index:

- Financial futures on the Phelix index for base load (daily, weekend, weekly, monthly, quarterly and yearly) – Phelix-Base-Day/Weekend/Week/Month/Quarter/Year-Futures;
- Financial futures on the Phelix index for peak load (daily, weekend, weekly, monthly, quarterly and yearly) – Phelix-Peak-Day/Weekend/Week/Month/Quarter/Year-Futures;

- Financial futures on the Phelix index without peak load (monthly, quarterly and yearly) – Phelix-Off-Peak-Month/Quarter/Year-Futures;

Starting February 2015 French and Italian futures will be released for the days and for the weekend, as well as financial futures for the territories of Spain and Switzerland.

The ending price for financial futures is determined on the calculation after a particular index which averages the prices from auctions for each hour of the day/night on the cash market 'day forward' per each discrete market territory. Usually prices are determined for base load, for peak load and for off-peak load, respectively. Ending of financial futures takes place only with equalization of the position with payment. i.e. there is no physical delivery of electric energy here. On maturity day the buyer of the financial futures is obliged to pay the difference between futures price and the fixed lower ending price. Where the ending price is higher than the futures price the difference is then paid by the seller of the futures contract. Such payment shall be effected until two days after maturity of clearing.

Options are another type of term transactions in which a right is being bought. Rights are two types: in the case of Call-option the right is 'to buy' at the price of exercise and in the case of Put-option the right is 'to sell' at exercise price. The buyer of a put option is entitled to receive a short position in a respective futures at the option exercise price on the last trading day. The seller of a put option receives, when exercising a long position in the respective futures, an *Option Premium* – this is the exchange price, which is paid at buying the right. *Types of options* – they are European type, which means that options are exercised on the last day for trading only. *Option series* – these are all call and put options on one and the same base asset with same exercise prices and one and the same maturity period. Offered for the first trading day for each maturity period are at least three series with different exercise prices – one of them shall be 'cash' (in-the-money), the second one - 'on money' (at-the-money) and the third price must be 'out of money' (out-of-the-money).

Traded maturity periods – in the case of Phelix year options there are four possible contracts with possible maturity coming in the end of each quarter of the current year:

- maturity at the end of March – April Phelix year option for base load (Phelix-Base-Year-Apr-Option);
- maturity at the end of June – July Phelix year option for base load (Phelix-Base-Year-Jul-Option);
- maturity at the end of September – October Phelix year option for base load (Phelix-Base-Year-Oct-Option);
- maturity at the end of December – January Phelix year option for base load (Phelix-Base-Year-Jan-Option).

The price of electric energy in the R of Bulgaria has always been a topical theme and a permanent reason for reflection for the business and the households, both of them as end consumers. The present article is intended to show the specifics of trade in electric energy – in principle and in particular the peculiarities and disproportions of Bulgarian market, these actually being an obstacle for the development of a normal competition on this market. Still observed in the Bulgarian electric energy market are multiple restrictions on participants in this trade that prove the limitation on competition when transactions are made in electric energy thus delaying actually the transformation of the market from state monopoly to an efficient market.

The legislative framework of the European Union for the electric energy market is embedded in Directive 2009/72/EC. (DIRECTIVE 2009/72/EC OF THE EUROPEAN PARLIAMENT AND THE COUNCIL of 13 June 2009 concerning the common rules for the internal market in electric energy). [4]

The main actions, terms and objectives for implementation by the member states can be summarized and presented as follows:

- Main purpose: to achieve a '...fully open market, which enables all consumers to freely choose their suppliers and all suppliers freely to deliver to their customers.'
- The full market opening aims at dividing generation from delivery of electric energy, so that conditions could be established of loyal competition and opportunities for market impact on the changes in electric energy price;

- The Directive requires that all producers shall be competitively put on a level playing field in an objective, transparent and non-discriminatory manner, as well as third-party access to be provided to the transmission and distribution systems in conformity with the requirements for full market opening;
- Electric energy production is always regionally individualized. The maximum possible generation by all producers of electric energy is defined as a maximum capacity of such territory. The electric energy market in the US, for example, is divided up into 140 regions, also having 140 control points that measure the quantities of electric energy going out of or coming into the region, this being sold, or purchased by the other region, respectively. The possibilities for sale of electric energy of another region are determined by the possibilities of energy transmission between the two regions [9, p. 713]
- The market of electric energy, like the market of other primary-energy sources, must be transformed from a state monopoly to an efficient market with the help of appropriate regulations. 'This process is always accompanied also with the establishment of a term market for derivatives on contracts for supply of electric energy.' [9, p.714]

The issues relative to Bulgarian energy sector and the trade in electricity in particular, have been a topical and morbid theme for years now. This is in consequence of the disproportions superimposed with time and contradictory rights and obligations of players in the Bulgarian electric energy market. Most generally they boil down to the following:

- In September 2008 the Bulgarian government decided to amalgamate the energy companies of Bulgaria into Bulgarian Energy Holding (BEH), which includes NEK, Kozloduy NPP, Maritsa – East 2 TPP, Maritsa-East Mines, Bulgargaz, Bulgartransgaz and Bulgartel;
- The development of the electric energy market over the period 2004-2014 is schematically presented in the following table (2014 data are estimations):

Table 1

year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
electric energy producers	4	6	6	7	7	7	6	7	7	9	9
wholesale consumers	7	14	31	62	57	61	65	77	105	2096	2100
wholesale traders	0	2	10	24	20	26	35	46	47	52	55

Annual generation of electricity over the period varies between 45 and 50 terawatt-hours (TWh) which is indicative of fluctuations in the yearly consumption under 10% against the previous year.

The increasing number of wholesale consumers and traders purchasing and selling electric energy on the Bulgarian market is a sure sign of the improved market environment and the increased opportunities for competition. Yet I need to immediately note that the 'free market' occupies a mere 9.2% of the trade in electric energy for 2013 [8, p. 23], while the expectations for 2014 are that the quantities of electric energy sold on the free market will be some 10% of the total quantity for the year.

- Electric energy consumption is irregular during the different hours of the day and this forces the System Operator of the respective territory to temporarily disconnect particular producers (the time of forced outage of capacity varies from several hours for HPP and TPP to 2-3 days for NPP, with at least the same time needed to put them back into generation mode), or to connect new capacities to the system as it must be balanced all the time – to have just as much electric energy

generated as will be consumed. The classical example of balancing the electric energy system are hydropower plants which generate electricity in peak hours and then become consumers and start pumping the water back upwards so that it can be used again in the generation of electric energy. (See Art. 108.(1) of the Energy Law (EL): *'Single operational planning, coordination and control of the electric energy system is performed by the operator of the electric transmission network and by the operators of each of the electricity distribution networks.'*)

- The main regulatory body is the State Energy and Water Regulatory Commission (SEWRC). A total 13 principles are set forth in Art. 23 of EL by which the Commission shall be guided in performing its regulatory powers. Such principles are in full compliance with the requirements of European Directive 2009/72/EC, yet their application is usually accompanied by contradictory comments and opinions of various experts from the sector.
- Contracts concluded for long-term purchase of energy with Contour Global Maritsa East 3 and AES 3C Maritsa East 1 EOOD from 2001 make the provision that they will sell all their production to NEK at a price guaranteeing the return of their investment for a period of 10 years. It is noted in the SEWRC report that the total costs for 'non-generated energy' that are paid to the two power plants amount to 274 mill. Levs for 2013 because there was no consumption in Bulgaria and the price of the generated electric energy is significantly higher and can not be sold in neighbouring markets. [7, 16]
- The main large consumers of electric energy, i.e. those selling to the end consumers – the three power distribution enterprises – EVN, CEZ and Energo-Pro are purchasing all the electric energy they need at a fixed price which shall guarantee a profit of 8% to them, in accordance with the regulations of SEWRC and the signed privatization contracts;
- The differences in prices of individual producers also are specified by SEWRC and they are speaking in their own way when exemplifying the disproportions laid down in time:

Prices of energy and availability of producers of electric energy for the regulated market	price in Levs per MWh
Kozloduy NPP	30
Maritsa East 1 TPP	90.35
Maritsa East 2 TPP	68.30
Maritsa East 3 TPP	70.88
factory power plants	128.65
district heating plants	183.46
renewable sources of energy	299.05
hydro-power plants property of National Electric Company	63.64

approved price for the National Electric Company as 'Public supplier'	110.58
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The price of electric energy from the thermal power plants in Maritsa East is two to three times higher than that from NPP and this is mainly due to the commitment assumed for purchasing the entire quantity of electric energy produced by the two TPPs;

- The National Electric Company (NEK) has the obligation of a 'public supplier' by virtue of Art. 93a of EL. *'The Public supplier shall purchase electric energy from producers connected to the transmission grid under contracts of long-term purchase of availability and electric energy, as well as energy generated from renewable sources, from highly efficient combined production ...'*. Most generally, public expectations are placed on the National Electric Company to deliver electric energy to all end consumers and to maintain 'fair' prices. In order to meet such expectations NEK purchases the cheap electric energy generated by Kozloduy NPP, covers the costs of availability and buys out the entire quantity of electric energy produced from renewable energy sources (RES). The price of the public supplier is thus obtained – 110.58 Levs for one Mega Watt hour (1 MWh) as shown in the drawing. It was increased from 01.07.2014 to 114.10 Levs per MWh, net of VAT, by SEWRC Decision No. 14 – 12 of 30.06.2014.

- Another problem is the high price of electric energy from renewable energy sources, it being exactly 10 times higher compared against that of NPP Kozloduy. The addition included to the price for end consumers for renewable energy sources in Germany is in the amount of 5.3 Eurocents per kWh. [11, p. 19]

- Control in the energy sector is vested in the Ministry of Economy, Energy and Tourism – MEET. (Art. 75. (1) *The Minister for economy, energy and tourism shall exercise preliminary, ongoing and subsequent control ...'*). The embedded extensive disproportions however, and probably other lesser contradictions make the SEWRC, MEET and NEK implement new, higher and even more difficult to understand fees – for transmission, additions for green energy, fee for non-recoverable investment costs, 'Public' fee, etc. Any one having the opportunity of making use of the non-recoverable investment costs fee can spend a lot of money for nothing, because consumers of his service will pay all this again to the last cent. What other better opportunity there can exist for uncontrolled spending? It is neither motivated nor explained why each end consumer must pay for each Mega Watt of electric energy 16.80 Levs to NEK in 'Public' fee. What is being compensated with this and how? Other disproportions are created by the increase in transmission fees – *'Until 31.07.2013 this model made provision for the obligations to the public to be included in the price for transmission. Over the past few years a lasting trend was marked towards increase in such costs and their level in the period 2012-2013 resulted in an exceptional increase in the total sum payable to the price of transmission, which actually blocked Bulgarian export of electric energy.'* [4, p. 30]

- By its Decision No. Л-422 dated 31.03.2014 SEWRC granted a license for the activity 'organization of a stock market of electric energy' for a term of 10 years to the state company – part of the Bulgarian Energy Holding (BEH) – Bulgarian Independent Energy Exchange EAD. This company will use the technical and material resources of Electricity System Operator EAD and for such purpose the system operator undertakes to separate, rehabilitate and provide the module Organized Market 'Day forward', which has been part of the electric energy market in Bulgaria since 2010 until now. A Business Plan of Bulgarian Independent Energy Exchange EAD was presented for the period 2014-2018, wherein provision is made for starting the activity in 2014 and expansion in 2016 by purchasing a platform for 'market coupling' through which it will be possible to organize a stock market within the framework of the same day. It is envisaged to sell in 2014 on the stock market quantities a little over 4 Terra Watt hours and in 2018 such quantity is expected to double – to 8.5 Terra Watt hours. Provision is made for a fee for transactions on this exchange in the amount of 0.10 Levs per Mega Watt hour (MWh). One can notice that the presented Business Plan is for 4 years and the License was granted for 10 years. There was

interest also expressed by the private company 'Bulgarian Energy Exchange' which applied for the issuance of this license too, but it was not approved.

The process of transformation from state monopoly in the energy sector to a free efficient market is accomplished when participants in this dealing begin to make transaction among them at transparent exchange rules and guaranteed equal treatment of all players in the market. This market shall also imply the striking of term deals (futures and options) under perfect regulation because the interest of each participant in the trade in electric energy can be protected with the appropriate selection of term deals against risks unacceptable therefor.

There is a text in the Annual Report of SEWRC for the European Commission that '*...the income available to Bulgarian households is the lowest compared to the other EU countries. Although the price of electric energy for the households is also the lowest, the share of population's income used to pay electric energy bills is considerably higher than the average one for the EU.*

In order to discontinue this Bulgarian paradox to pay the lowest price for electric energy in Europe and at the very same time such price to be the greatest burden for Bulgarian households **we must join, as soon as possible, the European Energy Exchange** and to see generated electricity sold in a transparent manner. NEK obligations as a public supplier and the agreed rights of other players in the trade in the Bulgarian market shall be regulated and compensated by the government beyond any market relations. Most probably this again will be tax and non-tax burdens in the price for end consumers yet the state must intervene on its part in shouldering the burdens in our energy system as all this had happened with the collaboration or inaction of the ruling government structures.

Moreover, as of January 2015 there are monthly, quarterly and yearly futures sold in the European Energy Exchange for electric energy with base load for the market of Greece and for the market in Rumania.

Should Bulgaria decide to join the European Energy Exchange this will be a definite sign that new disproportions will not accumulate and bills of consumers will become transparent and predictable. Otherwise the territory of Bulgaria will remain an isolated and non-transparent electric energy market with bad consequences for all of us.

In conclusion I must note that the European Energy Exchange EEX indeed provides a perfect market mechanism of determining the exchange prices of primary energy sources in Europe and for electric energy, in particular. It is also evident that Bulgaria's territory is the only one still remaining outside the market of the European Energy Exchange and this does not deserve any high esteem, as far as I am concerned.

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Prospects of Using Early Neutral Evaluation in Case Management of Complex Civil Cases in Malaysia

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Abstract

In Malaysia, pretrial case management has been made an integral part of the litigation process since it is designed to manage cases systematically and within strict deadlines. However, dealing with the evaluative value of complex cases might not be easy, especially for the inexperienced lawyers and some judges who are not familiar with certain areas of law. This study proposes the use of early neutral evaluation for resolving complex civil cases in Malaysia during pretrial case management. Thus, this study sought to examine whether early neutral evaluation can be used effectively to identify issues at the earliest possible time to ensure early disposal or settlement of civil cases. Therefore, the objectives of this study are; first, to explore the viability of introducing an early neutral evaluation program during case management under Malaysia Rules of Court 2012; and secondly to evaluate the potential of adopting an early neutral evaluation programme in Malaysia. The finding shows that early neutral evaluation is consistent to the practice of case management under the Malaysian Rules of Court 2012. Although the Malaysia Rules of Court 2012 provides an opportunity for the adaptation of Early Neutral Evaluation, the introduction and sustainability of such programme would depend largely on a more in-depth study relating to financial resources, readiness of disputants, future goals and expectations of the Malaysian judiciary; and commitment of various stakeholders of the justice system. This study is expected to enrich present literature relating to civil procedure and also provide an overview on possible amendments to current procedural court rules particularly in Asian countries.

Keywords: Early neutral evaluation, pretrial case management, complex civil cases, Malaysia

1. Introduction

Modern judicial systems of these days appear to place emphasis on the importance of case management especially in civil proceedings. Primarily, it assists the court in managing the disposal of cases efficiently. Sharing similar experiences in other Commonwealth countries, case management is regarded as an integral part of civil litigation in Malaysia. Civil proceedings under the Malaysian judicial system are regulated by the Malaysia Rules of Court 2012 ("RC 2012"). The RC 2012 is largely based on common law practices. Notably, the Malaysian courts manage cases via the use of pre-trial case management ("case management") in line with its effort to uphold the interest of justice under the Order 1A of the RC 2012. It serves the purpose of narrowing down issues and enable the parties to prepare for trial (Abu Baker (2012a)). In case management, pre-trial conference is held to identify issues early apart from assisting parties to prepare their case for trial. As indicated by Astor and Chinkin (1992a), the aims of the pre-trial conference are to help the parties to negotiate for a settlement apart from narrowing down the issues in dispute, thus saving judicial time.

Seemingly, the judicial transformation of the civil courts in Malaysia (between the years of 2009-2012) had placed greater emphasis than before on case management. Joining the list of “paperless courts” in other developed jurisdictions, the Malaysian civil courts are now better known as “e-courts” and operate on an electronic court system (instead of the manual system) which comprises of the following: Case Management System (CMS); Queue Management System (QMS); and Court Recording Transcription (CRT) (Saman & Haider, 2012; Hassan & Mokhtar, 2011). Thus, in the Malaysian context, case management is also used as a procedural tool to reduce backlog of cases and to expedite the disposal of newly filed cases.

In order to expedite the disposal of cases, a strict deadline for the courts have been set, namely a normal civil case is expected to be resolved within nine (9) months at the High Court and Sessions’ Court, and within six (6) months at the Magistrates’ Court. Apparently, there is clear evidence on the use of case management of the Malaysian civil courts to effectively manage “clear-cut-cases”. This is evidenced by the use of an electronic court system which expedites the disposal of this category of cases. Notably, audio conferencing is used in case management (Malaysia Federal Court Circular No.216/2010 dated 24 Aug 2010).

According to the National Centre for State Courts in the United States, “complex litigation” demands rigorous judicial management. According to the Centre, complexity in a case may be determined by the following: “multiple parties, multiple attorneys, geographically dispersed plaintiffs and defendants, numerous expert witnesses, complex subject matter, complicated testimony concerning causation, procedural complexity, complex substantive law”. Main obstacles to managing complex cases are difficulty in understanding and analysing the facts and laws, miscommunication between the parties, inability of counsels or parties to decide on the main issues of dispute, excessive discovery costs, multiplicity of parties and agreeable facts. It is generally known that the courts in England and Wales use multi-track system for larger and complex cases. Such a system allows complex cases to be managed closely by the courts. Be that as it may, there is little information known about whether the civil courts in Malaysia are efficient enough to manage complex cases and have them disposed within the strict or more flexible deadline. Despite the fact that audio conferencing dispenses with the need of counsels of the parties to appear at the case management date, it lacks the face-to-face interaction which allows parties to discuss openly about important issues in complex cases.

Generally, case management is geared towards early disposal of cases. Alas, the emphasis on case management has least taken into consideration the need to adopt suitable alternative dispute resolution mechanisms (ADR mechanisms) or special procedures for managing potentially difficult or protracted litigation. Against this backdrop, it is imperative to consider the importance of certain ADR mechanisms to ensure that cases are disposed within the aforementioned strict deadlines.

In the light of the above situation, it is observed that the current procedures in the RC 2012 do not address or mitigate the aforementioned problems. Evidently, many jurisdictions around the globe have promoted the use of the multi - door courthouse, which introduces a variety of ADR mechanisms. These ADR mechanisms are such as arbitration, mediation, early neutral evaluation. Mediation is used during case management in civil courts in Malaysia. By way of comparison, ENE is fairly new ADR mechanism compared to mediation. However, very little information is known about the obstacles to introducing ENE in Malaysia, taking into consideration that mediation is being promoted domestically.

Scholars generally agree that ENE is a reliable ADR process which involves the identification of core issues in a dispute prior to trial by a neutral expert (Maycock, 2001; Goss, 1995; and Goldberg, Green & Sanders, 1985). However, ENE is least known as a form of ADR in Malaysia as well as in many parts of Asia. Although ENE is not a new dispute resolution mechanism in the United States, very little information is shared by scholars in ADR as to the suitability of ENE to address complex civil cases during case management. Lande (2008) postulates that the implementation of ENE at the early stage of the litigation track enables parties to present their respective positions before a neutral expert (i.e. the neutral evaluator). According to Zakiyy & Hassan (2015), the process of ENE emphasises on the powerful presentation of the neutral evaluator which can assist in the exchange of information between the evaluator and the parties. The neutral evaluator will provide an evaluation of the strengths and weaknesses of each party’s case. However, the viability of ENE as a potential dispute resolution mechanism is as yet to be tested or considered favourably under the RC 2012. This consideration is vital if it is found that ENE has the potential to assist the court to manage cases effectively.

Being aware of these pressing problems, the authors were motivated to study whether the goals of ENE can assist the courts in mitigating some of the said problems during case management. .Therefore, this study is significant in determining the potentials of ENE to resolve complex situations within a prescribed timeline; and the possibility of it being favourably

considered in as a part of a “multi-door courthouse” plan in Malaysia or other Commonwealth jurisdictions. Wishfully, it may also serve as an impetus towards the carrying out of more extensive research to determine whether it is a viable ADR mechanism to be considered in both the practice and study of civil procedure, particularly in Asian countries.

Based on the above discussion, the main objective of this study is to explore the prospects of integrating early neutral evaluation in case management of complex civil cases in Malaysia. The general objectives of this study are; first, to explore the viability of introducing an ENE programme during case management under the Malaysian Rules of Court 2012; and secondly to evaluate the potential of adopting an ENE programme in Malaysia.

2. Literature Review

Current literature places little emphasis on ENE as a recommended ADR process. This can be contributed by the fact that mediation and arbitration are, the more preferred ADR mechanisms. Based on the above discussion, it is observed that the review of literature indicates that very little writings have associated ENE with case management, especially in the modern civil litigation system which has undergone various kinds of reforms throughout the passage of time.

According to Brazil (2002), a judicial approach to processing civil cases was significantly shown in the study conducted under the Northern District of California Early Neutral Evaluation (ENE) Programme that was headed by Joshua D. Rosenberg and H. Jay Folberg. Both scholars find that from the cases filed between mid-1988 and mid-1992, 41% of the lawyers whose cases were automatically referred to ENE programme strongly agreed that the ENE programme made case management more efficient. However, extra caution must be taken to rely on these findings because the data was generated more than 20 years ago. In addition, many jurisdictions around the world have encountered civil litigation reforms that would have altered the way in case management is conducted. Unfortunately, over the years, hardly any studies were conducted to reinforce the findings of the study, which was done in the 80s and 90s. In addition, previous studies (including those in Malaysia) do not provide answers as to whether ENE is suitable to be integrated into the case management stage involving complex cases.

Engro and Lenihan (2008a) describe ENE as an evaluative process which is not intended for settlement alone, but is capable of designing better ways to manage cases more efficiently. They based their assumption on the argument that the purpose of mediation is not similar to ENE. This is because the mediation's purpose is to encourage disputing parties to reach a settlement, but ENE's purpose is not limited to settlement alone, but extends to providing them with a better understanding of their dispute. Wissler (2004) in her summary of empirical research found that the introduction of ENE reduces cases from being heard at trial.

Similarly, more recent studies have not emphasized the connection between ENE and case management, but on the subject of effectiveness. In 2010, for example, Carolyn Hay, Katharine McKenna and Trevor Buck (2010) examined the cost effectiveness of ENE in the social security and child support tribunal. The aim was to investigate whether it produces swifter, more proportionate resolution of cases. Apart from that, the research also aimed to establish appellant's satisfaction with the process and the impact on and views of stakeholders.

Based on the above, none of the studies have dealt with the relationship between ENE and case management in depth. Under the foregoing, this study hopes to fill the existing gaps in the literature and also to increase the literature in the areas of ENE and case management in Malaysia.

3. Methodology

Studies in procedural law generally involve analysis of statutes, reported case laws, court procedural rules and court practice directions. This study depended largely on secondary data. The major sources of data include journal articles, reported cases, procedural rules and relevant information retrieved from the internet. The methods employed in this study were descriptive aimed at fact finding and positive analytical criticisms which were aimed at improving the existing manner of managing complex cases by using ENE in case management. In carrying out this task, the relevant procedural provisions in the RC 2012 and relevant documents were analysed to find out whether it is plausible for ENE to be used during the process of case management.

4. Findings and Discussion

This study attempted to gain an understanding of the prospects of ENE in civil procedure in Malaysia by looking at the viability of introducing ENE during case management under the Malaysia RC 2012; and secondly to evaluate the potential of adopting an ENE programme in Malaysia.

4.1 Findings

4.1.1 The study indicates that ENE is an effective tool in case management of complex cases. It is imperative to note the following findings:

- (a) ENE's goals are quite similar to those stipulated in case management under the RC 2012.
- (b) A competent neutral evaluator is capable of assisting the court in managing trial of complex cases by identifying issues at the case management stage.
- (c) The face-to-face interaction between the neutral evaluator on the one part and the parties and lawyers, on the other part allows complex issues to be analysed in terms of merits, comprehended, resolved or even planned for trial.
- (d) Both ENE and case management under the RC 2012 are held early upon the commencement of legal action in the court thus allowing ample time for the court to manage and the parties to prepare the case more efficiently and in a systematic manner.
- (e) There are potentials of adopting ENE in Malaysia but subject to certain constraints such as insufficient financial funds, understanding among the legal fraternity, cost effective and appropriate training.

4.2 Discussion

4.2.1. The discussion below shows how the advantages of introducing ENE in case management:

(a) **ENE's goals are quite similar to those stipulated in case management under the RC 2012.**

Practically, the court requires cooperation from attorneys representing the parties to ensure that case management of their case is managed effectively. In Malaysia, attorneys handling civil cases are commonly referred as "solicitors", thus the term "solicitors" would be referred herein from this point onwards). Typically, the goals of the ENE programme are namely, (1) to enhance communication between the parties; (2) to provide an evaluation of the merits of the case; (3) to provide a "reality check" for both clients and solicitors; (4) to identify and clarify central issues in dispute; and (5) to assist in settlement discussions. By way of comparison, it is imperative to highlight that many major goals of ENE are similar to the objectives of holding the pre-trial conference, especially in terms of enhancing communication among the parties, identifying facts and issues, assessing strengths and weaknesses of each party, and improved court administration. Astor and Chinkin (1992), succinctly pointed out the objectives of the pre-trial conference are as follows:

- i) Guiding parties to communicate with each other;
- ii) Scrutinizing facts and separating issues;
- iii) Assessing strengths and weaknesses of a case;
- iv) Assessing possible risks and quantum;
- v) Decreasing trauma of the adversarial method;
- vi) Educating parties in court procedures;
- vii) Ensuring plaintiffs are paid earlier;
- viii) Ensuring costs as low as conceivable;
- ix) Efficient court management; and
- x) Trying to ensure that only obstinate cases proceed to trial.

Thus, the sharing of a number of similar goals between ENE and pre-trial conference draws the inference that ENE can be integrated into case management in order to enhance greater communication, participation among the parties and in the disposal of cases. This is consistent with the view of Abu Baker (2012b) who stressed on determining the issues for trial during case management. Thus, the inference that can be drawn from this study is that ENE is appropriate to be applied under case management under the RC 2012 to reduce the complexity of a case.

(b) The neutral evaluator is a skilful manager who can assist the judge in managing complex cases or situations

Scholars generally agree that it is important for a manager to manage complex situation in a competent and efficient manner. For example, competency is said to include a "combination of knowledge, skills, behaviour and attitudes" (Hellriegel et al., 2000). These profound competency values should be possessed by a judge or judicial officer who manages the case management of a case. Thus, important matters must be clarified with the parties. The list of important matters differs from jurisdiction to jurisdiction. However, it can be generally accepted that these important matters include the particulars of the claim and defence, principal issues that need to be determined at trial, the use of experts, number of witnesses, agreed and non-agreed facts. It is also generally perceived that competency is a major factor of any organizational success (Whetton & Cameron, 2002; Lewis et al., 2004; and Schermerhorn Jr, 2002). This principle is equally applicable in court management. Therefore, if the judge is incompetent or less competent in resolving complex legal issues at the case management stage, the engagement of a competent party in certain areas of law (in this regard, the neutral evaluator) might assist in managing complexity in civil proceedings. It can be inferred that the views of a highly respected neutral may also assist in persuading the parties to negotiate. This is because the neutral evaluator is usually appointed amongst individuals who are former retired judges or senior lawyers. Thus, he can assist the parties in the event a deadlock takes place in complex cases. Moreover, Engro and Lenihan (2008b) aver that ENE offers better ways to manage cases efficiently because it does not only emphasise on settlement plan but greater understanding of the case.

(c) ENE ascertains complex issues at the early phase of a case

Under the RC 2012, the civil courts will normally fix the pre-trial case management early. For example, it is fixed approximately around two (2) weeks upon the commencement of a court action. Similarly, ENE is held early in the litigation process. Zakiyy & Hassan (2014) and Trendle (2004) postulate that ENE should be introduced into the litigation process at an early stage and even at the pre-litigation stage or before the referral to any ADR mechanism.

In Malaysia, the majority of the e-courts are depending on effective ways of managing cases. These effective ways are referred to the e-court system. Under the electronic court system, newly filed cases are now placed under case management system (CMS) and its sub-modules (namely the e-filing and e-registration) to improve efficiency. At the first pre-trial case management, many issues are not determined. In such situation, the court's guidance on future directions is needed.

In the early phase of a case, the neutral evaluator may assist the court in managing the future directions of the parties especially to identify complex issues. The evaluator emphasizes on connectivity with her audience during the ENE session. This is to ensure that her audience receives her message clearly (Zakiyy & Hassan, 2015). Dayton (1991) mentioned that the neutral evaluator is trained to provide "an early, frank and thoughtful assessment" of the "relative strengths and weaknesses" of each party. In addition, the holding of ENE at the pre-trial stage is in consistent with the view of Macfarlanes, LLP (2014) who explained that in complex cases, ENE provides better discussion on settlement at the early phase of a case even before the exchange of court documents. Therefore, it is observed that the neutral evaluator may assist the court to achieve some, if not all of the objectives of the pre-trial conference as specified above.

(d) ENE assists the court and the parties in the clarification and narrowing down of issues

Under Order 34, rule 3 of the RC 2012, the court is empowered to fix the date and time for case management. The parties must comply with such court order, failing which the action may be dismissed without hearing on the merits. Under Order

34, rule 6 of the RC 2012, the Court is also empowered to dismiss the action or proceedings or strike out the defence or counterclaim or enter judgment or make such other order as deemed fit if any party fails to attend to it (Order 34, rule 6 of the RC 2012). At the pre-trial case management hearing, the parties can either attend the session personally or, in addition to their solicitors (Order 34, rule 4 of the RC 2012).

There is a plethora of legal authorities which states that case management orders are to be obeyed and not to be broken, without proper reason(s). For example, in the case of *Nur Ibrahim Masilamani & Anor v. Joseph Lopez* (per judgment of Yeoh Wee Siam J) [2013] 4 CLJ 1202 [HC], the High Court *inter alia* held that all court orders given in pre-trial case management must be complied by the parties according to a strict deadline for the purpose of expediting the trial. Thus, non-compliance by a party with court's direction in case management is detrimental to his own interest. For example, Order 34 of the RC 2012 stipulates the need of the party to comply to the court's order in case management, failing which the action may be dismissed. The importance of this particular order is stressed by the courts by issuing parties with a copy of instruction pertaining to the responsibilities of the parties in case management. This is exemplified in the recent Kuala Lumpur High Court case of *Perbadanan Pengurusan Palm Spring Damansara v. Muafakat Kekal Sdn Bhd & 2 Ors.* [2014] 1 LNS 1633, whereby the parties were issued a copy of "Enclosure A" containing instructions to comply with the directions of the court during case management and the consequences of non-compliance.

Accordingly, Order 34 of the RC 2012 also specifies that at the pre-trial case management stage, the judge may *inter alia* do the following:

- a) Direct parties to refer the matter in dispute to mediation in accordance with any practice directions for the time being issued (O.34, rule 2 (2) (a) of the RC 2012);
- b) Fix the period within which the plaintiff is to file the bundle of pleadings (Order 34, rule 2(2) (b) of the RC 2012);
- c) Fix the period within which the parties are to file the bundle of documents including documents mentioned in the witness statement of a witness Order 34, rule 2 (c) of the RC 2012);
- d) Direct the parties to identify the contents of the bundle of documents and bundle up the documents into agreed bundle of documents which shall be filed by the plaintiff (Order 34, rule 2 (d) of the RC 2012) ;
- e) Direct the parties to identify certain documents where no agreement can be reached (O.34, rule 2 (e) of the RC 2012);
- f) Direct the filing of statement of agreed facts (Order 34, rule 2 (j) of the RC 2012); and
- g) Direct the filing of statement of issues to be tried (Order 34, rule 2 (k) of the RC 2012).

Order 34 of the RC 2012 stipulates that the court can direct the parties to mediation. Based on the expertise of the neutral evaluator, it can be inferred that the neutral evaluator can similarly assist the court to clarify certain complex issues that have been raised by the parties or their solicitors as shown in their respective pleadings. Each solicitor may propose a number of issues which may or may not be accepted by the other side's solicitor. Thus, the neutral evaluator uses his expertise in the substantive law relating to the dispute by determining and narrowing down the issues. This saves the court, judicial time in determining the issues to be tried.

(e) ENE assists the parties in comprehending the reality of each other position

Similarly, under the RC 2012, the parties or their solicitors are required to comply with the court orders, especially in terms of preparing the bundle of pleadings (Order 34, rule 2 (2) (b) of the RC 2012) and identifying certain documents where no agreement can be reached (Order 34, rule 2(e) of the RC 2012). During case management, it is assumed that the solicitors for each party would have examined thoroughly the statement of claim, defence and other related pleadings (if any), case law governing a subject matter. However, it is common to find that they would still be required to identify documents which are mutually agreed or otherwise. In the recent High Court civil appeal case of *Malayan Banking Bhd v. Sunlight Seafood Sdn Bhd* [2015] 4 CLJ 272, SM Komathy JC, in her judgment, *inter alia* cautioned that at the stage of setting down the action for trial, it is the responsibility of the plaintiff to bring to the court the relevant evidence in support of his case). In a highly complex case, an expert in a specific area of substantive law may help the parties to check on the prospects of their case and to simplify evidence by making it comprehensible to the parties. A sound advice from the neutral evaluator might avoid the parties from being involved in protracted litigation and incur escalating costs. Thus, according to Stradley, Ronon, Stevens & Young, LLP (2007), the neutral evaluator will usually allow each party to present her claims and defence during the ENE session. This opportunity enable the parties to achieve some of the major goals of ENE, namely to assess the

strength and weaknesses of each other position. This opportunity essentially allows them to decide on whether it is worthwhile for their dispute to be heard in a full trial or plan for possible settlement.

It is a totally a different experience for the parties (or their solicitors) to discuss about their case before a judicial officer in pre-trial conferences with the usual formality compared to a neutral evaluator in an ENE session. The involvement of the neutral evaluator in a different forum (namely the ENE session) would allow her to get the best cooperation from the parties and their solicitors to communicate effectively with each other freely. This in turn enables the neutral evaluator to render her advice to them on the merits of their case.

(f) ENE assists the parties in settlement discussion and case planning

Accordingly, at the case management stage, the judge may direct parties to refer the matter in dispute to mediation in accordance with any practice directions for the time being issued (Order 34, rule 2 (2) (a) of the RC 2012). Mediation often results in settlement discussion. However, ENE has the potential of extending it to case planning, especially if mediation fails to convince the parties to reach settlement. Communication is clearly emphasized in the ENE session. This fact is clearly stated by Brazil (2007) who opines that the neutral evaluator would ensure that each party is made aware of “every bit of the arguments and evidence brought forth by each other”. With such full and frank disclosure, there is plenty of room for the parties to discuss about possible settlement at the pre-trial case management stage. As indicated by Engro and Lenihan (2008), the neutral evaluator may even conduct settlement discussion if the parties agree to do so. In the absence of such agreement, the neutral evaluator will present his verbal evaluation of the case before her audience (namely, the parties, their solicitors and witnesses). This evaluation will essentially include the strengths and weaknesses of each party's case. Since the neutral evaluator can also assist the parties in case planning, the introduction of ENE during case management may assist the court to manage the progress of the case more efficiently.

5.Potential of Introducing ENE Programme in Malaysia

The court procedures of the Malaysian judicial system are largely based on common law practices. As a Commonwealth country, there is inclination by the Malaysian Judiciary to refer to the English Civil Procedure Rules 1998 (see Rule 1.4 Civil Procedure Rules 1998) which include active case management by the court by identifying the issues at an early stage, controlling case progress and encouraging parties to use appropriate ADR mechanisms. In the Northern District of California, for example, the court sponsors four (4) major ADR mechanisms: Arbitration, early neutral evaluation, mediation and settlement conferences. However, as emphasised by Moore (2000), for a new mechanism to be introduced, it often has to undergo a rigorous test from its users by being recognised as widely supported. It is clear that for every new programme to be successful, the parties are presumptively required to participate in any of the available court ADR programme.

Evaluators under the court ENE programme are generally appointed by the court among those who are retired judges or senior lawyers. It is observed in Malaysia that many senior lawyers (and some former judges) are practicing arbitrators or mediators. In Malaysia, there are indications that judicial officers with specialized experience in substantive areas of the law are engaged in the resolution of disputes. This is evidenced by the effort by the Malaysian judiciary in establishing numerous specialised courts aimed to resolve disputes expeditiously and to reduce the occurrence of case backlog (Arifin Zakaria, 2012). Some of these specialised courts are namely the New Commercial Court (NCC), the Corruption Court, the Admiralty Court, the Environmental Court and the *Muamalat* Court (Islamic Banking Court). Notwithstanding this fact, the assistance of highly qualified lawyers with similar experience and abilities as that of the judges is crucial if the parties opt to resolve their disputes by way of ADR instead of the litigation process. In fact, under the RC 2012, there is a provision pertaining to the appointment of joint expert or assessor (Order 33, rule 1 of the RC 2012). However, the Malaysian courts hardly utilise this provision during the case management stage. This provision is vital in determining the strengths and weaknesses of a pending case.

Apart from mediation, arbitration has also gained recognition for being known as an efficient dispute resolution mechanism in dealing with complex technical issues. However, it is noted that not all construction disputes involve technical issues, but more on the interpretation of a specific clause in the construction contract. According to Onn (2003), there is a clear distinction between a technically qualified arbitrator and one who is an expert in substantive law. Onn (2003) opines that:

“that a technically qualified arbitrator may not have a real advantage: there is a distinction between an arbitrator using his technical knowledge and expertise to understand and evaluate the evidence before him and to provide or fill the gap of the evidence himself”.

There are sufficient number of senior lawyers who possess skills and experiences in certain substantive law areas such as insurance, intellectual property laws and Islamic banking. Based on the general statistics issued by the Malaysian Bar, there is a steady increase in the number of lawyers throughout the years of 2011 and 2014, notably, in 2011 (13672), 2012 (14517), 2013 (15331), 2014 (16300). There is only a slight decrease in year 2015 (15896 lawyers). In Malaysia, lawyers who have been in practice for 7 years or more are considered as senior lawyers. Apparently, there are currently more than 8000 senior lawyers who are more than 12 years of experience (Malaysian Bar, 2015). This figure, which stands as of 9 March 2015 is based on the breakdown by number of years of experience which is revealed by the Malaysian Bar. In 2013, the number of senior lawyers with 7 to 12 years of experience is 2352. In 2014, there are 2353 lawyers, whereas in 2015, there are 2236 lawyers. In 2014, the number of senior lawyers with more than 12 years of experience is 8014. In 2014, there were 7316 lawyers and in 2015, the figure stands at 8053. Based on these statistics, it can be safely assumed that the legal profession in Malaysia has a number of senior members who has vast years of experience in various areas of substantive laws. Many of them have gained sufficient experience in handling a number of complex high profile civil litigation. Apart from handling litigation, many are practicing mediators and arbitrators. Nonetheless, their expertise is least known to have been put into worthy use. Nevertheless, none has the opportunity to serve as early neutral evaluators. Under such foregoing, it remains inconclusive as to whether ENE might be easily accepted as a reliable ADR mechanism in Malaysia, especially when ENE is as yet to be tested by the Malaysia civil courts. In light of the foregoing, it is suggested that the introduction of ENE needs to be supported by external organisations. Apart from the Kuala Lumpur Regional Centre for Arbitration (KLIRCA) which promotes itself as an international centre for resolution of disputes via ADR, there is as yet any centre which emphasises in conducting in-depth research on the use of ADR in Malaysia. Thus, such a centre could be established by local institutions of higher learning. These local institutions can gain better understanding about the workability of certain ADR mechanisms by studying the theoretical strength of certain ADR mechanisms. The study may also be extended to the practical side of certain ADR mechanisms by referring to the courts or private ADR providers in other countries which have already been offering numerous types of ADR mechanisms (including ENE) for a considerable number of years.

It is generally assumed that courts around the world encourage parties to consider settlement instead of litigating their disputes. In Malaysia, it is axiomatic to note that at the case management stage, settlement is the main goal of the Court (Order 34, rule 2 of the RC 2012). To achieve settlement, the parties are encouraged to use mediation, especially in light of the existing practice direction on mediation which was issued by the Office of the Chief Registrar of the Federal Court of Malaysia in 2010 (Practice Direction No.5 of 2010). It is trite law that practice directions are not rules of court (*re Langton* (1960) 1 WLR). In *Jayasankaran v. PP* (1983) 1 MLJ 379, the Federal Court of Malaysia held that practice directions are meant for administrative purposes only. Nevertheless, the court may still order parties to adhere to certain practice directions to reduce backlog of cases. There is a plethora of scholarly views on the drawbacks of mediation. These drawbacks are due to the following reasons: (i) the mandatory nature of court-connected mediation which hampers the parties' intention to reach a settlement (Zakiyy, 2010; Hedeem & Coy, 2000); (ii) the parties mediate without knowing about its process or how to participate in it (Hedeem, 2012); and (iii) and it is a high risk process if the mediator lacks the skills or behaves unethically (Sheppard, et. al., 1993). In addition, the World Bank reported that mediated cases in Malaysia are comparatively low compared to other countries; and is practically introduced after the case management (World Bank Report, 2011). Thus, under the prevailing circumstances, it is difficult at this point of time to predict the reception of ENE in light of the current inclination of the court and solicitors to refer disputes to mediation.

Another obstacle, possibly faced in introducing ENE is costs. A systematic training for evaluators will require a high budget. Any proposal to recommend the kind of training should take into consideration of entry level, intermediate level or specialized level affecting the more complex cases. In this regard, it is recommended that both substantive law experts and professional training organizers should work together to figure out the best form of training.

6. Implications of the Study

The insights derived from this study have vital implications for the manner of managing case management as well as the preparations of effective dispensation of justice in complex cases. Having the assistance from a neutral evaluator with solid background of a subject matter will definitely be of great assistance to the solicitors to develop rational advice in order to cater to the needs of their respective clients as to the next logical course of action in the litigation process, namely either to look forward to a settlement plan or proceed to trial. The traditional approach to case management has been to treat all cases as the same domain. This means that during case management, the court only manages a case according to its understanding of the issues, facts and laws of a case. Therefore, the assumption of such practice is that with certain effort to narrow down the issues and relevant facts of a particular case, the court and solicitors representing the respective parties will be able to comprehend a case accordingly. However, it is evident that in dealing with a complex case, this is not sufficient to prepare the parties for their preparation for trial or even possible settlement discussion. The analysis has shown that it is obvious that complex cases must be treated indifferently for non-complex cases for the sake of efficiency and in the name of justice.

7. Conclusion

It is assumed that early and efficient disposal of cases is always expected from a world class judicial system. In this context, ENE should not be left out from the umbrella of reliable ADR mechanisms. Certainly, we have to acknowledge that there are advantages in exploring and embracing ADR mechanisms which are consistent with the need of the court to dispose cases efficiently. In this context, It is worthy to consider ENE in managing complex cases, especially at the pre-trial stage. It only needs more promotion and recognition, especially by countries in Asia. The study has shown that ENE is an effective ADR mechanism which is capable of identifying complex issues that are not easily identified by the courts, the parties or their solicitors. It is the answer to many complex situations in civil proceedings such as complex evidence and issues. In summation, a clear understanding of its goals and might might enable it to be easily accepted by the courts, the legal fraternity and the public at large.

8. Limitations of the Study

This study has encountered the usual limitations of time and funds commonly faced by a non-funded study. Thus, this study can only be considered as a preliminary and a modest contribution to elicit further enquiry on the might of ENE in case management.

9. Recommendations for Future Study

As hereinbefore mentioned, active case management is an integral part of civil litigation in Malaysia and even in most Commonwealth countries. In this regard, the use of ADR is an option to increase efficiency in the management of cases during the case management stage. It is recommended that the courts and the Malaysian Bar must initiate awareness among the parties about the credibility and effectiveness of ENE in solving complex disputes. In any court sponsored ENE programme, the parties must be given the liberty to withdraw from the ENE session if the neutrality of the neutral evaluator is questionable. This is vital for the parties to rely on the advice of the neutral evaluator without the slightest doubt about his neutrality. It is suggested that a more in-depth study be conducted on the suitability of ENE to resolve a myriads of disputes and its effectiveness when combined with other ADR mechanism(s).

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The Economic Crisis in Europe and its Consequences

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Abstract:

European economic growth is one of the major influences on the progress of the economy in the countries included in it. It has been a stimulus for the development of these countries, thus adding their neighbors' economic improvement of the country. The inclusion of these countries in economic growth has impacted pricing and the development of innovation and new in Europe technology. This thing helps in achieving the highest standards. Its coverage is an overwhelming contrast crisis that was reflected in the world in 2008. Duhet said that the effects of the crisis continue to be still visible in the livelihood of citizens and businesses. Edmund Phelps has proposed a rule on the establishment of high standards for the livelihood of citizens, in which specifies how many people have to work, conserve and invest today in order to be more sure which will be the future economy. This is called "Golden roles". But what are challenges that still confronts us economic crisis? How difficult it is now for businesses to apply the theory of Jim Collins, Good to Great? This article aims to reflect the economic situation in the EU countries, as well as laying economy recommendation that these countries will faced tomorrow. How difficult is to identify the companies that can make a Leap to develop their business? What are these difficulties? Is there a solution for them?

Keywords: Global crises, the risk of interest, IMF, EU

The global crises

The first sign of crises was in 2003 when USA housing markets expended because interest rates were low. This become serious in the middle of 2004, when US federal reserve raised interest rates to 5.25 percent.

The interest of mortgage before this has been low then 1 percent. In 2007 more than 100 mortgage lenders went bankrupt. The investors now know the dept risk but they could not adsorb the losses.

The crisis spread out the USA. The IKB Deutsche Industrie bank in Germany, BNP Paribas in France and Macquarie Bank in Australia faced with huge losses. Some banks and financial institutions received massive injection of public money. Central banks in us, Japan end EU inject liquidity into global financial system. This situation made EU and Us to lend from each other because they didn't want to show the sign of a credit risk. This would be a big problem for them. Even the crises originated in US, In Europe, banks and financial institutions were affected by losses related to mortgage investment.

Three important policy lessons from crises were:

1. in a poorly financial system banks and financial institutions can include in reckless lending to earn fees and quit profits without
2. Carrying for borrowers. This is completely true, and you can see it in Albania banking market.
3. The crises have showed that the impact of the risk in economy is explored in many countries.
4. Poorly regulated rating agencies have become a hazard to financial stability. The facts of facing in the risk of interest have made the number of borrowers slowdown.

The financial costs in Europe, India and UK

The markets are illiquid since the period of crisis.

The important role in the market and in the global economy plays private equity firms. We can think for Blackstone Group, Bain Capital or Texas Pacific Group, and we know that these company menage assets that worth billions and billions

dollars. They control over 1 million workers. What can happen with the global economy IF one of them closed the doors of developing the activity?!

The crises has affected negatively in the global private equity industry. They have difficulties in borrowing money and in their portfolio. We can't say it for India or Asia. The profit from the private funds raise from 30 to 60 % in 2007. What happen in India in 2009?

In 2009 current account deficit touched 29.8 billion dollar against 15.7 billion dollar in 2007. This have been financed by large capital inflows in the form of portfolio investment. India also runs a perennial fiscal deficit.

The support that the government gives the bank sector in UK was 1.2 trillion pound. We must say that this happened even in the other country.

Jorge Nascimennto Rodriguez has estimated the total cost of global financial crises at 69 trillion dollar. As banks with bad loans tend to make them less, we should raise the performing loans in the markets.

In Croatia domestic economy is shrinking since the crises. This has increase the budget deficit and the number of unemployed

IMF in the global crises

By Simon Johnson, former chief economist of IMF, financial industry's share in total profit in 1973-1985 was 16% and when the crises come 41 of profits went to financial industry.

In UK the share from 8.3% in 2007 went in 5.3 in 2001.

In 2006 global investment bank like JP Morgan Chase picked up 12.8 billion dollars in fees from private equity firms, but in 2007 they picked up only 8.4 billion dollars.

According to IMF: Divergent growth in the countries and monetary policies have increased tension in global financial markets and have caused a big risk at private company in growing their activities. This situation is a result of the weakness in legacy. The bank of Japan and the European Central Bank have pursued bold monetary policies to stability the disinflationary pressure.

And this strategy has worked and we see a good economic situation. According to report the financial stability risks have risen since the October 2015.

EU has earmarked 30 billion euro to support small business, also European Bank has allocated 1 billion euro for controlling the credit risk. According to report the financial stability risks have risen since the October 2015.

In Europe in 2007-2009, IMF-international monetary fund has estimated that more than 1.3 trillion dollars in bad loans was written off. In the other side Asia and India are raising their economy. The investment in India have been higher, even Blackstone Group operate in India. All the sector of industry like infrastructure, media, and sport have attracted more in heres from investors.

In 2010, we can say that the regional economy raised as a result of net exports.

Unemployment in Serbia from 2008 to 2010 increase about 14.4% in 2008 while in 2010 we see the value about 20%. In 2011, unemployment reaches a record figure of 22.8%.

While Bosje Herzegovina reaches a percentage of 27.2%, Bulgaria and Romania have maintained the level of unemployment at 6%. This percentage was attributed mostly to youth and non- participation of women.

What will happen with our economy in the future year?!

Policymakers should encourage banks to deal with their bad loans and ensure more efficient legal and institutional frameworks to spread up this process. They should to strengthen market liquidity and complete financial regulatory reforms

/IMF. From this we can say that the problems in the Europe economy are bad loans that in fact were in a large number in period of crises.

Managing the risk of interest it's a big challenge for these countries. They have to control the banks operation with the fiscal policy. What can we say for the situation in Greece, or in the Ukraine? For sure they are a big risk for a global economy.

The best way to contribute in financial stability is putting in place policies that minimize the problems like interest risk and the problem situation in countries like Africa, Ukraine and Greece.

Supporting in developing small businesses would be a policy that will reduce the impact of the crisis in the economy, this because they occupy about 80% of employers. Strategy that the European Union is following is supporting this business and reducing bureaucracy. This strategy can increase GDP / in up to 1.4% and the conserve about 7.6 billion euro. We can mention Germany, which has changed the law for supporting citizens for opening new businesses .In Slovenia now we can register a business for only 3 days. Belgium, Finland, Spain, UK, Ireland have taken measures to overlap failure procedures.

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Correlation of Ethical Conduct within an Organisation with the Absence of Employees from Work

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Abstract

The working environment of an organization in which employees perform their activities is a social system. It creates certain employee attitudes that are greatly influenced by the organisational or working culture and norms and the work ethics they define. The latter is actualised in certain organisational rules and standards and the manners and methods of employee communication and conduct. All aspects of conduct are relevant to employees, as behaviour directly influences the development of an (in)appropriate attitude to norms and working culture and, consequentially, also to absence of employees from work. Ethical conduct of employees is closely linked to the "strength" of the work ethic in an organisation and an analysis of studies shows that this is important also from the perspective of employee absence. This fact is confirmed by numerous studies that explain the statistical relationship between work ethics and employee absence. The INODEL study also used certain questions to establish the moral-ethical relationship of employees in Slovenia to medical absenteeism. On the one hand, the study checked whether employees ever abused sick leave and to what extent. On the other hand, the study sought to establish whether employees showed a moral-ethical attitude to work and performed their duties despite the fact that they could have been absent from work due to illness, injury or care for a family member. This article therefore presents certain results of the INODEL study that was performed among employees in the Republic of Slovenia.

Keywords: absenteeism, organizational culture, work ethic, ethical conduct

1. Introduction

An organisation is a social formation of persons (employees) and in every social system there are daily relationships between employees that give rise to various behaviours that can, firstly, influence the workplace mood and motivation of employees, or secondly, hinder employees in their work or create negative emotions that can result in improper behaviour.

Employee behaviour is influenced by different stimuli occurring in the external environment. Employees detect environmental influences and respond to them with their organisms. Such employee reactions to environmental stimuli and resulting behaviour differ widely. It is, however, a fact that the behaviour of an individual is substantially influenced also by their convictions regarding what is right and wrong (evil), what is allowed and prohibited.

The conduct of employees in a work environment is greatly dependent on personal and organisational values that influence the culture of behaviour or the (un)ethical conduct of employees. Musek (1993) believes that values serve as »a kind of signpost for morality and ethics«. Moorhead and Griffin (1998) explain that the ethic of an individual is their personal

conviction on what is right and wrong or what is good and what bad. Cummings and Worley (2001) believe that ethics represent the standards of desired conduct of employees in a certain area.

Rubin et al. (1994) explain that work ethics of employees are an important social stimulus for the creating an in-group. Work ethics can be defined as a collection of values and behaviour related to the work place that people feel are moral. In general, work ethics are called strong if they feel that they have to fulfil all the formal responsibilities that come with a job, and called weak or low if people are more tolerant to the fulfilment of formal responsibilities.

Ethical conduct in an organisation, which also represents the state of affairs and degree of organisational culture,¹ is tightly linked also to employee behaviour with regard to employee conduct in choosing whether to be absent from work and the reasons for such an absence.

There are a number of definitions of absence of employees from work or so-called absenteeism and different authors use different² scopes to interpret the dimensions of absenteeism. Savery et al. (1998, p. 315) feel that absenteeism is defined as the absence of an employee from work. Yet they do not accurately state the type³ of absence in question. A similar stance is adopted by Eggert (2009), who emphasises that absence from work is linked to the lack of presence of an employee at work at a time when work is available. Lokke et al. (2007, p. 19) explain absenteeism as »a lack of physical presence of an employee at a certain location and in a time when social expectations dictate that the employee would be present at that location and at that time«. Briner (1999, p. 875) sees absenteeism simply as absence of an employee from work, but believes that it is very difficult to explain such an occurrence due to its complexity.

Employees can be absent from work voluntarily, but also involuntarily, meaning that their reasons for absence may be made up or wilfully fake. Such a view of absenteeism is linked to »black absenteeism«, which Sanders (2004, p. 138) and Van Dierendock et al. (2002) see as the form of absence from work that negatively influences the conduct of employees in an organisation as it is defined as an »anti-cooperative« form of behaviour.

The conduct of employees within an organisation is monitored, seen and felt by other employees, particularly in cases of unethical conduct. Evans and Palmer (2000) also emphasize certain perspectives that arise from the working environment and represent a potential cause for the absence of employees from work. Such perspectives include the factor of work culture and norms and the related aspect of work ethics.

The manner of conduct present in an organisation or among employees is an important factor as it can decisively influence the behaviour of an entire group. Employees⁴ naturally receive certain queues on how to behave and what behaviour is acceptable in the organisation from their peers. People can quickly establish which rules must be observed in practice and which can be ignored. Such conduct of employees is also the result of norms and working culture or ethics in an organisation, and it also influences decisions of employees regarding their absence from work. This is confirmed by Evans and Palmer (2000) who believe that the influence of norms present in an organisation is linked to the absence of employees from work. They emphasise that the development of norms or appropriate behaviour is not influenced only by words, but also by actions, particularly those of the management staff. This is shown also in the case of absence of employees from work. If certain absences of employees were overlooked in the past and not treated appropriately by the management, there is a high probability that such absences will continue in the future.

Further confirmation is seen in the study of Prottas (2008, p. 318), who emphasises the importance of the role of leaders in ethical conduct in organisations or construction of appropriate "standards" of conduct of leaders and employees as it is clear that the lowering of criteria or level of admissibility and appropriacy influences further conduct of employees.

¹ Organisational culture is a pattern of convictions and expectations of the members of an organisation and it sets out the norms that guide the behaviour of employees and groups within that organization (Fitzgerald and Desjardins, 2004). Organisational culture is a complete system of norms, values, ideas, convictions and symbols that set out the manner of behaviour and response to the issues of employees, thereby shaping the incident form of the organisation (Rozman et al., 1993).

² Allebeck and Mastekaasa (2004, p. 28) explain that employee absence is studied by a number of sciences including medicine, sociology, psychology, economics and organisation from their respective viewpoints.

³ Definitions can be understood very generally as it is not clearly decided whether absence is a result of annual leave, health issues, etc.

⁴ We believe that new employees seek rapid acceptance by their colleagues and accordingly adapt their behaviour at least partly, if not in whole, to the behaviour present among employees in the relevant organisation. Such behaviour depends on the norms and the organisational and working culture present in the organisation.

The role of ethical conduct of employees in an organisation is not important only due to the fact that it showcases the appropriate level of culture in that organisation and serves as a model of appropriate behaviour, but also due to the fact that studies ¹ show the correlation between the ethical conduct of employees and employee absence.

A study carried out by Van Yperen et al (1994) established that a stronger (more strict) work ethic in an organisation results in a lower absence of employees from work. A similar result was observed in the study of Sanders (2004, p. 1145-150) which showed that a stronger (more strict) work ethic ² in an organisation (group of employees) lowers the rate of short absences of employees from work. These two variables are also linked to the cohesion of teams in the organisation. Results therefore show that work ethics are an important determinant in the creation of cohesion among employees and may influence employees to reduce their absence from work since their high ethical standards may lead them to be uncomfortable and reduce absences. The study of Guerts (1991, p. 385-398) et al showed that in a group of bus drivers with strong cohesion and connections between group members perceived absence from work as strongly undesirable and inappropriate. This was the reason for group members to avoid absence from work as a sign of respect, honesty towards each other and strong cohesion.

The study of De Boer (2002, p. 181-197) et al focused on the connections between »unfairness«³ at work and absence from work. The starting premise of the study was that a sense of unfairness at the workplace has an important role in the conduct of employees at work. Prior to carrying out their own research, the authors reviewed other studies and found that a detection (sense) of fairness and correctness of employees at work is linked to less frequent absences from work in comparison to those employees that sense relative unfairness in their workplace. Results of the study showed that perceived unfairness at the workplace influences the health of employees and has a direct influence on the absence of employees from work. The study also showed that a sense of unfair treatment at the workplace influences the development of psychosomatic illnesses.

Employees often look up to their direct superior and in the course of his study, Prottas (2008, p. 313-322) researched whether there is a link between the absence of employees from work and detection of (un)ethical conduct of the direct superior⁴. Results of the study showed that there is a negative correlation between the perception of improper behaviour of direct superiors and stress, poor health and absence of employees from work. Based on the results of studies of correlations between ethical conduct in an organisation and the absence of employees from work we can see that if standards of the culture of conduct and work ethics in an organisation are low, this can be reflected in a high degree of absence of employees from work which, in the opinion of Gardiner (1992, p. 290), is one of the most common issues management has to deal with.

The article thus has the following goals: (a) to present the importance of ethical conduct of employees in managing employee absence; and (b), to present results of the INODEL in the section related to establishing whether employees have abused absence from work to stay at home even though they were able to work. The fundamental purpose of this article is to use theoretical and empirical results to show the correlation between ethical conduct of employees and absence from work.

Two hypotheses were developed from the goals and purpose of the study, as follows:

- H1: Over 20 percent of employees that took part in the study were absent for medical reasons in the last 12 months, even though they could have performed their work.
- H2: In the last 12 months, over 50 percent of employees that took part in the study continued to perform their work even though they experienced injuries or illnesses that could enable them to gain medical leave, because they felt and knew that is appropriate for them to continue working.

¹ See studies Prottas (2008), Sanders (2004), Fitzgerald and Desjardins (2004), Martocchio and Jimeno (2003), De Boer et al. (2002).

² Sanders (2004, p. 139) defined work ethics as »the entirety of values and knowledge at the work position where people feel responsibility, morality and respect. Work ethics are strong if people feel they need to fulfil all formal work related responsibilities. Work ethics are weak/low if people are more tolerant towards fulfilment of formal work related responsibilities.«

³ Fairness at the workplace was interpreted as a combination of certain convictions and the sense of employees that their benefits (effects) in the work process are fair and correctly realised with regard to fulfilled criteria (fulfilled work tasks and other obligations).

⁴ »Perceived Behavioral Integrity« (PBI) was interpreted by Prottas (2008) as a type of employee perception in which the actor (e.g. leader) behaves in a manner consistent with his/her statements regarding the observation of values, priorities, expectations and style of leadership.

- H3: There is a correlation between a fair attitude of management personnel and the number of days of employee absence.

The structure of the present article first presents the aspect of the correlation of ethics in the working environment or ethical behaviour of employees and employee absence. The second section of the article presents the results of the INODEL study pertaining to the aspect of ethical conduct of employees (abuse of medical leave, assessment of honesty of management personnel by employees, etc.). In the final section, the authors provide their view of the impact and role of ethical behaviour or culture of conduct in a working environment with regard to absence of employees from work.

2. Methods

The INODEL¹ project included two studies that researched several² areas. One of these areas was the area of health absenteeism with particular emphasis on the aspect of ethical behaviour of employees. The target group of the study consisted of employees employed in Slovenian organisations. Data collection was performed using the CAWI³ method and a questionnaire filled out by all subjects invited to participate in the study via an electronic invite. Here we present some of the results of the first study.

Data collection was carried out from September to October 2011. The final sample consisted of $n = 774$ respondents with the following demographic characteristics:

- 47% female and 53% male
- 0.4 % of the sample completed compulsory education or less, 44% completed high school or vocational school and 55.6% completed higher education.
- Over 23% of participating employees were aged between 41 and 45, followed by 22% of participants aged 46 to 50. The smallest group of participants was aged up to 25 (1.3%), followed by ages 26 to 30 (6.1%) and over 56 (7%).
- Measurements of health related absenteeism were performed using the same method as Ybema et al. (2010, p. 113) namely employees were asked two questions:
- how many days over the last 12 months were you absent from work due to health related reasons;
- how many times over the last 12 months were you absent from work due to health related reasons;

Measurements of abuse of medical leave (unethical behaviour) by employees were carried out using a question we developed ourselves. The question was posed as follows: »Were you absent from work for health related reasons over the last 12 months although you could have performed your work?« with a possible reply of "yes" or "no".

Within the scope of ethical behaviour we were also interested whether employees were present at work although they could have claimed medical leave due to illness or injury. This was established using the question »Have you in the last 12 months been present at work in spite of injuries or illnesses, because you felt the work had to be done?« with a possible reply of "yes" or "no".

¹ The main goal of the INODEL project was to "provide recommendations based on a dialog between social partners, actual working practice and scientific knowledge to provide social partners and policy implementors with an appropriate base for improving the state of affairs in the studied area. This would create greater awareness on the impact of the studied issues among the internal and external public, help reduce employee absence, contribute to employment and retaining of good employees, prevention of burnout in the workplace and aid in raising awareness of the importance and role of the family and its role in maintaining mental and physical health at work."

² The study included the areas of stress and burnout in the workplace, health related absenteeism, fluctuation and coordination of professional and family life.

³ »Computer assisted web interview«

Studying or measuring how employees perceive the honesty of management personnel was carried out using a question from the JSS (Job Satisfaction Survey) questionnaire of author Paul E. Spector. The original JSS questionnaire includes 36 questions divided into 9 areas (sections) used to establish job satisfaction. In our work on the present article we used a single question from the "management" section of the JSS questionnaire. The question used was »My superior is unfair towards me.«

In subsequent sections, the article first presents general data collected by studies within the INODEL project, and then presents results of the study of (un)ethical employee behaviour in the sense of abuse of medical leave and the correlation between the assessment of management personnel fairness by employees and absence of said employees.

3. Results and Discussion

The study aimed to verify or establish the state of affairs of employee absence and its correlation with factors that define the aspect of ethical behaviour of employees in their working environment.

Chart 1 presents the percentage of employees who were absent in the last 12 months. Results show that 48.5 of employees participating in the study were not absent from work in the last 12 months. Just over 33 percent of employees were absent for 1 to 10 days. 6.6 percent of participating employees were absent for over 30 days.¹ Just over 33 percent of employees were absent for 10 to 30 days.

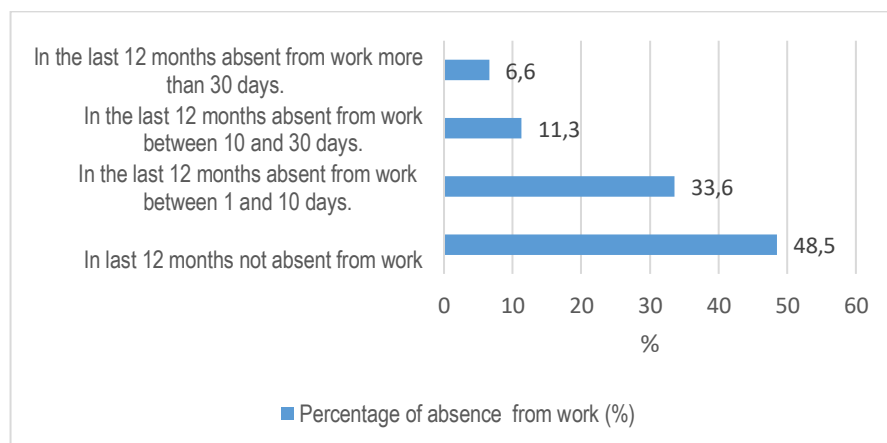


Chart 1: Days of absence of employees from work over the last 12 months

Chart 2 shows that the majority of those absent in the last 12 months, were absent once. This accounted for 28 percent of absences. Just under 13 percent of participants were absent twice. 5.5 percent of participating employees were absent four or more times.

¹ Any absence over 30 days in the Republic of Slovenia means a financial cost for the Health Insurance Institute of Slovenia. Absences up to 30 days are a cost for the employer. Results of the study show that employers took on the financial cost of remuneration due to absence from work for just under 45 percent of employees who took part in the study and were absent for between 1 and 30 days.

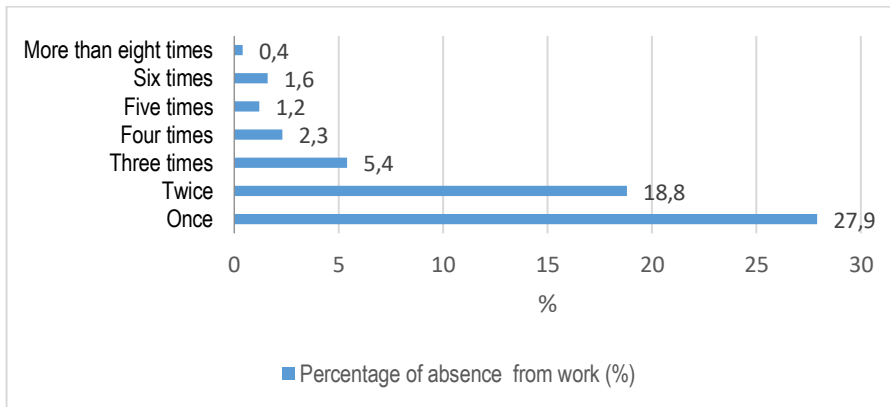


Chart 2: Frequency of absence of employees from work over the last 12 months

The study aimed to establish the moral and ethical attitude of employees to absence from work and whether employees “abused the option of medical leave/absence”. Results in Chart 3 show that 9% of employees were on medical leave in the last 12 months although they could have performed their work. This result shows that there is a certain percentage of employees that for various reasons abuse the option of absence from work. On the one hand, such conduct (1) shows unethical behaviour and sets a poor example, while on the other hand (2) risking that such behaviour will be punished as it is not in accordance with the ethical attitude of employees.

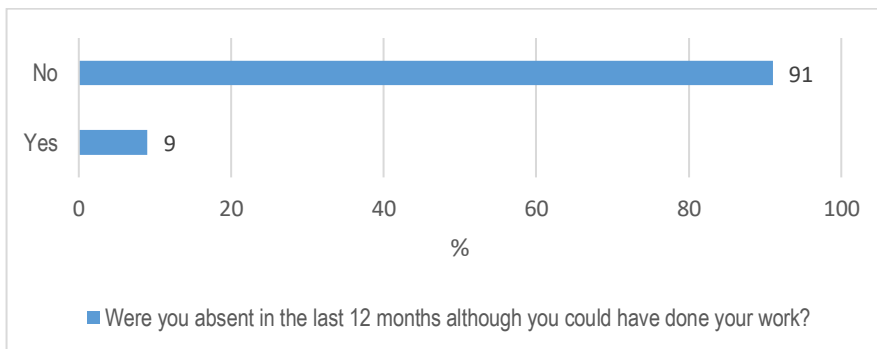


Chart 3: Abuse of medical leave in employees

The study also sought to establish whether employees performed their work in spite of illnesses or injuries that were in fact sufficient grounds for medical leave. Results in Chart 4 show that 75% of employees in the last 12 months performed their work in spite of injuries or illnesses that would warrant medical leave. The result can be interpreted in two ways, firstly as positive, as it shows moral and ethical responsibility/conduct of employees, and secondly as worrying as it shows signs of “presentism”.¹

¹ Presentism is a form of behaviour shown in employees coming to work in spite of illnesses or symptoms (malaise). The poor medical condition of such employees can in such cases be transferred to their colleagues (other employees), causing them to fall ill. Studies have shown that presentism is becoming more and more common. In the long term, presentism actually presents a greater financial cost than absenteeism.

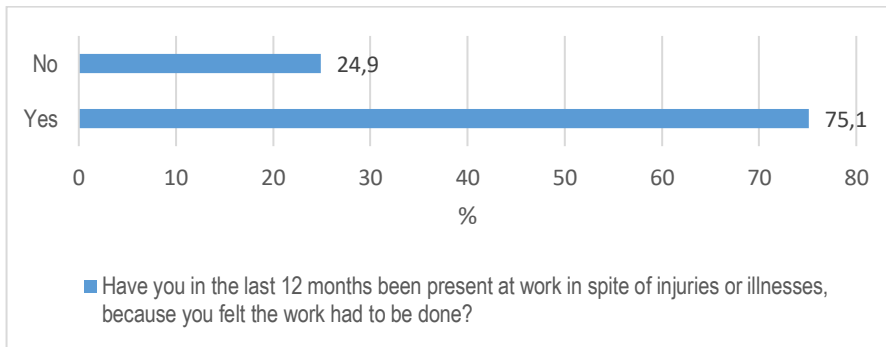


Chart 4: Performance of work in spite of illness or injury

The INODEL study researched the correlation between employee absence and their job satisfaction. Employee job satisfaction was measured using the JSS methodology tool. The “management” section of the study included the question “My superior is unfair towards me.” Results of this question showed that over 95% of those who were not absent from work felt that their superior was fair towards them, as did the majority of those absent between 3 and 30 days and even those absent for over 30 days.

In spite of this, statistical analysis shows that the variables “days of absence due to medical reasons” and “my superior is unfair towards me” have no correlation. That is why with a 5 percent risk we cannot state that there is a correlation between a fair attitude of management personnel and the number of days of employee absence. Such results regarding correlation therefore do not confirm the results of the study of De Boer et al. (2002, p. 181-197) which showed that a honest relationship with management personnel is reflected in a lower rate of employee absence. Honesty is one of the components of ethical behaviour.

Verification of hypotheses posed by the study shows the following:

- *H1: Over 20 percent of employees that took part in the study were absent for medical reasons in the last 12 months, even though they could have performed their work.*

Results of the study show that in a random sample over 20 percent of participants were absent for medical reasons in the last 12 months, even though they could have performed their work. The hypothesis is therefore not confirmed since statistical analysis shows 9 percent of such employees.

To test our hypothesis, we set the zero hypothesis $H_0 : P=0.2$ against alternative hypothesis $H_1 : P > 0.2$. The sample share = 9 % (see Chart 3) was used to calculate the value of $Z - 3.84$. The appropriate P value is 0.99994, which is higher than the risk rate of 0.05. Accordingly, the zero hypothesis is kept and the alternative hypothesis is not confirmed. With a 5 percent risk we can therefore not state that the share of employees who were absent for medical reasons in the last 12 months, even though they could have performed their work, is greater than 0.2.

- *H2: In the last 12 months, over 50 percent of employees that took part in the study continued to perform their work even though they experienced injuries or illnesses that could enable them to gain medical leave, because they felt and knew that is is appropriate for them to continue working.*
- To test our hypothesis, we set the zero hypothesis $H_0 : P=0.5$ against alternative hypothesis $H_1 : P > 0.5$. The sample share = 75.1 % (see Chart 4) was used to calculate the value of $Z - 5.80$. The appropriate P value is $3,2 * 10^{-9}$, which is lower than the risk rate of 0.05. Accordingly, the zero hypothesis is rejected and the alternative hypothesis is confirmed. At a 5 percent risk we can therefore state that the share of employees who in the last 12 months continued to perform their work even though they experienced injuries or illnesses that could enable them to gain medical leave, is greater than 0.5.
- *H3: There is a correlation between a fair attitude of management personnel and the number of days of employee absence.*

- To test our hypothesis, we set a zero hypothesis H_0 : the variables »days of medical leave« and »my superior is unfair to me« are independent towards the alternative H_1 between variables »days of medical leave« and »my superior is unfair to me«.

Sample assessments for Kendalls Correlation and Spearman Correlation ($\tau = 0.036$, $r_s = 0.042$) show that there is no correlation between the variables. Results were verified with statistical tests for both coefficients which showed that the variables indeed do not have any statistically significant correlation (p values: Kendalls, 249, Spearman, 248). This means that the zero hypothesis on the lack of correlation between the variables "days of absence due to medical reasons" and "my superior is unfair towards me" cannot be rejected, so the alternative cannot be confirmed. At a 5 percent risk we therefore cannot state that there is a correlation between a fair attitude of management personnel and the number of days of employee absence.

4. Conclusions

Organisational culture and its building blocks of norms and values is one of the most important constructs that influences the ethical behaviour of employees in an organisation. The latter is important as it provides answers on how to be and how to act. These issues are not merely external, so the issue of shaping and following work ethics and consequential ethical conduct of employees in an organisation is very important indeed. Employees in a working environment quickly perceive and accept a culture of conduct/behaviour and are often quick to adapt to it. For the purpose of this article, such an attitude is relevant also because if the culture of conduct/behaviour of employees pertaining to absence from work is such, that employees are often absent without justification or even abuse medical leave, and such behaviour is tolerated (e.g. the management shows no interest in attempting to reduce employee absence), such behaviour will be adopted by the majority of employees. Accordingly, it is very important that organisations establish an appropriate work ethic that provides for sanctions in case of inappropriate employee behaviour.

The influence of work ethics and consequential ethical conduct of employees is a correlate that is through its consequences shown also in the form of employee absence. Many studies have shown that a stronger (more strict) work ethic in an organisation results in a lower absence of employees from work. The results presented here are related to the aspect of (un)ethical conduct of employees in relation to medical absenteeism. Research performed within the INODEL study showed that at least 9 percent of participating employees have abused medical leave in the sense that they were able to work, but did not. This shows an (un)ethical attitude of employees and signals organisations that they need to pay more attention to work ethics and organisational culture. The result was no surprise - quite the opposite. It could be expected and we presume that many of our participants actually did not dare to answer that they previously abused their medical leave.

Results of the INODEL study also showed that the employees' perception of their management having an honest attitude towards them is in fact not reflected in a lower rate of employee absence, since the study did not show any statistically significant correlation. In spite of that fact, we found that over 95% of employees who were not absent from work in the last 12 months confirmed that their superior was fair to them. This result shows that employees perceive honesty as a positive thing which in turn results in a lower degree of absence, bringing direct financial gains to the organisation.

Based on the results presented above we can see that work ethics and an appropriate organisational culture do influence - increase or reduce the rate of employee absence.

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Crucial Importance of Work Productivity in the Conditions of a-Typical Employment

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Abstract:

Work productivity is of crucial importance to all employers regardless of what solutions they use, traditional or flexible ones. Most human resource management programs are oriented on HR tools that are favourable for employee efficiency, and hence on organizational effectiveness and productivity. When examining different psychological variables that are relevant in psychology of work and organization, popularity and productivity prove to be vital, since this variable correlates with all the remaining psychological dimensions due to continuous and intensive search for ways to improve efficiency in the work place. This article presents the results of the research carried out on n=2118 a-typical employees.

Keywords: work productivity, a-typical employment, praxeology

Introduction

Each time in case of assessment of performance, regardless of measurement applied, efficiency, effectiveness, performance, productivity, or other praxeological differentiators, the intention of management specialists is the same - improvement of work performance.

Analysis of productivity may concern individual effects of work - an individual employee, a team of employees, that is employee group, an organizational unit - a section, a department, an organisation as a whole. Work assessment systems allow for measurement of the above factors taking into account flexible forms of employment (compare: Dobrowolska, 2014), organisational effects are the outcome of actions of specific units, as well as non-organizational factors such as a modification of legal regulations, crisis, cataclysm. Work effects may be quantitative and qualitative, social, organizational and may even be analysed from the perspective of an entire company. Undoubtedly organisations that use traditional and non-traditional employment models face the same problems related to work productivity.

Presentation of the author's research

The respondents were n=2118 people working in 9 flexible forms of employment: substitute work in accordance with Article 25 Point 1 of the Labour Code; temporary employment as understood by the Act on employment of temporary employees as from 9 July 2003 (Journal of Law 03.166.1608); self-employed, self-employment as understood by the Act 2 July 2004 on freedom of economic activity; teleworking in accordance with Article 675 and following of the Labour Code; employment for a specified period of time in accordance with Article 25 Point 1 of the Labour Code; employment in part-time work in accordance with Article 292 Point 1 of the Labour Code; work under a civilian-legal agreement on the basis of the freedom to contract i.e. Article 3531 Point 1 of the Civil Code; seasonal work in accordance with Article 25 Point 1 of the Labour Code; employment in the social economy, which includes: social co-operatives, cooperatives, cooperatives of the disabled and the blind, non-governmental organizations and entities listed in Article 3 Section of the Act from 24 April 2003 on public benefit and voluntary services (Journal of Law dated 29 May 2003 as amended).

Among 2118 respondents, 44% are women and 56% are men. Due to the number of the respondents it can be concluded that the analyses sample suggests lack of a visible disproportion between men and women with respect to flexible forms of employment.

Flexible employees have been divided into 9 professional groups, each of them with more than 200 people. The featured groups were as follows: 12.1 % working for a specified period of time; 13.2% working part-time; 10.7% working on contract;

10.3% of the self-employed; 10.4% of teleworkers; 10.4% working under a substitute work contract; 12.4% of temporary workers; 10.0% of seasonal workers; 10.5% of the employed in the social economy.

The respondents were adults of different ages, although all the respondents were in the so-called age a professional activeness, working age from 18 to 60 years for women and up to 65 years for men. 7% of the respondents were 18- 24 years old. The largest group - 42% are persons aged 25-34. 34% of the respondents are 35 to 44 years old. Another 12% of the respondents are between 35 -44 years, while 5% of the respondents were 55-65 years. An average age in the analysed group was 36, and the median was 35 years. The youngest respondent was 18 years old, and the oldest 65 years old. The distribution of results in the Polish sample of the tested fits fully into the *European characteristics of flexible employees*, which describes them as rather young, with an average period of employment in an organization - less than five years (Nollen, 1996).

Flexible employees who took part in the research are well-educated. More than half of the respondents (56 %) holds a university degree. Quite a large group of the respondents - 34% are people with secondary education. 6% of the respondents has a vocational education and only 4% of the respondents have primary education. Persons without any education represent only 0.3% of the sample. This is an interesting result in view of the fact that a social perception of flexible employment is related to a stereotypical and pejorative image of this type of employment regarded as "junk one" for poorly skilled ones. As it turns out, however, in majority of cases people involved in these forms of employment are well-educated.

Seniority of flexible employees fluctuates between a few months and several decades (maximum 41 years), the average was 8,5 years. Seniority of the biggest number of the respondents is up to 5 years - 42.6 %, the smallest number of the respondents is of a considerable seniority, which also corresponds to the already mentioned European characteristics of an average flexible employee (Nollen, 1996). Seniority was divided into 6 categories. The first group, up to 5 years, includes 42.6% of the respondents and the second one from 6 to 10 years - 29.8 %, the third from 11 to 15 years - 11.0 %, in the group of seniority from 16 to 20 years - 8.9% of respondents, from 21 to 30 years - 5.6% of the respondents and in the last group above 31 years - only 2.1 %.

In the majority of cases the researched flexible employees has had 2 - 3 employers so far (47 %). 14.6% of them have worked in only 1 place of work. The remaining respondents have changed work more often. 28% of them worked for 4 - 5 employers, and 12% of them had more than 5 employers. The results show a relatively small migration between employers, which might be expected in flexible employment.

Flexible employees who took part in the survey have worked under their current work contract for 5.5 years on average. A detailed distribution of responses with respect to the time categories is shown on the chart below. Paradoxically, the highest percentage are people working not only under short-term contracts, up to one year - 19.3% and up to two years - 19.0 %, but also people with long-term employment relationship, more than 10 years. In the group from 2 to 3 years there is 12.4% of the respondents, in the group from 3 to 4 years - 8.2% of the respondents, from 4 to 6 years 15.0% of the respondents, from 6 to 10 years 10.6% of the respondents.

When it comes to location in the structure, the largest part of the respondents are subordinates (62 %). Flexible employees are also specialists (29%), but less often managers (7%) or directors (2 %).

More than half of the surveyed flexible employees (54%) works in the private sector. 34% of the respondents is employed in the public sector, and the remaining part is employed in the social sector (12%). The private sector uses flexible employment solutions much more often than the public one.

The biggest number of the respondents is employed in the public administration (31.8%) and in the services sector (28.5 %). The smallest number of the respondents works in health care (2.3%) and education (9.3%), 11.3 % of the respondents is employed in trade.

The variable work productivity is regarded as a subject-and- organizational determinant of behaviour of employees in non-traditional employment. It was decided that the variable efficiency should be kept and intuitive measurements should be applied while adding two questions measured separately by a total sum of results in a given question. The first question is as follows: "I think that I have been working effectively", the second - "I believe that I am a good employee", which the respondents answer using a scale from 1 (I do not agree) to 5 (I agree completely). The respondents working under flexible

contracts are generally regarded as effective employees. 88% of the respondents agree with the statement "I believe that I have been working effectively", including 50% of the respondents who agree with it completely. 89% of the responders consider themselves to be good employees, including 54% who agree with it completely.

While analysing the responses to the above questions, taking into account their forms of employment, one can see a statistically significant correlation between these variables. Analysis of a correlation using Kramer's V showed a statistically significant correlation between a form of employment and answers to the question "I believe I am an effective employee". Value of the factor is 0.108 and indicates weak correlation. The highest percentage of respondents who consider themselves to be effective employees was observed in the following groups: the self-employed, individuals working part-time, teleworkers and individuals working for a specified period of time. Whereas the lowest percentage of people who think they are effective employees was to be found in the following groups: individuals working under a substitution contract, individuals working under commission contract and temporary workers. Analysed results may be due to the specific nature of employment conditions. For self-employment promotes efficiency, which is directly linked with the work results, which translates into financial gratification. Relatively longer contracts in part-time work, individuals working for a limited period of time or teleworkers and privileges of the Labour Code may translate into a level of work productivity. Whereas characteristic for short contracts works without social securities carried out under commission contracts, temporary jobs and substitute works are not beneficial for work productivity of employees.

Distribution of responses to the statement "I believe that I am a good employee" are similar the one obtained for the first question. Also here the highest interest of individuals agreeing with this statement occurred in the following groups: individuals working under a contract for a specified period of time, individuals working part-time and the self-employed. While the smallest number of individuals who share this point of view was found in the following groups: individuals working under commission contracts and substitution contracts.

Work *productivity* significantly correlates with sex, education, occupation, industry and marital status. No correlation was obtained with the variables of age, sector, seniority, number of employers, duration of contracts, place of residence and number of children.

Correlation analysis has shown that there is a relationship between a sense of productivity and sex. Kramer's V is 0.098; $p < 0.01$. Percentage of the respondents who consider themselves effective was higher among men (57%) than among women (50%). Education affects the sense of effectiveness, too; Kramer's V = 0.158; $p < 0.001$. In the group of the respondents with education below secondary school the percentage of individuals claiming to be effective employees is 48.8%. This is the lowest value in comparison to the remaining groups: among employees with primary education the percentage was 51.2 %, and among people holding a university degree it was 56%. Also, age significantly differentiates responses concerning effectiveness (Kramer's V = 0.170; $p < 0.001$). The highest percentage of the respondents convinced of their productivity was observed in the group of professionals and free-lancers (55.1%). In the groups of directors, CEOs and business owners as well as technicians and civil service officials, trade and services workers the results are similar - 51 - 52 % believes that they are productive. The lowest percentage of people who claim that they are effective was found in the group of workers - 47.9 %. Statistically significant differences also occurred in the responses after taking into account specific sectors (Kramer's V = 0.172; $p < 0.001$). The highest percentage of positive responses to the question concerning productivity was found among heavy industry employees (63.3%) and other sectors (60.7%). A group of persons working in the public administration and services are similar - 52% are considered to be effective. The lowest percentage of people who think they are the effective employees occurred in the group of trade employees - 48.6 %. There were also statistically significant differences in the responses to the question on productivity in terms of the respondents' marital status, Kramer's V = 0.125, $p < 0.001$. The divorced or the widowed (56.4%) consider themselves effective more often than the interviewed married males and females (53.7%) and maidens and bachelors (49.9%).

Summing up, productive employees are those holding a university degree, holding top positions - CEOs, directors, business owners, individuals representing industry, the divorced, the widowed and mainly women. Persons who consider themselves to be good employees are mainly women (correlation with sex), persons holding a university degrees (correlation with education), senior executives in the organization (correlation with the profession) and residing in big cities (correlation of the place of residence).

Analysis of correlations shown that there is a relationship between conviction of being a good employee and sex. Kramer's V is 0.085; $p < 0.05$. Percentage of the respondents who consider themselves effective was higher among women (59.2%)

than among men (55.2%). Education affects significantly the responses of the respondents to the analysed question, Kramer's $V = 0.155$; $p < 0.001$. The higher education, the higher the rate of responders considering themselves good employees. In the group of the respondents with education below secondary school the percentage of individuals claiming to be good employees is 51.2%. In the group of the respondents with secondary education the percentage is 53.8%, and in group of people holding a university degree = 59.8%. There was also a statistically important correlation between profession and a sense of being a good employee, Kramer's $V = 0.173$; $p < 0.001$. The lowest percentage of people claiming they are good employees was in the group of workers (52.1%). In the remaining groups this percentage is as follows: directors, CEOs, business owners: 59.0%; professionals and professional services (freelancers): 58.6%; technicians and civil service officers: 57.4%; employees working in trade and services: 55.1%. The respondents' reaction to the analysed question differ with respect to their place of residence, Kramer's $V = 0.116$; $p < 0.05$. The biggest number of the respondents who consider themselves good employees was observed among big city dwellers (60.3%). In small towns and villages this percentage is lower (56.5% and 52.1% respectively).

Conclusion

Rapid development of flexible organizational solutions designed to primarily reduce labour costs involves changes in HR policy and imposes employment of employees in non-traditional employment forms. Employees are therefore subject to penalties, requirements and rules that are different from those described so far in literature of psychology of work. These descriptions, as it has already been mentioned, are based on analyses of staff employed in traditional forms of employment, colloquially referred to as the permanent ones, and therefore become useless in the new conditions. In this context doubts are risen by every aspect of broadly understood psychology of work (cf. Dobrowolska, 2012).

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Touristic Infrastructure Development in the Context of Increasing a Town Space Attractiveness

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Abstract

The topic of the paper is an attempt to find a research tool in order to find the answers to questions about the proper directions of development of tourist infrastructure and functions in small towns. How to define the relationship between the existing natural and cultural values and needed touristic infrastructure? Where are the best areas in town for the implementation of tourist infrastructure? With what planning tools it is possible to forecast the possible barriers of development? The students of the Faculty of Architecture at Poznan University of Technology were trying to find the answers to these and other questions were and there is presented the outcome of this research.

Keywords: touristic functions, city space attractiveness, sustainable development

Introduction

According to the author, tourism as a function stimulating towns and cities development is one of the few economic brands which have a high ratio of profitability (at relatively low costs can be achieved large profits), and further, while retaining the relative political stability, touristic functions provide a steady demand for manufactured goods. However, so as to bloom local economy and improve the quality of residents life, it is necessary to preserve the principles of sustainable development.

Sustainable development of tourism depends on a number of factors: tourist attractiveness of the city, uniqueness and location values, high quality of services, availability, socio-economic potential, as well as a holistic and integrated approach to planning development of touristic reception city. The fulfillment of all the conditions may seem impossible, but it is needed to consider all of them within programming renewal and development projects. Cities with tourist attractions but without a well-developed services and transport accessibility, as well as cities that have only excellent position in relation to major transportation hubs, have a chance to benefit from the development of tourism.

A special type of touristic development is spa tourism. Wellness and spa functions can perform invigorating role not only in terms of patients recovery, but also in spatial and economic meaning. The condition is prudent management of urban and natural environment, protection of local identity and control of the intensity of tourist traffic. Protection of cultural heritage in spa city concerns preservation of historic architecture, which significantly creates the city image, local traditions and regional identity as well as unique non-material cultural goods like customs, cuisine, crafts. Restitution and incorporation of historical buildings into touristic infrastructure is needed so as to expose the uniqueness of location and all the characteristic elements within functional and spatial structure of the city. These specific and meaningful landmarks define and highlight the character of the reception area.

The proper use of existing natural and anthropogenic values and existing social potential is a huge challenge, but also an opportunity to improve the economic situation, quality of life and spatial attractiveness of the city, not only for present but also future residents. For many cities, especially those of small size, development of touristic function is an important opportunity to improve the condition of the socio-economic and spatial attractiveness.

Sustainable development of tourism is about promotion of different functional offer and profiles, with tourist infrastructure development which is in accordance with protection of spatial and cultural values. However, achieving economic stability, ensuring the attractiveness of land and meeting social needs in small cities should be associated with the need of

preparation and implementation of long-term and multilayered development plans. Identification of strengths and weaknesses of existing spatial, social and economic situation is crucial in terms of defining possible targets and enabling division into separate phases the development programme. The key importance of spa tourism development is reasonable and wise management of space and programming of spatial planning in accordance with sustainable development rules.

Legislation tools and participatory planning in the context of increasing town attractiveness

The local plan as an act of local law, is considered as an essential tool for defining the manner of managing the key areas for the development in towns and cities. It is the only document in Polish spatial planning law that has a real impact on spatial changes and spatial order. The act describes a series of activities related to the preparation, voting on and implementation of master plan. The aim of master plan is in particular the determination of: functional and spatial destination of indicated areas, introduction of new functions into developing fragment of a city space, the principles of management so as to provide and maintain spatial order, the protection of natural and anthropogenic environment, cultural heritage and cultural values preservation, definition of contemporary public space design rules, parameters and indicators of building and other forms of land development, the principles of expansion and reconstruction of technical infrastructure and communication system, rules of sharing and merging real estate, detailed rules on security actions within risk areas for mining damage, floods, landslides, etc.

The master plan should specifically and unambiguously define the framework of the planned spatial and functional transformations of a city space. Too general regulations conducive to the formation of investments contrary to the principles of spatial order. It must therefore be stored in such a way that its interpretation is closest to the intentions of the plan ideas and aims. It must be remembered that all planning documents are being drawn up for over many years and so there must be provided a proper level of generality and flexibility within formulated postulates and decisions.

In addition to the issues associated with master plans preparation, a separate group of questions consists of the statutory provisions on the need for the socialization of planning process as well as an analysis of the effects of the master plans implementation. It is particularly important for architects and urban planners to understand the needs of city users and the economic consequences of the planned transformations. The protection or maintenance of spatial order is the most important task of planning, regardless of the scale and size of the city.

This means harmonizing the often conflicting needs and thus to minimize conflicts. In terms of the social aspects it is crucial to ensure that all the city are provided with the same possibility to take advantage of spatial situation and values at the same level. There is also a need to eliminate the negative phenomena of segregation and exclusion, to ensure the protection of the public interest and private rights of ownership and to overcome unjustified disparities in living conditions. The economic aspect should enable economically efficient use of space and ensure appropriate conditions for the functioning of all operators and users.

Unfortunately provisions of the spatial planning law in terms of social participation significantly limit the real influence of stakeholders. A mechanism for receiving and considering comments on the plan is not conducive to reliable diagnosis in the identification of existing or future social conflicts arising from the often divergent interests of different groups. This in turn often leads to irrational management of spatial and financial resources. Such phenomena does not contribute to spatial order protection and to rational use of resources in accordance with sustainable development rules.

The study of good examples of legislative solutions in force in Europe confirms that the first phase of master plan preparation always becomes a priority, since it ensures the universal recognition of the provisions of plan. There is a wide range of instruments to carry out a public consultation in which social participation has a real impact on the planned changes. All kinds of workshops, joint development concepts, urban games and other forms of activities integrating various interest groups are supposed to be soft but significant tool within a process of promoting participatory planning solutions. Public acceptance of planned development and alterations ensures cost reduction not only during the design and implementation but above all during long-term implementation and realization.

Case study – introduction of spa offer to Międzychód city. Cooperation between practitioners and researchers

One of the good examples of taking advantage of scientific knowledge and expert opinions in urban planning practice is the cooperation of the Department of Urban Planning of Poznan University of Technology, Faculty of Architecture with the Municipality of Międzychód. The problem which was reported to professionals was interesting but quite complicated. City of Międzychód was the first city in Wielkopolska region trying to obtain the status of a health resort. In the period 2004 - 2014, a series of architectural studies and urban planning research were conducted. The first phases of cooperation were mainly related to the sphere of analytical investigation of existing spatial situation, valorization and forecasting. Undertaken activities aimed at existing spatial values inventory and development potential assessment.

The next stages were to determine key areas - both those with growth potential and those with a negative impact. At the same time the architectural concepts comprising the renewal of historic buildings of the most important frontages along main streets of the city were prepared. Unfortunately, there was a lack of long-term revival and development programming. Since the project was not included in any integrated program for seven years less than 10% of the buildings were renovated and regained its former splendor.

Then the main guidelines for tourism development and new functions introduction were defined so as to prepare a basis for the master plan alterations. The task that has been entrusted to scientists, was about the identification and verification of decisions of master plan and critical analysis of the current document. The aim was to test the provisions of the plan in force in relation to key areas in the context of the development of the spa functions and to make necessary adjustments. As a result the new master plan was established, which is now in force. Now, along with the master plan decisions, there is a better protection of existing spatial values – both natural and cultural ones, and the possibility of spa functions development in accordance with sustainability rules.

According to the adopted methodology, the study has been preceded by a vision of the terrain and analysis of the development strategy of the spa in Międzychód. This enabled the adoption of appropriate assumptions to develop several variants of spa development concept and designation of key areas. To achieve the maximization of profits from the planned investments there was proposed a system of key areas connection with the use of existing public spaces within a city. This solution increases the efficiency of the development owing to the principle of synergy of programming and realization of all investments.

There were not only researchers but students as well involved into cooperation between Municipality of Międzychód and Poznan Faculty of Architecture. During academic year students were preparing their proposals of spa functions development in Międzychód with the reference to master plan decisions. In this way, students had an opportunity to face real problems such as: finding the right formula for maximum integration of newly introduced investments into existing urban structure, maximizing the profitability of parcels in accordance with the spatial order rules, obtaining the highest possible standards of living and minimizing the cost of urban infrastructure modernization and development in terms of new functions introduction.

The main aim of the cooperation was to work out an expert study indicating the possible opportunities and barriers of spa spatial development. The additional aim was to establish a tool to collect votes and opinions about planned investments of the local community. The cooperation resulted in preparation of a shared document in the form of EXREF Doc. and a set of boards with graphic part of development proposals. It was done owing to the use of work in cloud method and in that way it was possible to collect opinions about presented spatial solutions. The outcomes of the work were presented at an official exhibition of at Poznan University of Technology with the participation of Międzychód Municipality representatives.

The last action in favor of spa functions development in Międzychód was the collaboration within preparation of a phased investment strategy. As part of creating the spa brand and a new image of Międzychód city there are some soft actions proposed in the so as to promote educational projects and hard ones, related to the implementation of certain investments. The most important investments accentuated in the strategy are: construction of water bottling plant "Międzychódzianka", Spa and Wellness Park - as the most important area of spa facility in the current park of Lake City, the infrastructure of mud treatment services, communication and technical infrastructure. In addition to spa buildings there is planned to extend the offer of existing sport facilities with hotel and training complex.



Pic.1. Identification of antropogenic and environmental resources is a basis for creation of strategy of sustainable development of spa tourism in Międzychód city. Conception made by author.



Pic.2. Research and design work were prepared in different scales, and were prepared by researchers and practitioners with the participation of students of the Faculty of Architecture of Poznan University of Technology (P.Kluj, D.Woltyński). Conception made by author and other researchers (R.Graczyk, D.Pazder).

The citywide investments are planned to be complementary to spa offer. They are proposed so as to increase the attractiveness of public space within a city. There are planned: a complex of tourist services, broadening of cultural and commercial offer, modernization of Market Square, Kosciuszko Square, Old Mill and Passage linking Lake City with the Old Port at Warta river, restoration and activation of historic buildings through the introduction of new services, construction

of a riverside hostel in the Old Port and complex of spa parks with pedestrian and bicycle lanes and the construction of urban fragment of an international Bicycle Route R1.

Conclusion

Implementation of ideas and design works aiming at creation and promotion of the first spa of Międzychód city in Wielkopolska region is an important development opportunity for entire county. Construction of hotels, boarding houses, sanatoriums, recreational and sports centers and the provision of treatment services and hospitality, is a project of key importance for expanding the local labor market offer and increase of inhabitants' quality of life

Promotion of a healthy lifestyle and leisure and spa offer development in a city of Międzychód, in accordance with the principles of a snowball economic rule, can initiate the development of private enterprises as complementary offer. The introduction of new functions, new architectural and infrastructural investments can positively affect the physiognomic image not of a city but entire region as well.

The impact of realization of the project in economic dimension may include western regions of Poland and even go abroad to the territory of Germany. In the past eight years, the Municipality of Międzychód, within a process of preparation for spa functions development has already organized many investments that cost over EUR 25 million. Considering either dynamics of the transformation, aspirations of a city, or taking into consideration endogenous and exogenous conditions, it is concluded that the spa offer and tourism development can result in many fruitful activities and undertakings in spatial, social and economic aspects. Creation of the brand product under the name of Spa Międzychód is a venture not only by all means desirable, but also necessary to maintain the trend of development in peripheral areas of the region.

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Analyzing Energy Security and Sustainable Development in Southeast Europe from a Multidimensional Approach

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Abstract

Energy plays a vital role in the sustainable development of a nation and regions as well, thus affordable and reliable energy supplies are crucial for this development. South East Europe countries are characterized from high energy dependence and face several difficulties in guaranteeing a sustainable development. Only an integrated approach, which combines all the dimensions of energy security, can be a successful way for nations to guarantee their energy security and sustainable development. The scope of this paper is to analyze energy sector and sustainable development in Southeast Europe, with a focus on economic, social, environmental and geopolitical dimension of energy security. The methodology used for this paper combines energy security approach and Regional Security Complex Theory, with a focus in Regional Energy Security Complexes. Energy sector in this region is characterized by a problematic energy infrastructure, low system reliability and low efficiency, energy dependence and lack of diversification of energy sources, all elements with a direct impact on energy security. The data used for this paper are based upon the data of World Bank, International Energy Agency, International Monetary Fund and United Nations.

Keywords: Energy Security, Sustainable development, Southeast Europe

Introduction

Sustainable development and energy security are two of the most important topics nowadays. Many efforts are being put to develop a society which ensures harmony between environment, society and economic growth. In this aspect, energy plays a vital role in the sustainable development of a nation and regions as well, thus affordable and reliable energy supplies are crucial for this development. South East Europe countries are characterized from high energy dependence and face several difficulties in guaranteeing a sustainable development. The linkage between energy security and sustainable development is a matter of great importance, thus the scope of this paper is to analyze energy security and sustainable development in Southeast Europe from a multidimensional approach. This paper focuses in the SEE6 countries, which includes Albania, Bosnia and Herzegovina, Kosovo, F.Y.R Macedonia, Montenegro and Serbia. This area is composed from states that have different problems and opportunities as well, but energy security and sustainable development are two key issues with a direct impact on every state in particular as well as the entire region in general. As mentioned in the South East Europe Transnational Cooperation Program, *"The South-East Europe area is the most diverse, heterogeneous and complex transnational cooperation area in Europe, made up of a broad mix of countries. The emergence of new countries and with it the establishment of new frontiers has changed the patterns of political, economic, social and cultural relationships"*.

In this situation, the paper raises some questions: Which is the energy security situation in SEE6 countries? What are some of the problems faced by these countries in terms of sustainable development? What measures and policies must be taken to ensure energy security and sustainable development in SEE6 countries? Before answering these questions, is necessary to explain the key concepts of the paper, energy security and sustainable development, and the used methodology. These issues will be elaborated in the next section of the paper.

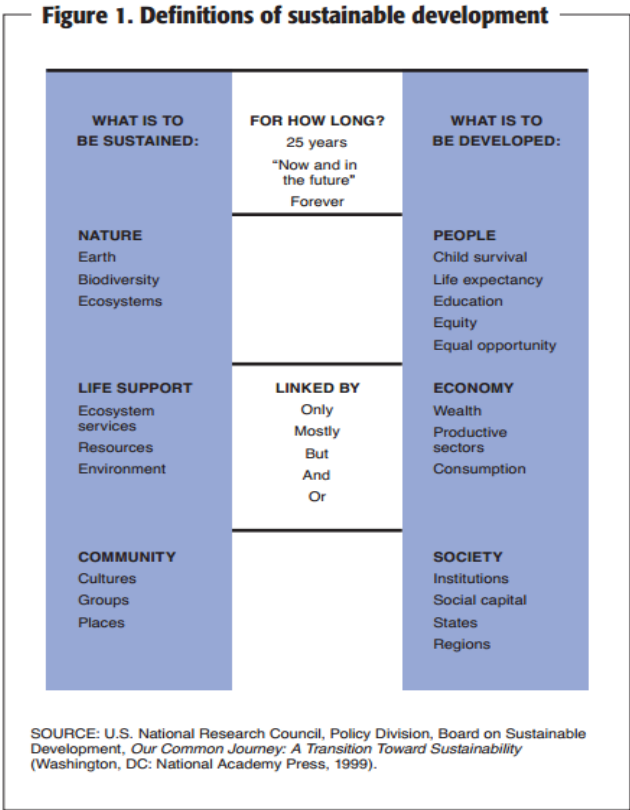
Literature Review and Work Methodology

The literature review process showed that despite previous works focused on energy security and sustainable development, there is no a general consensus for the definition of the terms. Definitions of 'energy security' range from narrow issues of

physical supply disruption to broader ones involving the economic, environmental, and political consequences of changes to energy markets (Dreyer & Stang, 2013: 1). This is due to the positions and interests of each actor. The International Energy Agency refers to energy security as “the uninterrupted availability of energy sources at an affordable price” (IEA, 2011). Scheepers (2006) and Kirchner (2007), share the idea that secure energy means that the risks of interruption to energy supply are low. Daniel Yergin (2011) argues that “Energy security also means the ability to access resources and develop them, ensuring sufficient investment for future supplies, and establishing the governmental-private sector arrangements to respond to crises and ensure international cooperation”. Regarding the definition of sustainable development, the most frequently quoted definition is: “Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- The concept of **needs**, in particular the essential needs of the world's poor, to which overriding priority should be given; and
- The idea of **limitations** imposed by the state of technology and social organization on the environment's ability to meet present and future needs.” (WECD, 1987: 43).

Another way to define of sustainable development is the one of U.S. National Research Council (1999), shown in the figure below.



The methodology used in this paper combines energy security approach and Regional Security Complex Theory, with a focus in Regional Energy Security Complexes. Regional Security Complex Theory suggests “an analytical scheme for structuring analysis of how security concerns tie together in a regional formation...it’s a set of units whose major processes

of securitization, de-securitization or both are so interlinked that their security problems cannot reasonably be analyzed or resolved apart from one another" (Waever, 2004). In a region where the constituent states share closely interdependent security conditions and understandings of energy, Regional Energy Security Complexes are formed (Sharples, 2012).

Analysis of the findings

Table 1: Economic and energetic indicators of SEE6 countries (2012)

SEE6 Countries	Population (in million)	GDP (in billion USD, 2005)	Energy Production (in Mtoe)	Energy Consumption	Energy Dependence (%)	Human Development Index (HDI) Rank/Value	Human Sustainable Development Rank/index (HSDI)
Albania	3.16	11.22	1.49	1.93	36.8	64 / 0.719	52 / 0.776
Bosnia & Herzegovina	3.83	12.88	4.62	3.34	48.8	68 / 0.71	64 / 0.75
Kosovo	1.81	5.13	1.8	1.32	40.2	n/a	n/a
FYR Macedonia	2.2	7.32	1.78	1.97	72.6	71 / 0.701	65 / 0.749
Montenegro	0.62	2.88	0.79	0.82	48.8	49 / 0.769	n/a
Serbia	7.22	27.85	11.17	9.78	49.8	60 / 0.735	n/a

Source: World Bank (www.worldbank.org) & IEA (www.iea.org)

The data of Economic and Energetic indicators of SEE6 countries demonstrates the differences between countries. Serbia has the largest population (7.22 million) and Montenegro has the smallest one (0.62 million). The same situation is even regarding the GDP data. Serbia is the largest producer of energy in the SEE6, an energy production estimated in 11.17 Mtoe, followed by Bosnia & Herzegovina (4.62 Mtoe). Montenegro produces 0.79 Mtoe and Albania, 1.49 Mtoe. Serbia and Bosnia & Herzegovina are the top consumers of energy in SEE6 countries, meanwhile Montenegro and Kosovo consume only 0.82 and 1.32 Mtoe. Regarding energy dependence indicator, FYR Macedonia is estimated to have the highest level of dependence, with a value of 72.6 % and Albania has the lowest, with a value of 36.8%. The data shows the need for immediate reforms and the need for the intensification of collaboration between SEE6 countries. This is the only way for these countries to guarantee their energy security and sustainable development. Regarding the Human Development Index, SEE6 countries shares different positions. In a better position are countries like Montenegro (49) and Serbia (60). FYR Macedonia and Bosnia & Herzegovina ranks in 71th and 68th position. There are no data available for Kosovo. Regarding Human Sustainable Development index, Albania is ranked in 52th position, with an estimated value of 0.776; Bosnia & Herzegovina is ranked in 64th position and an estimated value of 0.75; and FYR Macedonia is ranked in the 65th position with an estimated value of 0.749. This data shows that SEE6 countries have a lot to do regarding Human Sustainable Development. There is no data on HSDI for the other SEE6 countries like Kosovo, Montenegro and Serbia.

Sustainable development and energy security in SEE6 countries is challenged from:

- Degradation of water resources – vital for development and energy production;
- High levels of air pollution;
- Underdevelopment of infrastructure;
- Natural and human threats to biodiversity;
- High energy dependence from imports;
- Low rates of diversification of energy sources;
- Lack of regional and global collaboration.

Conclusions

South East Europe countries are characterized from high energy dependence and face several difficulties in guaranteeing a sustainable development. These difficulties vary from air and water pollution and degradation to high energy dependence, lack of diversification and regional collaboration. In order to enhance energy security and sustainable development, SEE6 countries have to increase the level of regional and global collaboration. Countries, state and non-states actors must develop short and long term strategies in order to achieve two of the most important goals; energy security and sustainable development.

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Creative Functions as a Tool of City Space Revival - Case Study of Spa City in Wielkopolska Region

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Abstract

In the paper author presents the idea of a spa area reactivation through the implementation of creative functions. Innovation and creativity seem to be a tool to revive and activate public space of a spa city. It is to underline the existing spatial values and to promote a new usage of a public space owing to a touristic offer widening. In the article there is presented a study example of spa city in Wielkopolska region.

Key words: functions, creative functions, spatial-social activation

Introduction

In the following paper there is presented an idea of innovative way of spa city revival with the use of creative potential. Presented case study of Wielkopolska region (Poland) is a research example that has been examined by author for several years within the cooperation between Faculty of Architecture of Poznan University of Technology and local municipalities. The general idea of a study is to look for innovative spatial and functional solutions aiding tourism development and city revival through the use of creative potential. Thus tourism development can be not only more friendly to environment but to people as well. The introduced tourism should be responsible, discreet, environment friendly, proper, soft and gentle. The idea is to maintain a balance between the requirements of environmental and cultural values protection and local population and tourists preferences. Urban and architectural solutions not referring to the character and tradition of a place are harmful and devastate local color, identity and spatial specificity.

Nowadays, it is known that touristic offer so as to have a real impact on a number of tourists coming to a reception place should be either attractive or competitive. It should correspond with modern needs and modern lifestyles, it ought to be inspiring, a little bit surprising, provoking city space users to interact with each other and with space. It is extremely important in the context of touristic functions development thus the idea of tourism is to make people be curious about a place, be fascinated by a place and be strongly attracted by a place so as to come back again and again. The idea of creativity as an important tool of city space activation is still very modern and on time.

In the paper innovation in a spa city development is understood in two aspects: an innovative, contemporary thinking about using existing space resources in favor of tourism development, in accordance with the principles of sustainable development. In order to increase spa or touristic city competitiveness in the tourism market and so as to stimulate the local community to use development opportunities, it is needed to improve spatial and social attractiveness and a quality of life.

The development of tourism and spa functions could be a key factor of socio-economic activation of small settlement centers. It refers especially to the towns which are characterized by abundance of natural resources, and do not have another sufficiently developed functional facilities, which would ensure an appropriate level of economic development, competitiveness and quality of life. The proper development in the context of spas should be understood as local cultural identity protection, both material and immaterial, since it represents an important element of the assessment of the attractiveness of the area. This is particularly important in the context of a contemporary trends towards unification of the needs and products and mass production, so characteristic of the modern, globalized world. The sustainable development of tourism is an important impetus to the revival of socio-spatial and economic development, not only of the town but also in a scale of municipality or region.

Creative functions as a tool of spa city space revival

Spa functions development depends either on the degree of urban space attractiveness, quality and infrastructural facilities of the city or influence of neighborhood attractive areas, which supplement existing offer in terms of functional and spatial resources. It is crucial to preserve the urban composition of a city centre and to provide a high level of attractiveness to ensure the quality and viability of a city space. It is also important to provide attractive public space offer and equipment because of a significant spatial and social role public space plays in a city structure. The essence of urban tourism is its cognitive character, which is why it is so important to provide opportunity to explore historical values, monuments, museums, art galleries or participate in cultural activities. Usually, the biggest tourist traffic activity is focused on downtown and central area of a city.

Upholding a tradition of the place and protection of local cultural landscape requires conscious efforts to preserve diversity. These efforts should be made by local communities, professional *milieus* and non-governmental organizations. In this context it is very important to provide proper education about city space revival, to build a sense of relationship between place and city user, cultivate genuine traditions and reject indiscriminate imitation of foreign patterns.

A major problem in the context of maintaining the spatial and social tradition of spas, are investments related to the construction of large-scale spa facilities, rehabilitation centers, spa and wellness centers, where technical and structural requirements are often in conflict with local aesthetics or beauty of the natural landscape. This type of spatial activity contributes to a significant degradation of cultural and environmental resources, and often comes into conflict with unique regional values and characteristics. The adverse effects of tourism development is also the commercialization and unification of the offer, what leads to the departure of native traditions and creation of new quality, not related to the site (Ritzer and Liska 1997).

Innovation and creativity in the context spa city activation

Spatial quality factor in modern conditions is becoming increasingly important. Building a competitive and attractive, that is, corresponding to different tastes, tourist offer and a strong brand of a given spa city is very important in terms of increasing the attractiveness of the area. A varied range of services, complementary activities to spa function and location in a beautiful entourage can be a tremendous asset to attract not only patients, but also tourists. The attractiveness and aesthetics of a place is also an argument for which it is worth to return to the place. An important advantage is the presence cultural offer that provokes some interesting experiences as a result of multisensory perception of a space.

The attractiveness of spa city is understood as the high quality of the package of services not only concerning a narrow range of specialized health-oriented ones. More broadly, all activities aiming at the health improvement can be understood also in a spatial dimension. The emotional relationship with the environment have been for a long time the subject of research of various fields specialists inter alia environmental or behavioral psychology or sociology. It is widely known that beautiful, well-kept, functional, uncluttered places with interesting functional and spatial offer evoke positive emotions, soothe and stimulate people to interact and continuous exploration. The joy of getting to know the city and its values can enhance modern spatial solutions of different purposes and scale that are based on the use of creative and intellectual potential.

Introduction of creative and innovative functions and forms into a spa area can cause its spatial, social and economic revival. Especially the urban areas are the perfect places to implement creative solutions, based on relationships of innovation, culture and business. It is a very good way to activate the degraded, insufficiently competitive and unattractive for investments areas. It is because creative potential do not require such large amounts of money to complete projects, which are implemented from a scratch. The advantage of these features is easy adaptation and not too exorbitant starting conditions. As pointed out by Florida, the creative potential has tended to concentrate in certain areas, for they have to offer the unique atmosphere, originality, authenticity and a spirit of place (Florida, 2010).

Creative and innovative functions as a tool for spa city activation can bring many benefits. They represent a significant impetus stimulating the development of local entrepreneurship and complement spa offer with additional range of services. Creativity encourages protection of cultural identity through the adaptation of degraded built tissue, enhancement of a spatial attractiveness of spa, promotion of local products as crafts, folk art and handicrafts. Creative functions mostly are

well adapted in places with a unique atmosphere and of a unique architectural form, which is degraded, neglected and creative potential is necessary to give the space a new meaning and underline existing qualities and character of a space.

Creativity in the urban space can also be understood as landscaping elements that enliven the public space and emphasize its individual characteristics. Introduction of new aesthetic quality is characterized by high formal and artistic merit. Innovative technological solutions or spatial, interactive, sculptural forms, visually appealing, can highlight the architectural distinctiveness and semantic meaning of a space. Referring to the urban identity and its specificity they give a space a new attractiveness and strengthen the power of attracting and retaining city users.

Case study of spa city in Wielkopolska region

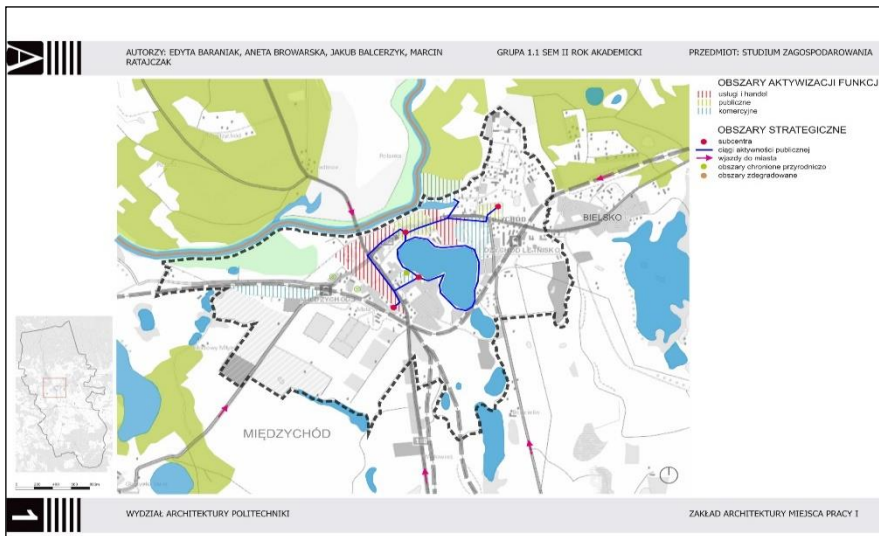
Appropriate use of existing values and proper profiling of touristic and spa offer allows prudent stimulation of a spa city development and wise management of space. It is also important to integrate the activities of supra-local scale in order to promote and strengthen brand of a spa city, as well as to activate other settlements of a region in a socio-economic dimension. The development of the spa functions gives impetus to extend the offer also in the field of water tourism, cycling, motor and horse riding etc.

The idea of spa functions development including service facilities in the form of an offer creative functions within Wielkopolska region makes perfect sense, because it is well-known that the scope of services offered by spa cities are not only limited to health-related functions, but a wide offer of culture and entertainment services as well. Regeneration of vital powers better runs in the spa that is attractive spatially, providing not only a comfortable rest, but also encouraging social interactions and contacts. The spa towns, thanks to the wealth of spatial and functional values may also develop other branches of tourism: urban, cultural and congress. It is because urban space activated through the use of creative features is a perfect place to host various types of exposure, exhibitions, meetings, musical or artistic competitions. A good solution which supports a spa development is the inclusion of spa areas in the urban structure of the city, giving residents the opportunity to take advantage of offered treatments, rehabilitation and recreation without having to leave the place of residence (Kaczmarek, 2002).

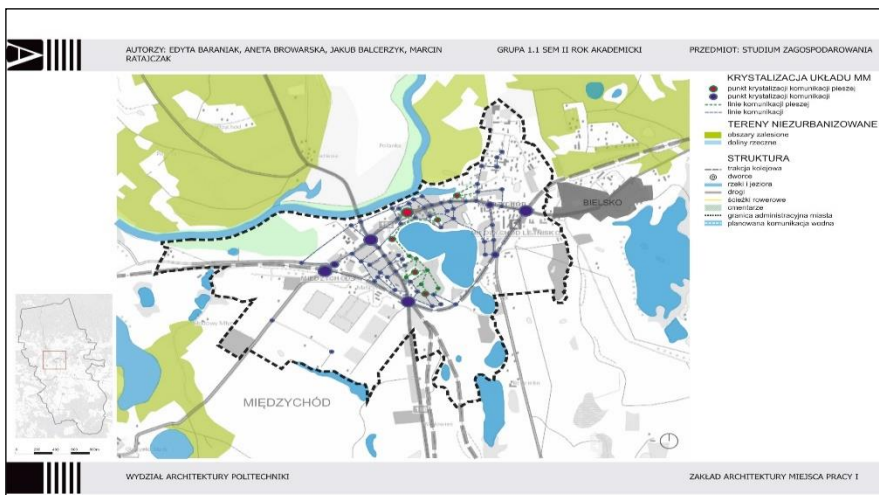
Research work – creative functions in favor of spa city activation

Presented research focuses on the exploration and development of spa function in a city of Międzychód in Wielkopolska region. The idea is to introduce the creative functions and forms so as to direct spa function development in the way that Międzychód becomes an attractive, innovative and competitive spa. The ability to create the first in Wielkopolska spa in city of Międzychód will strengthen its brand at the regional level and help to improve the quality of inhabitants' life. Promotion of the idea of Międzychód as an innovative - the first in region and based on local creative potential, spa city increases the chances of promotion of existing spatial and environmental values, the development of spatial and social potential, as well as multiplying the economic benefits flowing from the touristic offer. The implementation of this idea must be done in an evolutionary and balanced way.

The presented study aimed at defining principles for the development of innovative spa functions in Międzychód city using existing resources, functional, spatial and environmental values and local creative potential to activate spa and city offer. The design work in this context was conducted at the Faculty of Architecture, Poznan University of Technology in cooperation with the authorities of Międzychód city. Międzychód promotes the idea of development as an urban center of a rest and healing, along with a complementary range of creative offer but also innovative thinking about the existing potential, which can have a significant impact on the creation of a new city brand.



Pic. 1. The areas of functional activation: services, public offer, commercial functions and key area in terms of spa functions development in Międzychód city: subcentres, public space systems, city gates, protected and degraded areas. Design work by students of Faculty of Architecture, Poznan University of Technology – E.Baraniak, A.Browarska, J.Balcerzyk, M.Ratajczak, academic year 2014/15 under the direction of D.Pazder.

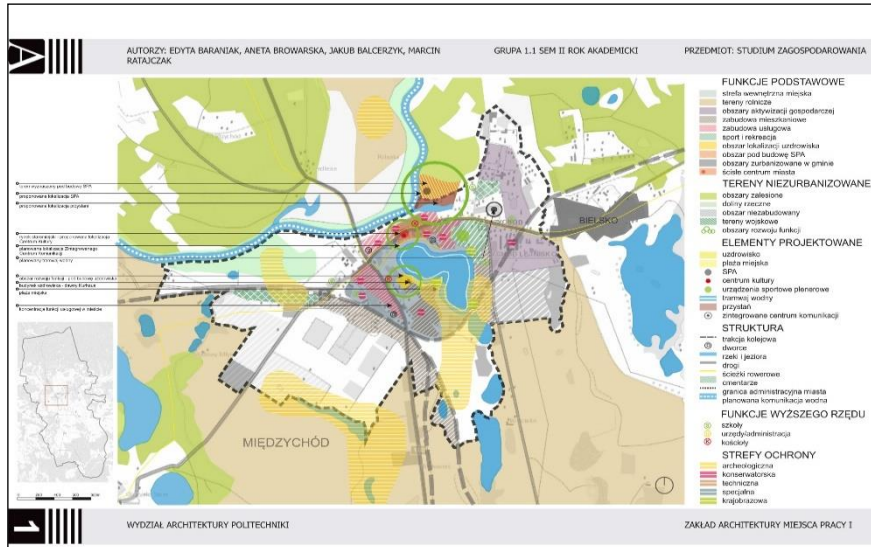


Pic. 2. The proposal of crystallization of the public space system within a city centre of Międzychód city and idea of incorporation of unbuilt tissue into one homogenous offer of built and unbuilt areas of different functions and destinations.

Design work by students of Faculty of Architecture, Poznan University of Technology – E.Baraniak, A.Browarska, J.Balcerzyk, M.Ratajczak, academic year 2014/15 under the direction of D.Pazder.

The idea of the use of creative offer to activate a spa city of Miedzychód and to produce a new quality of space was the subject of research and design work, which was also conducted during an academic year with students of Faculty of

Architecture at Poznan University of Technology. Semester projects were devoted to the study of local land-use zoning plans and the development of spa city of Międzychód in terms of creation a network system of innovation and creativity flows. The overarching slogans in the process of design guidelines formulation for the development of the spa city were: innovation, creativity, synergy, competitiveness and cooperation.



Pic. 3. The synthesis of spa function development in Międzychód city: basic functional destination of identified areas, planned activation of unbuilt pheriferal areas, new elements introduced to existing urban structure, existing urban – functional and compositional skeleton, key functions, protected areas.

Design work by students of Faculty of Architecture, Poznan University of Technology – E.Baraniak, A.Browarska, J.Balcerzyk, M.Ratajczak, academic year 2014/15 under the direction of D.Pazder.

This study and design work contribute to start discussion between Międzychód Municipality and local society about an innovative development of the spa with the use of existing local potential in a creative way and in accordance with modern requirements of competitiveness. Research includes extensive analytical part devoted to the study of existing functional and spatial resources, as well as the provisions of existing planning documents prepared at various levels of planning system. The analyzes were assessed so as to indicate potentials and barriers of the future development. The work resulted in a set of design proposals aiming at the existing potential accentuation and at an innovative and creative planning solutions. The idea was to build competitive advantages and consider them in future local plans in favor of attractive and modern spa offer and tourism development.

Conclusion

In order to define desired development of spa city of Międzychód, the initial objective was to provide innovative solutions, creativity on offer around the spa, synergy of actions at different levels of development and the creation of a new competitive brand of Międzychód through the promotion of local resources and strengthening the local identity of the space. Touristic offer in economic meaning heavily interferes local identity which is the largest value of tourism. It is necessary to strive to balance the natural and cultural environment. The needed condition to ensure harmony and wisdom of development is appropriate incorporation of introduced elements with existing landscape and spatial unique features, taking into consideration topographical, geological, demographical characteristics with attention to protect and create an appropriate aesthetic appeal of the new tourism infrastructure.

It is also extremely important to protect local material and immaterial culture, identity and nature of the place, as well as the products of arts and crafts of the given area. The development is conducive to the promotion of spa offer and associated functions, affecting the socio-spatial activation of the city and surrounding area, related to the use of local creative potential and creativity in various fields of arts and crafts. Proper development of tourism, conducive to the development of spa cities and surrounding areas is possible through the use of existing assets and their transformation into innovative, attractive and competitive touristic products stimulating development and competitiveness.

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- Data refer to the 2010 state budget for education according the Albania Review of Human Resources Development, ETF 2010, p 25.
- Kosovo country data compiled based on source: (1)Kosovo Education Strategic Plan 2011-2016, Republika e Kosovës, Ministria e Arsimit Shkencës dhe Teknologjisë; (2)Torino Process 2010, Kosovo under UNSCR 1224, ETF.*
- Source; Kosovo Education Strategic Plan 2011-2016*

State of the art of VET systems in Albania and Kosovo - Observations and Comparisons

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Abstract

Like many other countries in the world, South East European and Balkan countries are experiencing a changing economic and social context, tinged by the effects of globalization, that includes rapid technological change, economic interdependence, a move towards free market economies, international migration movements, increasing calls for public accountability, and aspirations to active citizenship. More than ever, VET systems are expected to fulfill a dual role in supporting sustainable development. Their economic role is to support growth and competitiveness by providing relevant and high-quality skills; their social role is to contribute to inclusive societies by educating young people and enabling adults to gain additional skills, and by providing them with the key competences and values needed to ensure their employability and active citizenship. The countries selected to be introduced in this document are Albania and Kosovo. We will have a close look in their socio-economic and political backgrounds by sketching their dynamics, good practices as well weaknesses and challenges, priorities and future aspirations. They have both similarities, common aspect and correlations with each other, as well as specific contexts, individual features and differences. For example Albania is a post-communist country and similarities are to be found in terms of former centralization and planned economies with a former Yugoslav country like Kosovo. The last one is consider post-conflict country and despite that, has also inherited several common features from the previous common system yet particular in its national backgrounds. Albania is a candidate country for EU accession, Kosovo have submitted its official request to become such. The common walk that both countries have done or will still do towards the EU Integration and their efforts for enhancing the role and effectiveness of VET remains the main subject unifying them.

1. EU policies and objectives on VET

1.1 VET emerging in the context of European Community

Historian Hermann Heimpel claims that what makes Europe so European is that its history, is the history of nations. However, this perception of nations as the building blocks of European history acknowledges that they not only established themselves during their gradual development processes but also depended on their relationships with one another as productive partners and competitors (Zernack, 1994; p. 17).

The most influential factor governing the genesis of vocational training systems for the working masses is undoubtedly the Industrial Revolution or the general industrialization of the European nations. It not only triggered far-reaching economic and technological change, but also profoundly altered the structure of society, social interaction, lifestyles, political systems, types of settlement and landscapes¹.

Education systems are as varied as the histories of European States. They have inscribed within them the various different paths to modernization taken by the different States. Most significantly, it is the divergences in national labor markets and forms of labor-market regulation that ensure the continuing particularity of education and training systems. Each of the

¹ Cedefop publication: Towards a history of vocational education and training (VET) in Europe in a comparative perspective. Volume I - The rise of national VET systems in a comparative perspective Proceedings of the first international conference October 2002, Florence. p 17.

national systems remains unique. 'But at the same time they show distinct regional affinities, most notably in the German-speaking States, Mediterranean States and Nordic States.

In Western Europe the emergence of EC/EU social policies has had further consequences for VET in Member States, while, at the same time, existing education and training systems have presumably influenced the shaping of EC/EU policies.

First provisions on vocational training in Europe are to be seen in the Treaty establishing the European Coal and Steel Community (ECSC), signed 1951. Later on in 1957 the Treaty of Rome paved the road to greater developments of VET policies in the united Europe. The next section provides a more thorough look on these developments.

1.2 Policy overview of VET in the European Union¹

Treaty of Rome (1957)

This treaty established the European Economic Community (EEC). Although the six Member States acknowledged that a common VET policy would contribute to harmonious development of national economies and the common market, it was only in 1963 that the European Council laid down how it wanted to reach this common policy. They then established the *Advisory Committee for Vocational Education* (ACVT), in which the social partners obtained a special role.

Until the mid-eighties, VET policy was limited to a series of non-binding resolutions. The *European Centre for the Development of Vocational Education* (CEDEFOP), however, was created in 1975 to promote the exchange of information and the mutual comparison of training standards. In addition, a series of promotion programs were launched: COMETT, ERASMUS, PETRA I and II, LINGUA, FORCE, EUROTECNET, and Helios I and II.

Treaty of Maastricht (1993)

In 1993, the now twelve Member States signed the *Treaty of Maastricht*. Concerning the policy the consequences of the Treaty was the application of the principle of subsidiarity to European VET: This principle means that action at EU level will be taken only if it is more effective than taking it at national, regional or local level. Each Member State is still responsible for the organization and the content of its own VET. Hence the European VET policy is of a supportive nature. The 1995 Commission White Paper: 'Teaching and learning – towards the learning society' specifies this. To turn policy into action, funds became available through the Leonardo da Vinci I (1995 – 1999) and II (2000 – 2006) programs for VET.

The Bologna Declaration (1999)

Twenty-nine countries confirmed in Bologna their willingness to strive towards a European space for higher education. The most important undertakings are that every country commits itself to basing its higher education on the bachelor's-master's system, transparency and the start of the introduction of a system of quality assurance.

The Lisbon Strategy (2000)

The next important milestone was reached in Lisbon. European leaders – the EU now had fifteen Member States – expressed their ambition to make Europe the most dynamic and competitive region in the world. To achieve this requires a well-educated and highly versatile labor force. Knowledge is evolving at an increasingly rapid pace, and people must keep up with this evolution throughout their lifetimes. To reach their goals, European leaders decided to apply the open method of coordination. This approach gives more leeway to European leaders to take their own initiatives and to achieve the objectives at an unequal pace.

¹ Section 1.2 compiled based on sources: www.ec.europa.eu; www.cedefop.europa.eu Lipinska, Patrycja, Schmid, Eleonora, Tessaring, Manfred, Zooming in on 2010 – Reassessing vocational education and training, Cedefop.

The open method of coordination consists of four elements:

- to formulate guidelines for medium and long-term objectives;
- to fix qualitative and quantitative indicators and benchmark topics;
- to translate common guidelines into national policy objectives;
- to assess activities periodically as a mutual learning process.

Important results achieved since 2002:

- Europass: a single framework for transparency of qualifications and competences. The *European Qualifications Framework* (EQF) was adopted by the European Parliament and Council on 23 April 2008. The EQF will relate different national qualifications systems to a common European reference framework. The EQF will cover all educational sectors, general and vocational, and all education sectors. Most European countries are developing or revising their qualifications frameworks to be compatible with the EQF.
- In April 2008, a Commission proposal for a Recommendation on a *European Credit System for VET* (ECVET) was adopted. This system will facilitate the recognition of knowledge, skills and competences gained by individuals in different learning environments or through periods of VET abroad.
- In April 2008 a Commission proposal for a Recommendation on a *European Quality Assurance Reference Framework* was adopted. It is designed to support Member States to promote and monitor quality improvement in VET. It provides a common basis for further development of quality principles, reference criteria and indicators.
- Council Resolution on strengthening policies, systems and practices in the field of guidance throughout life, which brings a coherent approach to this topic across education and training sectors at Community and national levels.
- Council Conclusion on the identification and validation of non-formal and informal learning endorse a set of common European principles to help develop confidence and trust in this rapidly emerging sector.

As well as a means to drive the Lisbon agenda forward, VET policies are affected by the socioeconomic challenges Member States encounter in their attempt to increase Europe's competitiveness worldwide. Significant demographic change with serious impact on social cohesion, sectorial changes, fast-evolving technologies, globalized production and distribution processes constitute some of these challenges that call Europe for immediate action.

2. VET systems in Albania and Kosovo

1.1 Albania

Profile

Capital: Tirana
 Population: 3.194.417 (2009 – INSTAT Albania)
 GDP per Capita PPP: 8.373 (2009 - World Bank - WDI database)
 Employment rate 15+, Total %: 46 (2009 – ILO, Kilm database- Trends Estimation Model (TEM))
 Youth employment rate 15-24, Total (%): 32.7 (2009 - ILO - Kilm database- TEM)
 Compulsory education: 9 years
 Gross enrolment ratio in secondary education (%): 72.36 (2009 - UNESCO)
 Vocational and Technical education in upper secondary (ISCED 3) (%): 16.31 (2009 - UNESCO)
 Students/Teachers ratio in secondary (%): 14.66 (2009 - UNESCO)
 Enrolment in technical/vocational programmes:
 Vocational training as % of upper secondary enrolment: 15%

Socio-economic context

Albania lies in Southeast Europe situated in the western part of Balkan Peninsula bordering Ionian and Adriatic Sea on the south and west, Greece, FYROM, Montenegro and Kosovo.

After experiencing 45 years of isolation, political repression and poor economic development under the communist regime, the country is currently struggling with the long transition process of overcoming the past and building a new and stable democratic system. During the past 19 years of democracy, Albania has experienced large political, institutional and socio-economic changes.

Albania is a demographically young and ethnically homogeneous country. Albania is demographically one of the youngest countries in Europe as a result of its relatively high birth rate. However, Albania's population has been declining steadily since 1990 and stood at 3.19 inhabitants in 2010 (INSTAT). According the same official source life expectancy is 76.6 years and the current average population age is 32.2 years. Unemployment rate is officially estimated 13.52% (2010) although other reliable sources such as ILO-KILM 2008 estimations indicate 22.7% unemployment rate in Albania¹ which is quite above compared to EU average (7%). According to the same source, Albania shows high activity rate (59%) and good women employment rate (34.4%) compared to other countries in the region but this is mainly due to the large agriculture activity in the country (58% of the Albanians employed in the agricultural sector).

The capital Tirana, is the country's largest city, with close to 800.199 inhabitants in 2009 (ibid) more than three times as many as in 1990 (250.000). Compared to other countries in the Western Balkan region, Albania is ethnically relatively homogeneous, with 95% of the population being Albanians. The rest are Greeks, (3%), and Aromanians (Vlachs), Roma, Serbs and Macedonians, who together account for the remaining 2%².

Official estimations of the Albanian Ministry of Labour Social Affairs and Equal Opportunities (MoLSAEO),³ state that since 1990 around 1.1 million Albanians have emigrated out of the country on a either temporary or permanent basis. The reasons for migration often include poverty, the lack of jobs, low income and poor working conditions in Albania, as well as political instability linked to lack of prospect for rapid positive improvements of the living conditions in the country. Emigrants tend to be young, male and better educated (IOM and Government of Albania, 2008). Preferred migration destinations include Greece (50%) and Italy (25%) because of their proximity and traditional cultural links, as well as the USA, UK and other European countries (25%). Besides considerable external migration flows, there have been high levels of internal migration. People migrate from the poor mountainous or rural areas in the northern or northeastern part of Albania to the capital and coastal areas, primarily Tirana and Durrës. Internal migration affects males and females alike (Dragoti, 2008⁴). Brain drain is another concern of Albanian government(s) during the past years. It is estimated that around 20% of Albanians, who have attained tertiary education have left the country.

The Albanian economy is based on free initiative and per capita incomes today are almost twenty times higher, than they were in 1992⁵. Since 1990 Albania has managed to achieve remarkable levels of economic growth. With a GDP per capita of EUR 2.785 (estimate for 2008), Albania acquired lower-middle-income country status. Officially estimated real GDP growth rates averaged 7% a year during the period 1998–2008, the highest in the region. Migrants' remittances are an important contribution to the economy, making up around 9% of GDP (Bank of Albania, 2010) which is well decreased compared to earlier years due to global crisis. Foreign direct investments (FDIs) have been at moderate levels for a long time, reflecting relatively low levels of integration into the global economy. However, the past few years have seen a

¹ ETF- Human Capital and Employability in the 14 countries of the Union for the Mediteraneaen, Informal background paper to the Union for the Mediterranean – Euromed Employment and Labour High level Working Group Meeting, Brussels 26-27 November 2008, P 14

² Albania Review of Human Resources Development, ETF 2010, p 15.

³ National Strategy of Migration 2005-2010, Strategy of Reintegration of Returned Albanian Citizens 2010-2015

⁴ Albania Review of Human Resources Development, ETF 2010, p 15

⁵ Albanian National Strategy for Development and Integration 2007-2013, p 9, March 2008.

considerable change in this respect. In 2007 the level of FDIs was 6.2% of GDP, around 88% higher than in 2005 (Ruli, 2008). This was mainly as a result of government efforts to continuously improve the business climate, the privatization of public enterprises, the extension of public–private partnerships and the implementation of the “Albania 1 Euro” initiative. The interest of foreign investors has increased, primarily in the areas of energy, mining, banking, tourism and infrastructure (Council of Ministers, Republic of Albania, 2008).

Albania is a member of several United Nations and European Organisms¹ and since 2009 member of NATO. Albania's biggest aspiration for the future is its full integration in the European Union. This is an ongoing process and relationship between Albania and the EU marked by extensive cooperation and support given by the EU in different sectors. Albania is an official candidate for accession to the European Union since June 2014.

VET System

Public expenditure on education fell from 3.7% of GDP in 1996 to 2.5% in 2001 reaching an all-time low percentage (World Bank, 2006b). Since then it has been increasing once more, reaching 3.2% of GDP in 2005 and 3.5% in 2008. While this figure represents a major improvement, it is low compared to those for other fast-growing economies. It is also below the government's own target of 5% of GDP. Education as a percentage of the state budget declined from 11.4% in 2005 to 10.8% in 2008. Secondary VET receives the smallest share at 5.9%². Secondary education is severely underfunded, and this affects VET in particular, for which the budget made available does not reflect real costs. However, while the share allocated to general education has risen slightly over the past two years, the share for VET has again been reduced. Thus, the total budget allocated to VET in 2010 remained below the target planned in the Strategy for Pre-university Education 2008–13 (MoES, 2008b). Due to the financial and a complexity of reasons, VET clearly lacks attractiveness and appreciation. The rate of enrollment in VT education in the upper secondary according to 2009 UNESCO estimations is 16.31%.

Currently there are 41 VET schools operating in the country instead of 308 in 1990. This is explained by the lack of demand for vocational education after the change of the political system as well because of the large offer as well demand in attending higher education in Universities, particularly easily offered as an opportunity to the students by the newly flourished private universities in Albania during the past 7 years.

The Guiding philosophy of the VET Albanian system is still more driven to general education with no remarkable focus on employability and no systemic orientation to the labor market. The latter issue has however gained more discussions and awareness by local policy makers and actors in the past years, mostly agreeing that the better orientation to the labor market and the cooperation with the private business is of vital importance for the long run of VET in Albania. European standards, guidelines as well models play though a decisive role. The Albanian Qualification Framework in light of the EQF has already become part of the binding VET policies, though a concrete implementation has not taken place yet.

The Inputs influencing the VET are generally also not favorable factors for quality assurance of vocational education in Albania. VET Schools are in general poorly equipped, and teaching is mostly theoretical. Teacher entitled to offer practical training has usually only theoretical background and lack practical experience. Beside the many challenges of the vocational schools (Ministry of Education and Science) there is a sharp division in the institutional and functional basis while offering Vocational Training by the Vocational Training Centers (VTCs) under the responsibility of Ministry of Labor. In practical terms in the case of Albania there is no direct organization, linkage and cooperation among the two VET sub-sectors.

The Learning process is mainly school-based. Private enterprises have usually just a marginal function, in the best cases often only as providers of internships. Even these examples are fragmented and not systematically organized in all 41

¹ World Trade Organisation (WTO); South East Europe Cooperation Process; Organization for Co-operation and Security in Europe (OSCE), Council of Europe (COE).

² Data refer to the 2010 state budget for education according the Albania Review of Human Resources Development, ETF 2010, p 25.

schools. VET system is currently financed by the public funds only with no other parties contributing for or having a playing an important role in the system.

Outputs. Albania has the lowest level of VET participation in the upper-secondary education compared to other countries in the region of 16.31%. This is again an issue addressed and recognized by both local actors and international donors acting in the country.

The Albanian VET system clearly belongs to the category of the bureaucratic school model. As a synthesis of the above mentioned steps one cannot discuss about coherent and effective transfer of learning in the employment and labor market and **outcomes** generated by the system. The concept of Career Guidance is being piloted in selected VET school by contribution of German donor project and introduced in all compulsory education system. It is still young in its offspring and a clear system of career paths doesn't yet exist. Periodical tracer studies are lacking and therefore can't be brought based evidences on the employability of VET graduates. A tangible fact is that the role VET systems should in principle play as engine of greater economic and human resources development has still a long way to go in the case of Albania.

1.2 Kosovo

Profile¹

Capital: Prishtina
 Population: 1.8-2.2 Mio (official estimation)
 GDP per Capita PPP: 6.600 USD (2010 est.)
 Unemployment rate %: 45.4 (2010 Republic of Kosovo)
 Employment rate 15+, Total (%): 1805000 (2009 - World Bank - WDI database)
 Youth employment rate 15-24, Total (%): 23.2 (2009 - Republic of Kosovo)
 Compulsory education: 12 years
 Gross enrolment ratio in secondary education (%): not available
 Vocational and Technical education in upper secondary (ISCED 3) (%): 56 (2010 Republic of Kosovo)
 Students/Teachers ratio in secondary (%): 7.5 (2009 - Republic of Kosovo "Results of the labour force survey 2009")

Socio-economic context

Kosovo is situated in southeast Europe between Albania, FYROM, Serbia and Montenegro. Kosovo after the World War II was one the autonomous provinces of former federal Yugoslavia. After decades of struggling and war conflicts for gaining its independence, Kosovo is officially starting from 17th of February 2008 the newest independent state in Europe and wider.

According to official estimation of the Kosovo government, the total number of **population** is about 2.2 million, among ethnic Albanians comprise 88%, ethnic Serbs 7% and other ethnic groups 5% of the total population.

Kosovo has the youngest population in the region and a population that is growing faster than any other in Europe. Around 32% of Kosovo's population is under the age of 15, with only 6.5% over 65 years of age.

Kosovo has emerged from the **post-conflict and transition** phases, and its first efforts at nation building have focused on establishing its legal, regulatory and institutional frameworks. Its economy has managed only very modest growth; it continues to be uncompetitive (IMF, 2010). The informal ('grey') sector of the economy is a serious problem in Kosovo and represents up to 50% of the economy.

¹ Kosovo country data compiled based on source: (1)Kosovo Education Strategic Plan 2011-2016, Republika e Kosovës, Ministria e Arsimit Shkencës dhe Teknologjisë; (2)Torino Process 2010, Kosovo under UNSCR 1224, ETF.

Kosovo remains one of the **poorest country in Europe** with a GDP per capita of €1,760 (World Bank, 2010). Remittances and pensions from abroad, form a significant source of income for Kosovars in general, and Kosovo Albanians in particular.

Kosovo has one of the highest **unemployment** rates in southeastern Europe. According to Public Employment Service (PES) data, approximately 45.4% of the population is unemployed. The problem of unemployment in Kosovo is characterized by high rates among young people (for the age group 16-24), among women and very high levels of long-term unemployment and higher unemployment in rural than urban areas. Out of the total number of registered unemployed two thirds are considered as un-skilled and out of the remaining one third, half (approx. 60,000 job seekers) are considered semi-skilled or with out-dated skills which means with major skill deficits and skill mismatches.

The socio-economic and demographic background described above indicates several important issues related to human capital in Kosovo which have a big impact on education and employment policies and related expenditure throughout the system. In this context, the education and training system, labor supply and labor demand also require an appreciation of general economic growth patterns, changes in trade and investment, regional markets, the role of the informal economy, and the new nation's initial steps on the road to European Union membership.

VET System

In the last two years the Government of Kosovo, and particularly its Ministry of Education and Science and Technology (MEST), have taken major steps towards developing a unified education and training strategy, covering areas such as initial VET, adult education and non-formal education. A key initiative supporting systemic reform is the introduction of the sector-wide approach in the education sector and the drafting of the Comprehensive Strategy for Education 2011–2016¹.

VET in Republic of Kosovo serves a high proportion (56 %) of the upper secondary student population. This is seen as an opportunity to increase relevance and impact of the sector in the lives of young people. Even though not adequately represented in the public budget, it has received over one third (38%) of the total development partner support in education.

All upper secondary vocational education programs of the MEST are classed at ISCED Level 3. The Ministry, through the division of Vocational Education has under its auspices 57 vocational schools which are spread in 26 main towns of Kosovo, in 6 main regions.

The guiding philosophy of VET system in Kosovo and all the other relevant elements building the system such **as input, learning process** etc. are currently subject of major reforms and transformation. With respect to quality and attractiveness of VET the large school-based system with little interaction with the business world continues to be the norm. The quality and provision of professional skills is low. The attractiveness of the VET system to both individuals and enterprises is currently quite limited, owing to its 'bad' image and very limited resources and capacities.

Current reforms involve improved access for VET, integrating the new modular curricular system for all streams and profiles in schools, providing more coherence between market needs and profiles and streams offered in VET schools, the development of the *National Qualifications Framework (NQF)* in compliance with the European Qualifications Framework as well as accrediting and licensing VET training programmes progressing. Management capacity is being enhanced at all levels of VET with the intention to build a systematic approach to training of VET teachers.

Primary and secondary education in Kosovo is mainly public, though the participation of private education is growing. Public secondary education is financed by public funds transferred to the municipalities. At present the VET sub-sector has no specific budget line in the Ministry of Education budget. Good practices are already done in cooperation with donors for a significant number of students, whom has been given opportunity to carry out the practical part of their schooling in various production companies or services practical training. This co-operation is expected to increase further in the years to come.

¹ Source; Kosovo Education Strategic Plan 2011-2016

VET centers of competence are planned to be constructed/transformed as a key initiative to raise the attractiveness and prestige of VET.

As per its **output, transfer and outcomes** for individuals, VET currently does little to upgrade skills, support gainful employment, foster active citizenship and personal development, or promote equal opportunities on the labor market. For employers, critical skills mismatches and shortages hinder Kosovo's economic competitiveness.

Alongside these gaps, the lack of active involvement by social partners in the steering and management of the system remains a major issue for the VET system, even though some employers' organizations and trade unions occasionally take part in policy discussions. The reactivation of the CVET represents good, although insufficient, progress on this front.

Overall reforms are in progress, but Kosovar authorities themselves emphasize that there is still great scope for improvement. They are aware and admit also in the policy documents that the capacities and institutional culture of policy evaluation are not up to the declared strategic goals. Administrative capacity for policy making in the public institutions remains one of the most serious concerns weaknesses. The policy-making process is distorted even more in an environment, such as Kosovo's, in which there are many international donors and aid agencies, all of whom, though well-intentioned and committed, have their own views on what to reform in the given sector and how to do it.

We should not forget that Kosovo must be seen as a post-conflict transition country with aspirations to European integration. For decades the education and training system has experienced deep crises and post-conflict traumas, where the logic of planning first and then implementing evidence-based policies is displaced by the need to tackle urgent issues, such as getting students into schools, reducing shifts from three to two (and ideally to one) and ensuring that all students have textbooks.

As stated in the Kosovo Education Strategic Plan 2011-2016, consequently the process of policy making cannot be anything else but both rational and non-linear.

3. Observations, comparisons and conclusions

Both reviewed countries are affected by globalization, technological changes and recent economic crisis in particular. While demographic changes and population aging is already a European feature, countries like Kosovo sign the youngest and a fast growing population in Europe (only 6.5% over 65 years). This fact rises at the same time more concerns in terms of employment and risk for higher unemployment rates (especially for youth and women) which is quite high in Kosovo. Migration and brain drain is another phenomena affecting negatively the demography and the human resources in particular Albania.

From both countries it is evident that education particularly VET and better employment, are key determinants of social and economic development and social cohesion. Employability remains the key word for a healthy interaction between education and training systems and labor markets.

Technical vocational education and training (TVET ISCED 3) exists in both countries, the levels of participation vary: Kosovo have a good to high enrolment in TVET, while Albania has the lowest enrolment in the region (16%). The link between TVET and the labor market is also very weak in Albania. In any way Albania seem to have the lack of attractiveness and of good image for VET linked to its prestige and quality. Many VET students especially in Albania continue to higher education after being graduated in a VET school.

Both countries in their national policies, express high ambitions for the role of vocational education and training, in supporting growth and employment. They both have made and are still doing efforts to reform the VET system, to adapt

governance models, modernize qualifications and curricula, create professional institutions to support the change processes and, and have a better and systemic link with the private sector.

However, these reforms have not yet had a large-scale impact on the quality of VET. Both Albania and Kosovo are plagued by limited budgets and weak institutional capacities that leave public education sector unable to guarantee quality and sustainability particularly in VET system, and confront the shared challenges of high youth unemployment, large informal sectors and the global economic crisis.

Career guidance is weak in terms of coverage and systematic approach throughout Albania and Kosovo. In both countries, despite the different starts and stages public opinion is that VET needs to be better aligned with the needs of learners and enterprises.

Continuing vocational training as a core element of adult learning still shows deep gaps and low percentages in particular in the western Balkan non EU countries. In general the main scope of reforms in has been secondary VET, with little consideration being given to post-secondary or higher VET.

Donor organizations have made important contributions to education reform including VET reform in both countries. EU is one of the most active donors in this sector considering the fact that both countries are pre-accession or candidate countries and EU assistance is an additional political incentive for alignment with the principles of EU policies Other together important contributors in the region are the World Bank, and bilateral organization including GIZ, KulturKontakt, Swisscontact, USAID, CIDA etc.

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Gender Equity at Work and the Role of the Legal Factors in Albania

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Abstract

Gender equity in general, and gender equity in the context of work and work relations, has been and remains an important issue, which is sensitive and open for debate. For many scholars the gender equity is the product of social nature factors and those of economic nature. There are also many scholars who associate the degree of gender equity to the role of national or international legal factors, which consist in the role of instruments, actors, and legal institutions. What could explain the upward-downward dynamics of Gender Equity at Work (GEW) observed in Albania? The extent at which the legal factors have determined the dynamics of GEW in Albania reflects the role and degree of influence of the legal instruments, the legislative, the executive, and judiciary. What we observed in the case of Albania are two realities: 1) the availability of the necessary tools guaranteeing the GEW and 2) the active role of the legislature, the judiciary and the executive. This paper analyzes the role of instruments, legislative laws, acts of the executive, and the judiciary decisions for the period 2006-2014, and it concludes that although legal factors have a positive impact in guaranteeing GEW, the latter and its upward-downward trends in Albania, more than with the role and influence of legal factors can and should be explained with the role and influence of social and cultural factors. Gender equity at work in Albania, more than a matter of instruments, laws of the legislative, acts of the executive, or judicial decisions, it remains at a considerable degree a matter of culture and behavior of the individual on a personal level, of the social group, or that of the state institutions.

Keywords: Gender equity at work, the legislative, the executive, the judiciary

INTRODUCTION

Gender equity in general, and gender equity in the context of work and work relations, has been and remains an important issue, which is sensitive and open for debate. Problems in gender relations and respect for gender equity are observed in a number of countries.¹ However, what distinguishes these countries are the differences in the level as well as tendency over time. World Economic Forum (WEF) measures the level and tendencies of gender equity in two ways: 1) as a combination of fields of economy, education, health, and political representation, and 2) according to a specific field².

Although in the time period 2006-2014 Albania shows an **increase** of the CGE level³, when it is compared with other countries of the world, its **performance** results to be weaker, which is shown in its ranking.⁴ However, when analyzing performance data of Albania for GEW the dynamic appears to be even more problematic. In 2014, Albania reflected not only a low level of GEW compared to 2006,⁵ but also a poorer performance compared with many other countries.⁶ In this paper gender equity measured in the four areas mentioned above as a single coefficient will be known as the Combined

¹ The latest report of the World Economic Forum (WEF), presented in 2014, observed Gender Equity in 142 countries.

² See World Economic Forum 2006-2014 Reports by Ricardo Hausmann, Laura D. Tyson, Yasmina Bekhouche, and Saadia Zahidi.

³ In 2006, the coefficient of the CGE in Albania was 0.6607 and in 2014 it was 0.6870. So, Albania has a slight improvement the CGE level with +0.0263, or 3.98%.

⁴ In 2006, among the 115 countries surveyed, Albania was ranked the 61st and left behind 47% of the countries, while in 2014, among the 142 countries surveyed, Albania was ranked the 83rd and left behind 42% of the countries observed. This shows that Albania has performed worse than at least 5% of countries observed which had had a low coefficient of the CGE before.

⁵ In 2006 the coefficient of GEW in Albania was 0.6610, whereas in 2014 it was 0.6530. thus Albania reflects a decline, though a slight one, of the CGE with -0.0080, or 1.21%.

⁶ In 2006, among the 115 countries surveyed Albania was ranked the 38th and left behind 67% of the countries, while in 2014, among 142 countries surveyed Albania was ranked the 78th and left behind only 45% of the countries surveyed. Thus, Albania's performance was weaker than at least 22% of the surveyed countries which previously had a bad coefficient of the GEW compared to that of Albania.

Gender Equity (CGE), while gender equity measured in terms of employment and labor relations will be known as Gender Equity at Work (GEW).

Based not only on the level and tendencies that were observed in the case of GEW and not only when analyzed as a separate area but also when compared with CGE, two questions can be raised about GEW. What could explain the dynamics that characterizes GEW, both as level or as tendency? What could explain the significant increase of the observed GEW -whether in the period of 2008-2011, or in 2014? What about the significant decline seen in the period 2011-2013, what can explain it? To what extent can either the decline or increase of GEW be explained with the role of the legal factors?

These questions are the focus of this paper which analyzes the GEW dynamics in Albania from a legal perspective. This paper is structured in the following way. The next section analyzes gender equity at work the role, and influence of the legal instruments in Albania. The second section analyzes the facts observed in the Albanian reality in the periods 2008-2011 and 2011-2013. The analysis aims at shedding light on the degree of the responsibility of the legal factors in Albania for the upward and downward dynamics observed with regard to GEW. This paper closes with conclusions. Based on the analysis of concrete cases related to GEW, the conclusions will provide an explanation whether the observed dynamics should be attributed to legal factors or other factors.

A brief overview of the literature.

Many researchers, despite their perspective of the analysis, consider gender equity very important because of its impact. From a social standpoint, gender equity affects the quality of life of people, the state of social welfare, health insurance, the capacity of the state to provide social assistance, or human capital,¹ and from an economic perspective, it affects the quality of human resources, labor cost, business development, or relations with customers.² Gender equity in the private sector affects the recruitment of talent,³ business performance, or quality of customer service,⁴ while in the context of work, it affects economic growth, worker productivity, human resources, business development, tax revenues to the state budget, or the social security system.⁵

There are also many scholars who associate the degree of gender equity to the role of national or international legal factors, which consist in the role of instruments, actors, and legal institutions. At the international level, legal instruments include

¹ Karen Kraal, John Wrench, Judith Roosblad and Patrick Simon (2009), "The ideal of equal opportunities and the practice of unequal chances," pp.10-11, in Karen Kraal, Judith Roosblad, and John Wrench (eds) (2009), *Equal Opportunities and Ethnic Inequality in European Labor Markets: Discrimination, Gender, and Policies of Diversity*, Amsterdam University Press.

² Lewis, S. and J. Lewis (1996). *The work-family challenge*. London: Sage Publications; Brekel, C. van den, M. van Klaveren and K. Tijdens. (1999), *The Absence of Women in the ICT-sector*.

³ Hsieh, C. T., E. Hurst, C. I. Jones, and P. J. Klenow (2012), *The allocation of talent and US economic growth*, unpublished manuscript.

⁴ Carter, D., B. Simkins, and G. Simpson (2003), "Corporate governance, board diversity, and firm value," *Financial Review*, Vol. 38, No. 1, pp. 33-53; McKinsey and Company (2008), "A business case for women," *McKinsey Quarterly*, September; Adams, R. B. and D.

Ferreira (2009), "Women in the boardroom and their impact on governance and performance," *Journal of Financial Economics*, Vol. 94, No. 2, pp. 291-309; Terjesen, S., R. Sealy and V. Singh (2009), "Women directors on corporate boards: A review and research agenda," *Corporate Governance: An International Review*, Vol. 17, No. 3, pp. 320-337; Adams, R. B. and P. Funk (2009), "Beyond the glass ceiling: Does gender matter?", *UPF Working Paper Series, ECGI – Finance Working Paper*, No. 273/2010 European Corporate Governance Institute, Brussels, available at <http://ssrn.com/abstract=1475151>; Dezsó, C. L. and D. G. Ross (2011), "Does female representation in top management improve firm performance? A panel data investigation," *Robert H. Smith School Research Paper*, No. RHS06-104, available at <http://ssrn.com/abstract=1088182>; Nielsen, S. and M. Huse (2010), "The contribution of women on boards of directors: Going beyond the surface," *Corporate Governance: An International Review*, Vol. 18, No. 2, pp. 136-148.

⁵ Karen Kraal, John Wrench, Judith Roosblad and Patrick Simon (2009), "The ideal of equal opportunities and the practice of unequal chances," p. 24 in Karen Kraal, Judith Roosblad, and John Wrench (eds) (2009) *Equal Opportunities and Ethnic Inequality in European Labor Markets: Discrimination, Gender, and Policies of Diversity*, Amsterdam University Press.

the treaties,¹ conventions,² norms, statements and recommendations,³ while actors and institutions include international courts and organizations, international committees and commissions, and national states members of international organizations.⁴ In a national level, legal instruments include the constitution, national laws, codes, and governmental policies,⁵ whereas actors and institutions include the legislative and parliamentary commissions, the executive and public agencies, as well as the judicial system represented by the courts and the judges.⁶ Those researchers who highlight the role of the legal factors, attribute the positive impact and the contribute in the improvement and increase of gender equity to such factors.⁷ There are researchers who give precedence to the international instruments,⁸ because they see them as a reference point for the states in formulating their national instruments. Other researchers emphasize the role of actors, giving priority especially to the national actors, and specifically to the legislative,⁹ as the role and impact of international instruments is likely to be greater when national states reflect them in the changes that the national parliament makes in the legislation on gender equity, compared to cases when the national states do not express the will to change legislation. There are also some who bind the effect of legal factors on gender equity with the clear or unclear definition of gender equity standards,¹⁰ the reflection of these standards in national instruments, the acceptance or lack of acceptance of the gender equity standards from the national actors,¹¹ respect or lack of respect for these standards by the national actors, as

¹ Emilie M Hafner-Burton and Kiyoteru Tsutsui (2007), "Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most," *Journal of Peace Research*, Vol. 44, pp. 407-425.

² Suzanne Zwingel (2005), *How do international women's rights norms become effective in domestic contexts? An analysis of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, Doctoral Dissertation, Ruhr-University Bochum, <http://www.brs.ub.ruhr-nibochum.de/netathtml/HSS/Diss/ZwingelSusanne/diss.pdf>; Beth A. Simmons (2009), *Mobilizing for Human Rights*, Cambridge: Cambridge University Press; Andrew C. Byrnes and Marsha Freeman (2012), "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, p. 5.

³ Liu Dongxiao and Elizabeth Heger Boyle (2001), "Making the Case: The Women's Convention and Equal Employment Opportunity in Japan" *International Journal of Comparative Sociology*, Vol. 42, pp. 389-404; Petrice R. Flowers (2009), "Gender Equity and Women's Employment," Chapter 4, pp. 69-112, in *Refugees, Women and Weapons: International Norm Adoption and Compliance in Japan*, Stanford: Stanford University Press.

⁴ International Law Association (2002), *Report of the Seventieth Conference*, New Delhi, pp. 507-555; International Law Association (2002), *Final report on the impact of the United Nations treaty bodies on the work of national courts and tribunals*; International Law Association (2004), *Report of the Seventy-First Conference*, Berlin, pp. 621-687; Emerton, Robyn. and Kristine Adams, Andrew Byrnes, Jane Connors (2001), *International Women's Rights Cases*, Routledge Cavendish; Andrew C. Byrnes and Marsha Freeman, "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, p. 1.

⁵ Ilana Landsberg-Lewis (eds.) (1998), *Bringing equity home: Implementing the convention on the elimination of all forms of discrimination against women*, CEDAW, UNDP for Women, New York; Visser, J., T. Wiltthagen, R. Beltzer and E. Koot-van der Putte (2004), "The Netherlands: from Atypicality to a Typicality", in S. Sciarra, P. Davies and M. Freedland (eds.), *Employment Policy and the Regulation of Part-time Work in the European Union, A Comparative Analysis*, Cambridge University Press, Cambridge, pp. 190-223.

⁶ Andrew C. Byrnes and Marsha Freeman, "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, p. 4; OECD (2012), Part I, Chapter 3, "Embedding gender equity in Public Policy," pp. 37-44, in *Closing the gender gap: Act now*, OECD, Paris, France.

⁷ Andrew C. Byrnes and Marsha Freeman, "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, p. 2.

⁸ Oona Hathaway (2002), "Do Human Rights Treaties Make a Difference?" *Yale Law Journal*, Vol. 112, p. 1935; Ryan Goodman and Derek Jinks (2003), "Measuring the Effects of Human Rights Treaties," *European Journal of International Law*, Vol. 14, pp. 171-183; Varun Gauri (2011), "The Cost of Complying with Human Rights Treaties: the Convention on the Rights of the Child and Basic Immunization," *Review of International Organizations*, Vol. 6, pp. 33-56; Andrew C. Byrnes and Marsha Freeman, "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, pp. 5-6.

⁹ Andrew C. Byrnes and Marsha Freeman, "The Impact of the CEDAW Convention: Paths to Equity," *UNSW Law Research*, Paper No. 2012-7, February 20, 2012, pp. 3-4.

¹⁰ Byrnes, Andrew (1997): "Human Rights Instruments," in pp. 50-55, in Andrew Byrnes, Jane Connors, and Lum Bik (eds), *Advancing the human rights of women: Using international human rights standards in domestic litigation*, the Centre for Comparative and Public Law, the University of Hong Kong; Goonesekere, Savitri (2000) "Gender-specific Norms and Standards," in *A right-based approach to realizing gender equity*, Paper, UN Division for the advancement of women;

¹¹ Flavia Agnes (1997), "The domestic application of international human rights norms relevant to women's human rights: Strategies of law reform in the Indian context," pp. 101-113, in Andrew Byrnes, Jane Connors, and Lum Bik (eds), *Advancing the human rights of women: Using international human rights standards in domestic litigation*, the Centre for Comparative and Public Law, the University of Hong Kong.

well as the implementation of decisions in cases of conflicts with gender character by the national institutions, the society in general, or by the specific segments and individuals.¹

This paper examines gender equity at work and its dynamics based on three indicators: 1) participation at work, 2) working positions, and 3) salary. Departing from the coefficient that the report of the World Economic Forum (WEF) attaches to the gender equity at work in Albania, the latter is characterized by an increase over the period of 2008-2011, a decline during the period of 2011-2013 and another increase in 2013-2014. The INSTAT data provide a more detailed picture of the dynamics of GEW in three measuring indicators. In the period of decline in 2011-2013, GEW regarding participation at work reflected deterioration either as level or as tendency. In 2013 the level of gender gap regarding participation at work exceeds 20%.² In the period of decline in 2011-2013, GEW in Albania in terms of the range of positions and sectors that employ women they appeared to be either stable or worsened. According to INSTAT data, men dominate over women not only from the number of positions and sectors occupied by them,³ but also in the percentage within a specific sector.⁴ This paper tries to see if the increasing or decreasing dynamics of the level of GEW that are observed in Albania in the periods of 2008-2011, 2011-2013, and 2013-2014, can be explained by the role of the internal Albanian legal factors. The extent at which the legal factors have determined the dynamics of GEW in Albania reflects the role and degree of influence of the legal instruments, the legislative, the executive, and judiciary. What we observed in the case of Albania are two realities: 1) the availability of the necessary tools guaranteeing the GEW and 2) the active role of the legislature, the judiciary and the executive.

1.1 Gender equity at work, the role, and influence of the legal instruments in Albania

Two facts are observed in the case of Albania. **Firstly**, that Albania possessed the national instruments that protect GEW even before 2006. Table 6 summarizes all national instruments, according to the legal hierarchy, available to the protection of gender equity at work.

TABLE 6 - National Instruments Available to GEW

Instrument	Articles that cover the GEW
The Constitution of the Republic of Albania	17, 18, 42, 43, 49, 54/1, 101, 131/a/f, 132, 134/g,
The Labor Code	105/a, 107, 141, 143, 144, 146/1, 202/2,
Administrative Procedure Code	116c, 117
Civil Procedure Code	31, 32, 36, 47, 153, 154, 610
Civil Code	608, 625

Secondly, we note that during the period 2006-2014, Albania has made efforts to approximate and match its instruments with international standards on a number of cases. **The first case** is the **Constitution** of the Republic of Albania. It reflects its tendency to be in line with the European Convention on Human Rights in its three articles. Article 17/2 evokes the ECHR giving it constitutional status in our domestic law. Article 18 establishes the principle of equity and non-discrimination,

¹ P.N. Bhagwati (1997), "Creating a judicial culture to promote the enforcement of women's human rights," pp. 20-26, in Andrew Byrnes, Jane Connors, and Lum Bik (eds), *Advancing the human rights of women: Using international human rights standards in domestic litigation*, the Centre for Comparative and Public Law, the University of Hong Kong.

² In 2013, participation of women at work is 50.1% compared to 70.2% of men, thus -20.1%. See Institute of Statistics in Albania (2014), "Active Economic Population," p. 61, in *Women and Men in Albania*, INSTAT, Albania.

³ Women are mainly employed in the public health and education, or in the private sector of agriculture and are almost inconsiderable percentage in the sectors of construction, transport, or telecommunications. See Statistical Institute of Albania (2014), "Employment structure by gender and economic activity" p. 72 *Women and Men in Albania*, INSTAT, Albania.

⁴ In specific sectors, the gender gap is higher, in the Construction and Transport in which men occupy 97.3% and women occupy 2.7%, or differently, women have a difference of -94.7% with men; in Telecommunications, where men occupied 80.5% and 19.5% women, or differently, women have a difference of -61% with men; in education, where women occupy 68.2% and men 31.8%, women dominate the sector therefore with + 36.4%, and in Health Care, where women occupy 72.4% and men 27.6%, women dominate the sector with + 44.8%. See Statistical Institute of Albania (2014), "Employment structure by gender and economic activity" p. 72 in *Women and Men in Albania*, INSTAT, Albania.

determining that "everyone is equal before the law, and no one can be discriminated for such reasons as gender, race, ethnicity, political opinions, religious or philosophical beliefs, economic, educational, social or parentage." While, Article 116 stipulates the prevalence of the international law ratified by the Republic of Albania on domestic laws.

The second case of approximation with the standards of international instruments is the **Labor Code** of the Republic of Albania. Approved by Law 7961, on 12 July 1995, it is based on respect for international standards of labor law protecting the rights and freedom of the parties and two changes were made: Law Nr.8085, on 12 March 1996 and Law no. 9125, on 29 July 2003. Article 9 determines the prohibition of any discrimination in employment. Article 146/2 stipulates the right of the employee to sue the employer if the contract is terminated without reasonable cause but the employer is released from the burden of proof in order to prove discrimination only if it was proven the exemption based on gender, race, religion, ethnicity, language, political beliefs, economic status, as well as the social, educational status and parentage. There have been several attempts to improve the approximation of the Labor Code with the standards of international instruments. Another attempt is the Albanian Constitutional Court in 2007.¹ In parallel opinion of the decision, expressed by member Fehmi Abdiu, it was suggested that Article 146 of the Labor Code be aligned with EU legislation.² Alignment has to do with the issue of burden of proof for discrimination and specifies three things: 1) that the employee who claims discrimination is not obliged to prove discrimination, but only to provide the court the necessary doubt that discrimination has occurred, 2) if the employer cannot prove his absence, the court must decide in favor of the employee, and 3) that after presumption for discrimination by the employee, the employer is to prove that the employee has not been discriminated. Therefore, the employer has the burden of proof and the employee only needs to create the necessary doubt to the judge that there was discrimination without being obliged to prove it.

Other attempts to approximate are the recommendations of the Commissioner for Protection from Discrimination in 2012 for some changes in the Labor Code.³ In the recommendations three suggestions were made: 1) to reformulate the concept of "discrimination" adding causes of discrimination, including sexual orientation and gender identity, according to Law 10221/2010 "On protection from discrimination"; 2) to include other forms of discrimination as "instruction to discriminate", "concern", "victimization", "discrimination by association" and "denial of reasonable adjustment"; and 3) to prescribe the obligation of the employer to ensure equal employment.

The third case is that of the **Administrative Procedure Code**. Approved by Law no. 8485, in May 12, 1999, the Code establishes the principle of equity as one of the basic principles of the functioning of the public administration. Attempts for a new bill aimed at aligning it with EU standards and CEDAW. The Commissioner of Protection from Discrimination has offered three amendments:⁴ 1) definition of equity and non-discrimination as basic principles of activity of any public body; 2) harmonization of the causes of discrimination in Article 1 of Law no. 10-221, 4 February 2010, "On protection from discrimination;" and 3) regulating the burden of proof in discrimination cases in accordance with the EU directives and CEDAW. Referring to the EU Directive 97/80,⁵ to approximate the Code of Administrative Procedure with the *acquis communautaire* of the EU, the Commissioner has suggested removing the burden of proof for the plaintiff in the case of discrimination on grounds of sex and gender through a section that stipulates that in cases where the plaintiff presents evidence of discrimination, or presumes discrimination, the defendant is obligated to prove that the facts do not constitute discrimination. The Commissioner has suggested that in the case of administrative proceedings the burden of proof should go to the public administration body.

The fourth case is that of the **Civil Procedure Code of the Republic of Albania**. In Article 12 provides that the burden

¹ Constitutional Court of Albania, Decision No. 33, 12 September 2007, the case Joint Chambers of the Supreme Court vs. Assembly of the Republic of Albania and the Government of the Republic of Albania.

² European Commission, Directive nr. 78/2000, "On the creation of a regulatory frame for equal treatment in employment relationships."

³ Commissioner of protection against Discrimination, Letter Nr. 360, Prot, Dated on 14 Sep. 2012

⁴ Commissioner for Protection against Discrimination, Letter no. 692/1, 30 December 2013, the Ministry of Justice; Commissioner for Protection against Discrimination, Letter no. 894/1 Prot, 24 October 2014 addressed to Mr. Fatmir Xhafaj, Chairman of the Committee on Legal Affairs, Public Administration and Human Rights, near Parliament.

⁵ The Directive states that "Member States shall take such necessary measures, in accordance with their national legal systems, to ensure that, when persons who consider that he has become an unfair because of the failure of the principle of treatment equal, brought before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it will be the duty of the defendant to prove that there was no violation of the principle of equal treatment."

of proof for existence of irrational causes of settlement labor contract is left to the plaintiff.¹ In an effort to align the Code with the EU Directives on equal treatment and non-discrimination,² and based on the jurisprudence of the ECJ, the Commissioner has suggested an article which states that during a civil proceeding, the burden of proof is transferred from the plaintiff to the party sued for discrimination (defendant).³

Thus, the dynamics of the GEW are observed in relation to the instruments available to guarantee GEW what is seen is a contradiction between the level and trends of GEW in Albania and the range of instruments available to GEW. Although GEW protection instruments have existed before 2006 and during the period between 2006 to 2014 they were characterized by the tendency of expanding their range and approximation to the standards of international instruments, the GEW level, as it was recorded by the WEF, has been low and the general trend of GEW has been the decline if the level of GEW. Given the fact that the "instrument" factor generally displays a positive role and influence in favor of guaranteeing the GEW, what can be said is that apparently, the number of the instruments available to GEW has played no significant role in determining the level and trends that GEW has registered in Albania in the period of 2006-2014.

1.2. Gender equity at work, the role, and influence of the legislature in Albania

Even in the case of the legislative activity, expressed in laws that it adopted, two realities were noticed. **First**, the Albanian legislature has been active in enacting laws which include and cover, through specific sections, even the GEW problems, either before 2006 or during the period of 2006-2014. Table 7 summarizes the main laws approved by the legislative before and after 2006.

TABLE 7: LAWS OF GEW TO BE ADOPTED BY THE LEGISLATIVE

	LEGISLATIVE LAWS BEFORE 2006
1991, 08 August	Law no. 7510, "On the access of the Republic of Albania in the International Covenant on Civil and Political Rights"
1991, 08 August	Law no. 7511, "On the access of the Republic of Albania in the International Covenant on Economic, Social and Cultural Rights"
1993, 09 November	Law no. 7767, "On the access to the Convention 'on the Elimination of All Forms of Discrimination against Women'"
1996, 31 July	Law no. 8137, "On the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms"
2003, 17 April	Law no. 9052, "On the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women"
	LEGISLATIVE LAWS DURING 2006-2014
2008, 24 July	Law no. 9970 "On Gender Equity in Society"
2010, 04 February	Law no. 10-221, "Protection from Discrimination"

The second reality is the tendency observed in the Albanian legislature to legislate, which aligns GEW handling with the standards of international laws and instruments. Thus, all the laws issued before 2006, are formulated in accordance with the standards set by international pacts and conventions. Law No. 7510 reflects the standards of the International Convention on Civil and Political Rights,⁴ Law No. 7511 reflects the standards of the International Convention on Economic,

¹ Code of Civil Procedure, Article 12, stipulates: "The party that claims a right, has no obligation, in accordance with the law, to prove the facts on which he/she bases his/her claim."

² European Council Directive 97/80; European Parliament and European Council Directive 2006/54 / EC, 5 July 2006, "On the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation."

³ Commissioner for Protection against Discrimination, Letter no. 294, Prot 10 March 2014 to the Minister of Justice Nasip Naco.

⁴ From the ICCPR, the Albanian legislature has incorporated into its law Article 2 that establishes the obligation of States parties "to ensure that all citizens are subject to the protection of the rights provided for in this Convention without distinction of race, color, sex,

Social and Cultural Rights,¹ Law No. 7767 reflects the standards of CEDAW,² and Law No. 8137 reflects the standards of the European Convention for the Protection of Human Rights and Fundamental Freedoms.³

Even the laws enacted by the legislature in the period 2006-2014 devote the same attention to international standards, and their tendency is to be more in line with the spirit of the instruments and international laws. Law 9970 "On Gender Equity in Society" has taken into account the standards of CEDAW.⁴ The law that best expresses the tendency of the Albanian Legislature to legislate in accordance with the standards of instruments and international law is Law No. 10-221 "On Protection from Discrimination." This law guarantees the right of every person to equity before the law, protection of equity by the law, equity of opportunities and possibilities to exercise the individual rights and freedoms, provides protection and regulates the implementation and observance of the principle of equity in connection with an extensive list of causes, and also provides effective protection against discrimination.⁵ Above all, this law establishes the institution of the Commissioner for Protection from Discrimination (CPD).⁶ Its formulation and content was made in accordance with the standards of a number of international factors and documents: 1) in the European Convention of Human Rights,⁷ with CEDAW,⁸ with the standard and handling of ECHR,⁹ as well as with the acquis and the directives of EU.¹⁰

Considering the feature of the Albanian Legislature to legislate in accordance with the standards of international instruments, it seems contradictory that although laws enacted have favored the guarantee of GEW, the low level and the

language, belonging or regional political, ethnicity, social origin, property or birth status "and Article 26, which provides that" to all people are equal before the law, are entitled to the equal protection law without any discrimination, and the law shall prohibit any discrimination and guarantees for the whole, the equal and effective protection against any discrimination."

¹ By this pact, the Albanian legislature has agreed to incorporate in its law assertion that States Parties shall ensure that the economic, social and cultural rights enunciated in the present Covenant will be exercised without discrimination and awareness of some of the rights enshrined in the Convention such as the right to work, trade union rights, the right to social security, or the right to education.

² The Albanian Legislative has agreed to incorporate the law retains its attitude towards all forms, direct or indirect, discrimination and disrespect of gender equity and ensuring protection against them.

³ The Albanian Legislative has agreed to incorporate in its law recognition of the principle of non-discrimination, expressed in Article 14 that the "prohibition of discrimination", closely discrimination connection with the rights set out in the Articles of the Convention and Article 1 of Protocol No. 12 which prohibits discrimination in cases where a person is discriminated against in the enjoyment of any right or benefit under national legislation.

⁴ This law has incorporated the CEDAW settings for particular discrimination (Article 4) and the prohibition of discrimination on grounds of sex (Article 6). The law specifically provides Albanian state obligations in relation to gender equity in political representation and public life, representation at the national level, citizenship, trafficking and prostitution, equity in education, employment, health care and reproductive health, economic and social welfare, equity before law, and equity in marriage and family.

⁵ Article 1 provides specific causes which provides protection but also protection "for any other reason." Article states that "the law governing the application and observance of the principle of equity with regard to sex, race, color, ethnicity, language, gender identity, sexual orientation, political opinions, religious or philosophical beliefs, economic, educational or social, pregnancy, parentage, parental responsibility, age, family or marital, marital status, residence, health status, genetic predispositions, disability, belonging to a particular group, or for any other reason."

⁶ Commissioner for Protection against Discrimination qualified as a legal, public, independent person, responsible for protection from discrimination, and covers discrimination both in the public sector and the private one, such as in relation to groups and institutions as well as in relations among particular individuals.

⁷ The law incorporates all the causes listed in Article 14 of the ECHR as well as general comment 18 of the Committee of Human Rights for discrimination by considering non-discrimination, equity before the law and equal protection of the law without discrimination as core principles concerning the protection of human rights; and accepted that as a collaborative state, it will take positive measures to eliminate conditions that cause or foster discrimination prohibited by the Convention.

⁸ Article 3 of Law 10-221 "Protection against Discrimination" reflects the standards of CEDAW

⁹ Article 1 of Law 10-221 takes into account the relation between the definition given by Article 14 of ECHR about causes of discrimination and interpretation of discrimination by the ECHR as an expression of the differences that are based on a personal characteristic or what distinguishes a person or group of persons from others.

¹⁰ Four EU directives in the field of non-discrimination include: 1) Council Directive 2004/43 / EC, 29 June 2000, on "The implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin;" 2) of Council Directive 2000/78 / EC, 27 November 2000, to "define a general framework for equal treatment at work;" 3) Council Directive 2004/113 / EC, 13 December 2004, on "The implementation of the principle of equal treatment between men and women and the opportunity to be supplied with goods and services"; 4) Directive of the European Parliament and of the Council 2006/54 / EC, 5 July 2006, "On the implementation of the principle of equal opportunity and equal treatment of men and women in matters of employment and occupation" Direct expression of compliance of Law 10-221 with these directives is shifting the burden of proof from the employee to the employer in Article 36, point 6.

declining trends of the latter, however, do not display and reflect any positive impact from the role and influence of the Legislature.

1.3. Gender equity at work: the role, and influence of the executive in Albania

In the case of the Executive three observations apply. **First**, we observe a less active role compared to that of the legislature and the Albanian judiciary, either before or after 2006. The normative acts of the Council of Ministers are missing, or are very few in number. Before 2006, an Act of the Council of Ministers concerns the relationship at work is DCM no.360, dated 14 July 2000, "On release from civil service." This act establishes the circumstances of termination of employment for those working in the Civil Service and Public Administration. During the period 2006-2014, the next act of the Council of Ministers is the Normative Act No. 5, September 30, 2013, "On amendments to Law no. 152/2003, 'for civil servants. "And at that time the Council of Ministers has requested and approved by the Albanian Legislature Law no. 178, 18 December 2014, "On amendments and additions to Law no. 152/2013 "for civil servants."

Secondly, the acts and decisions of the Council of Ministers in their formulation are not characterized by the same concern for compliance with the standards of international instruments, as observed in the case of national instruments, the laws of the Legislature, or the decisions of the Albanian judiciary. Consequently, acts or laws initiated by the executive for approval by the parliament have not always been in the spirit of international instruments and standards. In 2014, the Constitutional Court decided, in Decision No. 5, dated 5 February 2014 to reject and abolished as incompatible with the Constitution and international standards the Normative Act no. 5 of Council of Ministers, dated 30 September 2013 "On Amendments to the Law Nr.152 / 2013 'On the Civil Servant' " as well as Law No. 161/2013 "On approval of the normative act No. 5, dated 30 September 2013 "On Amendments to the Law Nr.152 / 2013" 'On the civil servants' " initiated by the Council of Ministers and approved by the Legislature.¹

Thirdly, the very role and influence of the executive in relation to GEW appears to be problematic: Acts and Laws initiated by the Council of Ministers coincide with periods of decline of the GEW such as the Normative Act No. 5, as well as the Law approved by the parliament for this act, coincide with the period of 2011-2013 when the WEF has recorded and in Albania a low level and a decline trend of the of level of GEW.

Therefore, in the case of the activity of the executive, although the latter appears less active, it can be said that its role and its impact on the level and trends of the GEW in Albania may be considered either problematic or completely insensitive.

1.4 Gender equity at work: the role, and influence of the judiciary in Albania

Even in the case of the role and influence of the Albanian judiciary three realities can be observed. **The first** reality shows an active role of the judiciary during the period of 2006-2014 in judgment and decision-making process on cases with the object of work relations and gender equity at work. Table 8 lists the litigated cases in three periods: 2006 to 2010, when WEF records an increase of the level of GEW; 2011-2013 in which WEF records a decline of the GEW level; and for 2014, in which WEF records an increase in the GEW level, although the GEW level in 2014 does not exceed the level of GEW that WEF attaches to Albania in 2006.

TABLE 8: DISCRIMINATION CASES OF GEW JUDGED BY THE ALBANIAN JUDICIARY

Period 2006 - 2010 (characterized by increasing the level of GEW)			
2006, 12 December	Durres District Court	Decision no. 2918 - Trupja vs. Maritime Directorate	Work contract
2007, 12 September	Constitutional Court	Decision no. 33 - Joint College of the Supreme Court (JCSC) vs. Executive / Legislative	Equity before the Law

¹ Constitutional Court, decision No. 5, dated February 5th 2014, on the issue "36 deputies of the Albanian Parliament against the Council of Ministers of the Republic of Albania and the Republic of Albania Assembly. The Constitutional court of the Republic of Albania consisted of Bashkim Dedja (Chairman) and Vladimir Kristo Sokol Berberi, Altina Xhoxhaj, Fatmir Hoxha, Gani Dizdar, Besnik Imeraj Fatos Lulo, Vitore Tusha (members)

2007, 03 December	Court of Appeal Durres	Decision no. 540 - Trupja vs. Maritime Directorate	Work contract
2008, 21 January	Durres District Court	Order no. 36 - Trupja vs. Maritime Directorate	Enforcement of Decision
2008, 07 April	Bailiff Office in Durres	Request - Trupja vs. Maritime Directorate	Enforcement of Decision
2008, 21 April	Bailiff Office in Durres	Letter no. 864 - Trupja vs. Maritime Directorate	Enforcement of Decision
2008, 05 June	Durres District Court	Decision Nr.1714 - Sinani vs. UAMD	Work contract
2009, 22 April	The Court of Shkodër	Decision no. 1057 - Semanaj vs. the Department of Public Health of Malesia e Madhe	Work contract
2009, 16 July	Court of Appeal of Durres	Decision no. 305 - Sinani vs. UAMD	Work contract
2010, 11 January	Court of Appeal of Shkodra	Decision no. 5 - Semanaj vs. the Department of Public Health of Malesia e Madhe	Work contract
2010, 25 November	Civil Service Commission	Decision no. 127 - Paluka vs. the Ministry of Agriculture	Work contract
2010, 27 December	Bailiff Office in Durres	Letter no. 184/10 - Trupja vs. Maritime Directorate	Work contract
Period 2011 - 2013 (characterized by a decreased level of GEW)			
2011, 01March	Court of Appeal of Tirana	Decision no. 23 - Paluka vs. the Ministry of Agriculture	Work contract
2011, 24 March	Court of Appeal of Tirana	Decision No.28- Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 11 April	Bailiff Office in Tirana	Letter no. 4386- Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 16 May	Prosecution Durres	Denunciation - Trupja vs. Maritime Directorate	Enforcement of Decision
2011, 13 June	Bailiff Office in Tirana	Letter no. 6552- Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 13 June	Bailiff Office in Durres	Letter no. 09/118 - Trupja vs. Maritime Directorate	Enforcement of Decision
2011, 23 June	College of the Supreme Court	Decision no. 986- Paluka vs. the Ministry of Agriculture	Work contract
2011, 28 July	Bailiff Office in Tirana	Letter no. 8314- Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 25 August	Bailiff Office in Durres	Decision no. 09/118- Trupja vs. Maritime directorate	Enforcement of Decision
2012, 01 June	the Court of Tirana	Decision no. 3331 - Kastoria vs. Arts Academy	Work contract
2011, 08 September	Bailiff Office in Tirana	Letter no. 9224 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 30 September	Bailiff Office in Tirana	Letter no. 10335 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 03	Bailiff Office in Tirana	Letter no. 09/118 - Trupja vs. Maritime Directorate	Enforcement of

November			Decision
2011, 08 November	Treasury Branch of Tirana	Letter no. 3020 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2011, 07 December	Bailiff Office in Tirana	Letter no. 13096 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2012, 12 January	Bailiff Office in Durres	Decision no. 09/118- Trupja vs. Drejtoria Detare	Enforcement of Decision
2012, 18 January	Treasury Branch of Tirana	Letter no. 3440/2 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2012, 16 March	Bailiff Office in Tirana	Letter no. 2645 - Paluka vs. the Ministry of Agriculture	Enforcement of Decision
2012, 08 April	Bailiff Office in Tirana	Letter no. 3686 - Paluka vs. Ministry of Agriculture	Enforcement of Decision
2012, 23 May	Commissioner P.D	Decision no. 11 - S.C. vs. Harry Fultz School	Treatment at Work
2012, 25 May	College of the Supreme Court	Decision no. 1189 - Sinani vs. UAMD	Work contract
2012, 01 June	District Court of Tirana	Decision no. 3331 - Kastoria vs. Academy of Arts	Work contract
2012, 19 July	Constitutional Court	Decision no. 42 - Paluka vs. Ministry of Agriculture	Work contract
2012, 30 July	Commissioner P.D	Decision no. 13 - F.K. vs. Regional Directorate of Health Fier	Treatment at Work
2012, 08 November	Commissioner P.D	Decision no. 21 - F.K. vs. Regional Directorate of Health Fier	Enforcement of Decision
2012, 19 November	District Court of Shkodra	Decision no. 51 - Semanaj vs. the Department of Public Health of Malesia e Madhe	Work contract
2013, 20 February	Constitutional Court	Decision no. 4 - Trupja vs. Maritime Directorate	Work contract
2013, 04 June	District Court of Fier	Decision no. 1017 - F.K. vs. Regional Directorate of Health Fier	Salary / work position
2013, 18 October	Commissioner P.D	Decision no. 103 - Kosturi vs. Academy of Arts	Treatment at Work
2014 (characterized by increased level of GEW)			
2014, 01 June	Appeal Court of Tirana	Decision no. 3331 - Kastoria vs. Arts Academy	Work contract
2014, 05 February	Constitutional Court	Decision no. 5 - Deputies vs. Executive & legislative	Work contract
2014, 20 February	Appeal Court of Vlora	Decision no. 280 - F.K. vs. Regional Directorate of Health Fier	Salary / work position
2014, 30 October	Constitutional Court	Decision no. 2 - Sinani vs. UAMD	Work contract

The second reality tells about the decisions made by the Albanian judiciary, keeping account of the standards of international instruments and cases tried by international court. Even before 2006, the Albanian judiciary has addressed the issue of equity before the law in a number of practices and decisions of the Constitutional Court of Albania.¹ But during the period of 2006-2014, in the decisions of the Albanian judicial, are noticed a number of specific references to the

¹ Some decisions include: 1) Decision No. 11, 8/27/1993, 2) Decision no. 71, 2/12/1998, 3) Decision No. 16, 4/17/2000, 4) Decision no. 171, 30.7.2002, and 5) Decision no. 34, 12.20.2005. For more details about these decisions, see "Summary Decisions" pp. 1992-1997. 91; pp. 1997-1999. 206; 2000 p. 20; 2002 p.184; and 2005 p.289.

European Convention of Human Rights (ECHR), the European Court of Human Rights (ECHR), or the EU Directives. The most frequent references to the ECHR are those for Article 6 of the ECHR that stipulate the right to a fair hearing,¹ Article 13 of the ECHR that states the right to equal treatment in front of the law,² Article 14 of the ECHR that defines the circumstances that constitute discrimination,³ or Article 41 of EDHR that defines the right to a fair trial.⁴ Also, in the decisions of the Albanian Constitutional Court are observed references to the jurisprudence of the ECHR,⁵ as well as to the EU Directives for equal treatment.⁶

The third reality that was observed in cases of discrimination and GEW reviewed by Albanian courts reflects the following five features: 1) trial of the same case of discrimination on two or more levels of the Albanian judiciary, 2) accordance among courts of different levels on the decisions taken from them, 3) non-enforcement of the decisions of courts, 4) non-implementation of decisions and recommendations of the Commissioner for Protection from Discrimination, and 5) resolution of the conflict only by the decision of the Constitutional Court. Among the cases that reflect these features, four are the most typical ones: 1) The case of *Semanaj vs. the Department of Public Health of Malesia e Madhe*, 2) The case of *F.K vs. Regional Directorate of Health Fier*, 3) The case of *Paluka vs. the Ministry of Agriculture*, and 4) the case of the *Trupja vs. the Marine Department of the Port of Dures*.

In the case of *Semanaj vs. the Department of Public Health of Malesia e Madhe (DPHMM)* gender discrimination consists in the removal of Mrs. *Semanaj* on maternity leave, shortening of job position and termination of the contract and disrespect of the procedures and notification deadlines. The conflict was judged on two levels: the Court of First Instance of Shkodra and the Court of Appeal of Shkodra.⁷ The decisions of the two courts were in favor of Mrs. *Semanaj* declaring the termination of the employment contract to be invalid, and asking the DPHMM to return her to her former place of work, and asking salary compensation for Mrs. *Semanaj* for all the time since the termination of the contract. DPHMM did not enforce the decisions of the courts and in order to ensure the implementation of the decisions it was necessary the issuance of an order for the Bailiff Office of Shkodra. This institution took the necessary actions to urge the PHDMM to implement court decisions.⁸

In the case of *F.K. vs. the Regional Directorate of Health Fier (RDHF)*, it was about a direct gender discrimination and victimization. Mrs. *F.K.* initially was lowered in her position from "head of the sector" to "nurse", and was transferred from her previous place of work in another city, her salary was reduced by approximately 50%, and then she was completely dismissed from work. In her place was appointed a male person without the relevant education and experience for that position. The conflict was handled by the Commissioner for Protection from Discrimination,⁹ and the court of two levels:

¹ This article refers to the Constitutional Court decided in three decisions: 1) Decision no. 42, 19. 07. 2012 (*Paluka vs. Ministry of Agriculture*), 2) Decision no. 4, 20. 02. 2013 (*Trupja vs. Port of Dures*), and 3) Decision no. 2, 20. 10. 2014 (*Sinanaj vs. UAMD*).

² Reference to this article were made in court decisions three different levels: Shkoder Court, Decision no. 1057, 04/22. 2009 (*Semanaj v.s DPHMM*); The Court of Appeal Vlora, Decision 280, 20.02.2014 (*F.K vs. RDHF*), and the Constitutional Court, Decision no. 2, 20. 10. 2014 (*Sinanaj vs. UAMD*).

³ Reference to this article is observed in a great number of decisions and in all the judiciary levels, constitutional, court of appeal, court of first instance. The constitutional court refers in Decision 33, 12, 09, 2007 (Joint College of the Supreme Court (JCSC) vs. Executive & Legislative); Vlora Court of Appeal refers to Decision 280, 20. 02. 2014 (*F.K vs. RDHF*); Reference to this article observed in judicial decisions in the courts of first instance: Shkoder Court, Decision no. 1057, 22. 04. 2009 (*Semanaj vs. DPHMM*), and the Court of Fier, Decision no. 62, 04. 06. 2013 (*F.K vs. RDHF*). Reference to this article observed in two decisions of the Commissioner for Protection against Discrimination (CPD): 1) Decision 11, 23. 05. 2012 (*S.C vs. Harry Fultz School*), and 2) Decision no. 103, 18. 10. 2013 (*Kastoria vs. Arts Academy*).

⁴ This article referred to the Constitutional Court Decision no. 42, 19. 07. 2012 (*Paluka vs. MBMUK*).

⁵ Constitutional Court Decision 33, 12.09.2007 (Joint College of the Supreme Court [JCSC] vs. the Executive & Legislative).

⁶ Decision no. 33, 12.09.2007 (Joint College of the Supreme Court [JCSC] vs. the Executive & Legislative), Albania's Constitutional Court refers specifically to the EU Directive 78/2000 "On the establishment of a regulatory framework for equal treatment at work relations."

⁷ Decision no.1057, 22. 04. 2009, the Court of Shkodra, *Semanaj vs. Department of Public Health of the Great Highland*; Decision 5, 11. 01. 2010, the Appellate Court of Shkodra, *Semanaj vs. Department of Public Health of the Great Highland*.

⁸ Decision no.51, 19. 11. 2012, the District Court of Shkodra.

⁹ Decision no.13, 30. 07. 2012, the Commissioner for Protection from Discrimination, *FK vs. Regional Directorate of Health Fier*; Decision no. 21, 08. 11. 2012, the Commissioner for Protection from Discrimination, *FK vs. Regional Directorate of Health Fier*.

District Court of Fier, and the Court of Appeal of Vlora.¹ Both the Commissioner and the courts issued decisions in favor of F.K. They asked RDHF to return Mrs. F.K to work, back to her previous position as "Head of the Sector" and indemnify Mrs. F.K. for the period she was left without work. The Commissioner requested report within 30 days after the decision of the measures taken by RDHF. The latter did not implement any decision and for this reason RDHF was fined by the Commissioner with 60,000 new ALL.²

The case of Paluka vs. the Ministry of Agriculture, Nutrition and Consumer Protection (Ministry of Agriculture), was about gender discrimination and termination of labor relations with Mrs. Paluka without respecting the legal process. The conflict was judged by the Civil Service Commission³ and the Court in three levels: the Court of Appeals of Tirana,⁴ the Civil College of the Supreme Court⁵ and the Constitutional Court of Albania.⁶ Both the Civil Service Commission and the courts favored Mrs. Paluka. The Civil Service Commission changed the disciplinary measures given by the Ministry of Agriculture of "dismissal from work" to "written warning," and asked the Ministry of Agriculture to return Mrs. Paluka to her previous position and to compensate for the time left without work. Both the Court of Appeals in Tirana and the Civil College of the Supreme Court, made the same decision, as also did the Civil Service Commission, favoring Mrs. Paluka. The Ministry of Agriculture refused to enforce the decisions of the Commission and the Court. It opposed and prevented the execution of the orders of the Bailiff Office and those of the Treasury Branch of Tirana. The Bailiff Office of Tirana, during the period of 2011-2012, sent to the Ministry of Agriculture nine letters to give notice and also asked it to voluntarily enforce the decision,⁷ and also requested forced execution,⁸ enforcement of the executive title,⁹ and measures were taken for the execution of the decision.¹⁰ The Bailiff Office of Tirana also sent to the Treasury Branch of Tirana two letters, one for conservative seizure,¹¹ and another one for the measures taken by the Treasury.¹² The Treasury Branch Tirana, in both letters, informed Bailiff Office of Tirana to block the budget funds of the Ministry of Agriculture.¹³ Despite the court's decision and the actions of the Bailiff Office of Tirana and the Treasury Branch of Tirana, the Ministry of Agriculture refused to implement the decisions of the courts and to indemnify Mrs. Paluka according to the amount fixed by the courts. In an order addressed to the Treasury Branch of Tirana, the Ministry of Agriculture started conducting a monthly payment for the compensation of Mrs. Paluka, but it was several times lower than the amount ordered by the court.^{14/100} The Ministry of Agriculture is obligate to fully implement the decisions of the courts only after the decision of the Constitutional Court of

¹ Decision no. 1017, 04. 06. 2013 Fier District Court, FK vs. Regional Directorate of Health Fier; Decision no. 280, 20. 02. 2014, the Court of Appeal Vlora, F.K. vs. Regional Directorate of Health Fier.

² Decision no. 21, 08. 11. 2012, the Commissioner for Protection from Discrimination, F.K vs. Regional Directorate of Health Fier.

³ Decision no. 127, 25. 11. 2010, the Civil Service Commission, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture).

⁴ Decision no. 23, 01. 03. 2011, the Court of Appeals of Tirana, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture); Decision No.28, 24. 03. 2011, the Court of Appeals of Tirana, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture).

⁵ Decision no. 986, 23. 06. 2011, the Civil Division of the High Court, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture).

⁶ Decision no. 42, 19. 07. 2012, the Constitutional Court of Albania, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture).

⁷ Bailiff Office of Tirana, Requested the MAFCP for voluntary executions, Letter no. 4386, 11. 04. 2011.

⁸ Bailiff Office of Tirana, Request for the MAFCP for forced executions, letter no. 6552, 13. 06. 2011, letter no. 8314, 28. 07. 2011, Letter no. 2645, 16. 03. 2012.

⁹ Bailiff Office of Tirana, Requested the MAFCP for the execution of the executive title, Letter no. 8314, 28. 07. 2011, Letter no. 9224, 08. 09. 2011, Letter no. 10335, 30. 09. 2011.

¹⁰ Bailiff Office of Tirana, informing MAFCP to take measures to execute the executive title, Letter no. 2645, 16. 03. 2012, and Memo no. 3686, 08. 04. 2012.

¹¹ Bailiff Office of Tirana, Order for the Treasury Branch of Tirana for conservative seizure to the Ministry of Agriculture, Letter no. 13 096, 07. 12. 2011.

¹² Bailiff Office of Tirana, Tirana Treasury Branch, Request for information about the measures taken by the Treasury for execution, Letter no. 3686, 08. 04. 2012.

¹³ Treasury Branch of Tirana, Bailiff Office of Tirana blocking budgetary funds of the Ministry of Agriculture, Letter no. 3020, 08. 11. 2011, Letter no. 3440/2, 18. 01. 2012.

¹⁴ Ministry of Agriculture, Letter no. 125, 06. 03. 2012, the Treasury Branch Tirana, For payment of 10,000 new ALL per month to Mrs. Paluka.

Albania.^{1/101} The Constitutional Court, as well as the courts of lower levels, ruled in favor of Ms Paluka. Besides the obligation of the Ministry of Agriculture to implement the decisions of other courts, the Constitutional Court in its decision reminds the Ministry of Agriculture of the fact that state institutions are obliged to enforce the final judicial decisions and that this obligation derives directly from the Constitution. The state institutions cannot put into question the fairness of the final judicial decisions and they have to implement them. Also, the execution of the decisions cannot be extended indefinitely.

The issue of Trupja vs. Maritime Directorate in the Port of Durres, is about directly discrimination, contract termination and dismissal of Mrs. Trupja, and disrespect for both the legal process and the decisions of the courts. Also this conflict was judged by three degrees of judiciary: Durres District Court,² Court of Appeal of Durres,³ Albania's Constitutional courts.⁴ As the Court of First Instance, the Court of Appeal also took a decision in favor of Mrs. Trupja. They have asked the Maritime Administration to return Mrs. Trupja to work and be compensated by paying for the entire period of leave without work. During the period 2008-2012, the Maritime Directorate refused to implement the court order. It also denied its responsibilities and did not respond to six requests of the Bailiff Office of Durres for voluntary execution,⁵ for the legal obligations,⁶ for mandatory execution,⁷ fining for negligence to act,⁸ criminal charges,⁹ and seizure.¹⁰ The Marine Department implemented the court orders only after the decision of the Constitutional Court of Albania. The latter, in its decision, reminded the Maritime Directorate that the execution of a decision constitutes an essential element of the rule of law and the very notion of a fair trial. Every state body is obliged to take the appropriate measures for their implementation. Also, execution within a reasonable time of a final decision is part of the right to a fair hearing and only after the execution of the decision may the individual consider his right fully respected. Although delays in execution of a judgment may exist, delays cannot be to such an extent as to undermine the essence of the law. No citizen should wait indefinitely for the realization of a right recognized by a court decision. The execution of the decision represents a stage of the same process, thus the non-execution of a final decision by the Maritime Directorate was found inexcusable. Public or private authorities have an obligation for the implementation of the final court decisions. In this sense, the refusal of the Maritime Directorate to implement the order for execution of the court decisions for a period of 4 years and 10 months is totally unacceptable.

Some Conclusions

The GEW in Albania has been characterized not only by an increase but is whirling between growth and decline. Even in the late 2014 the GEW level results lower than in 2006. The question that emerges from this analysis then is: If the increase-decrease dynamics of the trends and levels in Albania cannot be explained with the role of the legal factors, more precisely, only with the role of the legislative instruments, the executive, or the Albanian judiciary, what can explain the increase-decrease dynamics of the GEW in Albania?

This paper concludes that although the Albanian legal factors can be considered a positive force for the GEW in Albania, whether in terms of the role, whether in terms of the character of their influence, again, they cannot fully explain what happens to GEW in Albania. The explanation may be sought in other non-legal factors. The analysis of the role of the courts in this paper shows that there is reason to believe that explanation in the GEW in Albania cannot be complete without including in the explanatory model the role of cultural and social factors. In discrimination cases analyzed above, we saw that almost all courts of all levels had made decisions in favor of Gender Equity. Yet decisions were not implemented. The subjects that did not enforce the decisions were not only private legal entities but also public legal entities and institutions such as the Ministry of Agriculture.

¹ Decision no. 42, 19. 07. 2012, the Constitutional Court of Albania, Paluka vs. Ministry of Agriculture, Food and Consumer Protection (Ministry of Agriculture).

² Decision no. 2918, 12. 12. 2006, the District Court of Durres, Mrs. Trupja vs. Durres Port Maritime Directorate (DPMD); Execution Order no. 36, 21. 01. 2008, the District Court of Durres, Mrs. Trupja vs. Durres Port Maritime Directorate (DPMD).

³ Decision no. 540, 03. 12. 2007, the Court of Appeal of Durres, Trupja vs. Durres Port Maritime Directorate (DPMD).

⁴ Decision no. 4, 20. 02. 2013, the Constitutional Court of Albania, Trupja vs. Durres Port Maritime Directorate (DPMD).

⁵ Bailiff Office of Durres, Marine Department, Request for voluntary execution, Letter no. 864, 21. 04. 2008.

⁶ Bailiff Office of Durres, Marine Department, Request for a term of 10 days for information about the undertaking of the rights and duties of the former Director of the Port of Durres, Letter no. 184/10 27. 12. 2010.

⁷ Bailiff Office of Durres, Order Maritime Directorate for compulsory execution, Letter no. 09/118, 13. 06. 2011.

⁸ Bailiff Office of Durres, 50,000 new ALL fine to the Maritime Directorate for negligence to act, Decision no. 09/118, 25. 08. 2011.

⁹ Bailiff Office of Durres, Criminal charges against the General Director of the Directorate Marine, Letter no. 09/118, 03. 11. 2011.

¹⁰ Bailiff Office of Durres, seizure order for operating expenses to the Maritime Directorate for the amount of 936,849 new ALL Decision no. 09/118, 12. 01. 2012.

This results in the conclusion that GEW in Albania, more than a matter of instruments, laws of the legislative, acts of the executive, or judicial decisions, it remains at a considerable degree a matter of culture and behavior of the individual on a personal level, of the social group, or that of the state institutions. The lack of a full understanding and awareness of the GEW from the individuals and social groups or institutions and therefore everyday life conduct and relations through the aware or unaware negligence of the principle of gender equity, leads to a continuing presence of the cases of gender discrimination regardless of the public or private area, outside or inside the institutions. Cultural problems with understanding, awareness, customs and practices, can perhaps best explain why GEW in Albania whirls around an increase and decrease of its level.

The Concentration-Profitability Relationship in Turkish Industry

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Abstract

The concept of industrial concentration refers to the control of a given industry by a small number of leading firms which are exclusively engaged in that industry. In economic theory concentration is an important concept to understand a departure away from competitive market structure which is accepted as a reference point for efficiency. Using the traditional structure-conduct-performance (SCP) paradigm many researchers found that the higher the level of concentration is the higher the level of profitability. In an earlier study I attempted to determine the level of concentration in the Turkish manufacturing industry for 84 sectors. In addition, I conducted a multiple regression analysis in various forms to identify the determinants of concentration and its effects on profitability. In most regression results, the relation between concentration and profitability was found positive and statistically significant. The present paper takes one step further and summarizes two new dimensions of industrial concentration. The first is to understand the current level of concentration for the Turkish manufacturing industry using a larger set of data. The new data set obtained from the TurkStat provides some basic statistics over the period 2009-2012 for 224 four-digit manufacturing industries. A brief analysis of the current data shows a slightly declining trend in the overall concentration ratio. CR4 (four-firm concentration ratio) fell from 51 to 49, CR8 (8-firm concentration ratio) fell from 61 to 60, and HHI (or H for short, Herfindahl-Hirschman index) dropped from 0.173 (or from 1730) to 0.153 (or to 1530). However a much bigger drop is observed for a longer period in the data coming from the top 500 industrial firms of ICC (Istanbul Chamber of Commerce). The latter data show a sharp fall in CR8 from 32 percent to 24 percent. These results together reflect a falling tendency in the dominant role of large firms in the Turkish economy which is a sign of increased level of competitive environment.

Keywords: concentration, profitability, relationship, Turkish, industry

1. Introduction

The concept of industrial concentration refers to the control of a given industry (or market) by a small number of leading producers who are exclusively, or at least very largely, engaged in that industry. Why is concentration so important? Economic theory suggests that, with very few exceptions, any departure away from the competitive structure would lead to loss of efficiency. This conclusion is stated in the excess capacity theorem or under capacity utilization which is the main characteristic of imperfect market structure. Therefore it would not be misleading to argue that the higher the concentration is the greater the loss in general efficiency. Excluding two theoretically ideal market structure, namely perfect competition and monopoly, economists are left with oligopoly and monopolistic competition, as the actual market structure.

In 2014 the manufacturing industry in Turkey contributes about 18 percent to GDP at market prices among 20 broad categories of industries. Second and third highest shares accrue to trade and transport sectors each contributing about 13 percent respectively. Therefore a closer look at the structure and behavior of the firms in this branch of economic activities should challenge researchers.

The subject matter of this paper is to elaborate the possible causes and likely consequences of industrial concentration. The more emphasis is placed on the effects of industrial concentration on profit in the Turkish manufacturing industry. Accordingly, some hypothesis are tested using the data collected for the Turkish manufacturing industry. Within this framework three questions will be answered: 1. What is the level of industrial concentration in the Turkish manufacturing industry? 2. What are the main determinants of the level of concentration? 3. What is the possible effects of industrial concentration on profit?

Knowledge of the structure of industry and its impact on the performance of the economy would be helpful not only from the theoretical standpoint but also for the purpose of policy formulation. In the event of possible integration with the European Union external considerations together with internal distributional issues require adequate knowledge relating to

the functioning of economic forces and the performance of the producing units. These should be the main concern of the present and the future policy makers as Turkey has yet to develop anti-trust regulations to control monopolistic behavior and promote competition. However, the number of empirical investigations undertaken for the Turkish manufacturing industry within the structure-behavior-performance (SCP) framework are few. As such, the findings of the present study are likely to prove considerably helpful in many respects. Thereby special attention would be drawn for promoting further empirical investigations within the SCP framework not only in industry, but also in other main branches of the economy like trade, transport, and finance.

The remainder of this paper is organized as follows. In the next section I investigate the current level of concentration in the Turkish manufacturing industry. Following this, the main determinants of concentration is explained referring to an earlier research results. In the succeeding section the relationship between concentration and profitability is analyzed with the help of a simple set of regression models using the cross-section data for the year 2012. The final section concludes the paper.

2. Level of concentration in the Turkish manufacturing industry

In the literature various measures/indices of economic concentration are defined. Two most commonly used measures are concentration ratios, CR_i, (where *i* is an integer, like 4, 8, 20, and so on) and Hirschman- Herfindahl index, H.

Concentration ratios are generally calculated for *i* = 4 and *i* = 8 as CR₄ and CR₈. CR₄ is the cumulative shares of the first four firms in the total output or the sales of firms operating in a specific industry. In statistical terms it is defined in the following formula

$$CR_4 = \frac{\sum_{i=1}^4 S_i}{\sum_{i=1}^N S_i} \quad (1)$$

where,

S_i = the value of sales (or output) of an individual firm.

N = the total number of firms.

Similarly, CR 8 is defined as follows:

$$CR_8 = \frac{\sum_{i=1}^8 S_i}{\sum_{i=1}^N S_i} \quad (2)$$

In analyzing the structure of an industry the accepted critical levels of concentration for CR4 is 50 percent and for CR8 is 70 percent are accepted. That is if CR4 is above 50 percent and CR8 is above 70 percent the industry in question is considered as concentrated.

Herfindahl-Hirschman (*H* for short) index is defined as the sum of the squared shares of all individual firms in an industry. It is calculated as follows

$$H = \sum_{i=1}^N s_i^2 \quad (3)$$

Where

s_i is the market share of firm i ,

N is the number of firms.

The Herfindahl Index (H) ranges from $1/N$ to one. If percents are used as whole numbers, as in 25 instead of 0.25, the index can range up to 100^2 , or 10,000.

Three critical levels are defined using the H index as follows:

An H below 0.1 (or 1,000) indicates an unconcentrated index.

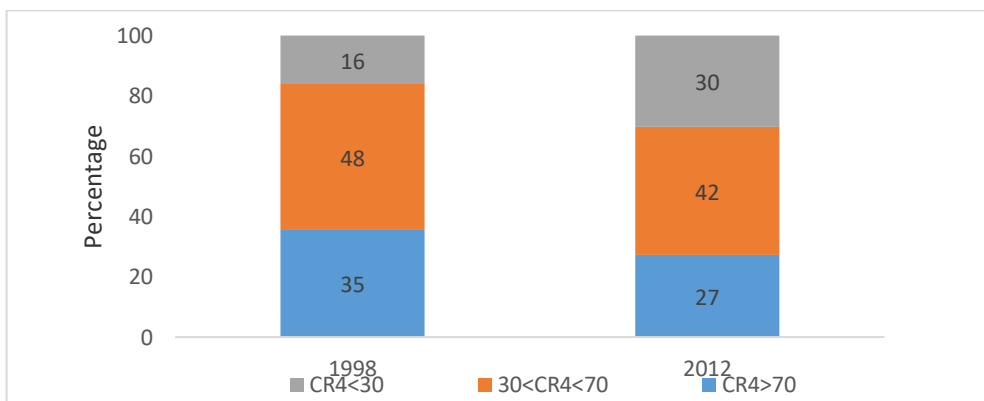
An H between 0.1 to 0.18 (or 1,000 to 1,800) indicates moderate concentration.

An H above 0.18 (or above 1,800) indicates high concentration.

A relatively small index either of the above indices (i.e. CR_i or H) indicates a competitive industry with no dominant players.

In one of the case studies carried out earlier by the author (Ozhan, 2000) it is found that in the Turkish manufacturing industry the average concentration is above the critical level. In particular CR4 with 1983 data was 58 percent and CR8 was 71 percent. After 14 years, in 2012 the same ratios fell to 49 percent and 60 percent respectively. Apparently, there is about 10 percentage points decrease in concentration ratios. Figure 1 shows these changes.

Figure 1. Varying structure of industry, CR4 from 1998 to 2012



Source: Own calculations based on the data from TurkStat.

In figure 1, CR4 ratios are classified into three categories:

If CR4 is less than 30 the industry is unconcentrated.

If CR4 is less than 70 and greater than 30 the industry is moderately concentrated.

If CR4 is greater than 70 the industry is concentrated.

In order to understand the current structure of industry further H indices are calculated for 2012. The results are presented in Table 1 below.

Table 1. Herfindahl-Hirshman index (H), 2012

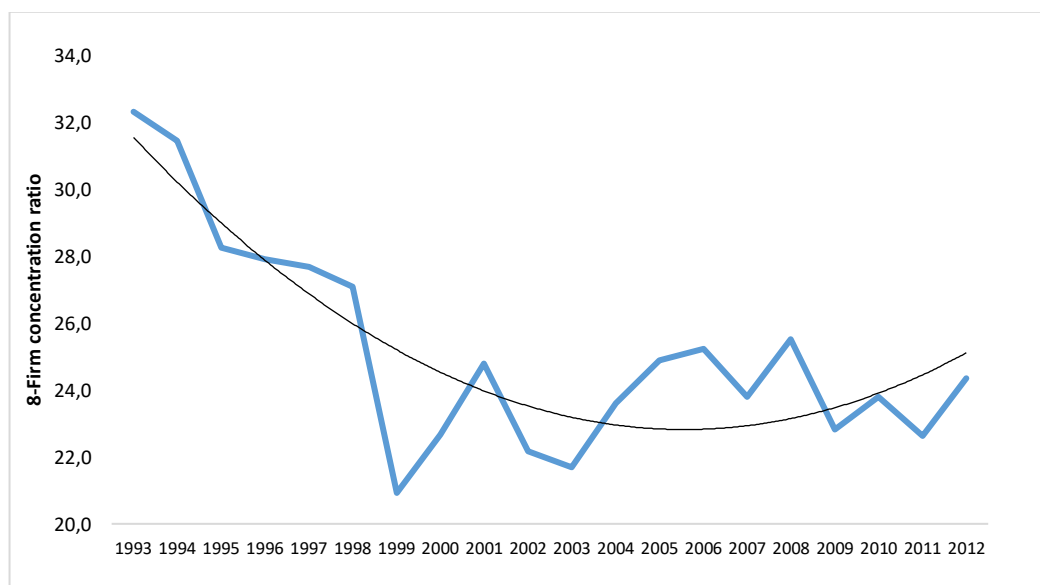
	Number of industries	%
Unconcentrated (relatively competitive) industries ($H < 1000$)	125	61
Moderately concentrated industries ($1000 < H < 1800$)	42	21
Highly concentrated industries ($1800 < H$)	57	18
Total	224	100

Source: Own calculations based on the data from TurkStat.

Using the data from the TurkStat between 2009 and 2012 it is seen that the H index has dropped from 0.173 (or from 1730) to 0.153 (or to 1530). Referring to this Table the H index for the Turkish manufacturing industries presents an unconcentrated structure.

Finally, using the ICI (Istanbul Chamber of Commerce) data covering the Turkey's top 500 industrial enterprises a sharp drop is observed in the CR8. In 20 years from 1993 to 2012 the ratios fell from 32 percent to 24 percent. This historical record is given in Figure 2.

Figure 2. Historical time trend of CR8, out of the largest 500 industrial firms



Source: Own calculations using the data from ICC (Istanbul Chamber of Commerce).

The ICC data shows a sharp fall in the CR8 from 1993 up to 1999 and it pikes up slightly from that point on in the following years.

These results together reflect a falling tendency in the dominant role of large firms in the Turkish economy which is a sign of increased level of competition.

3. The determinants of industrial concentration

Economists have identified six main factors that determine the level or the degree of concentration. These are scale economies, mergers and acquisitions, entry barriers, advertising, public policy, and stochastic variables. In the 1986 study of the author the main determinants of industrial concentration in the Turkish manufacturing industry the following explanatory variables are included in a set of multiple regression models: economies of scale, absolute capital requirement, advertising intensity, growth rate of market demand, government credit availability, export and import. The model is tested employing the 1983 industrial survey data obtained from the TurkStat sources. Although the data made available by the TurkStat for all four digit industries (84 in number) some nonrandom samples of smaller sizes are also used. In the estimated equations all of the parameters appeared almost invariably with their expected signs – though with a low level of significance for some variables. These findings are presented in Table 2 for a double logarithmic model.

Table 2. Determinants of Concentration ratio

Dependent variable: InCR8

	Coefficient	Std. Error	t Statistic	Prob.
Constant	-1.3685	0.3273	-4.1808	0.0000
InSC	0.1756	0.0300	5.8549	0.0000
InCLR	0.0948	0.0247	3.8311	0.0000
InCR	0.1120	0.0474	2.3652	0.0030
InAD	0.0985	0.0237	4.1615	0.0000
InIM	-0.0477	0.0218	-2.1834	0.0030
InDE	-0.0210	0.0124	-1.6949	0.0520
PPD	0.1112	0.0941	1.1814	0.0630
R-squared	0.7494			
Adj. R-squared	0.7076			
F =	17.9400			
Obser:	50			

Where

InSC: Measure of scale, average output of big firms in an industry

InCLR: Capital-labor ratio

InCR: Credit ratio

InAD: Advertising intensity

InIM: Import

InDE: Demand elasticity

PPD: Public or private dummy variable

In in this list expresses logarithm of variables.

In the model presented in the Table 1 all of the explanatory variables have their expected signs. The estimated coefficients have satisfactory statistical results reflected in relatively high t values, as well as high R-squared and F value. The use of the double logarithmic model is that the estimated regression coefficient for each explanatory variable measures the elasticity of the dependent variable with respect that variable (Gujaraty, Porter, 2010).

To conclude this section I can state that until a newer research result comes out the variables presented in the Table 2 should be relied on as the main determinant of industrial concentration. In addition to the SCP approach there are two more approaches trying to explain the degree of correlation between concentration and market power

4. Effects of Concentration on Profitability

Given the level and the determinants of economic concentration, a second important economic concern is how to predict the possible outcome of concentration. The traditional structure-conduct-performance (SCP) paradigm predicts that effective collusion between firms increases with industry concentration because concentration lowers the cost of collusion. In addition to the SPC approach there are two more approaches trying to explain the degree of correlation between concentration and the market power. These are known as the relative market power (RMP) hypothesis and the efficiency-structure (ES) hypothesis.

The relative market power (RMP) hypothesis predicts a positive relationship between a firm's market share and its performance. That is, if consumers can rely on a firm's position in the market as an indicator of quality, this allows larger firms to earn supernormal profit. Therefore, the traditional SCP and RMP hypotheses provide an argument for antitrust regulation prohibiting actions that reduce the number of viable and potential competitors. However, an alternative view proposes the efficient-structure (ES) paradigm. According to this approach both the SCP and the RMP hypotheses ignore the possibility of market entry by new firms. From the standpoint of the ES paradigm, more efficient firms can charge lower prices than their competitors and still earn economic profits. Their comparative advantage allows more efficient firms to capture a larger market share in a specific industry, which will lead to an increase in market concentration. Thus, higher market concentration may benefit both firms and consumers; so that firms can earn higher profits while consumers can benefit from lower prices (Berry-S.-Weissb,S., Wendee, S., 2011).

Specifically, the SCP paradigm suggests some important relations. The most important of all is that the higher the level of concentration is the higher the level of profitability. Although there are no unanimous opinion on the direction of this relation most studies suggest a positive correlation between the level of concentration and profitability. In an earlier study (Ozhan, 1986) in order to investigate the relationship between concentration and profitability three different multiple regression models are tested. In these models a positive but statistically insignificant relationship is noticed between profitability (explained variable) and concentration (one of the explanatory variables). The profit variable in the TurkStat sources is not readily available. Therefore in my related studies I define profit by subtracting wages from the value added in each sector. So profit is defined indirectly in the form of nonwage income. The results of one these prior study is given in Table 3 below.

Table 3. Concentration ratio and profit relationship, 1983

Dependent variable: PRO

	Coefficient	Std. Error	t-Statistic	Prob.
Constant	0.1630	0.0274	5.9483	0.0000
lnCR4	0.0997	0.0313	3.1844	0.0020
lnCLR	-0.0422	0.0122	-3.4550	0.0000
PPD	0.1690	0.0471	3.5917	0.0000
R-squared	0.2560			
Adj. R-squared	0.2281			
F =	9.1800			
Obser =	84			

In this table:

PRO: The ratio of profit (measured as nonwage income) to total sales.

lnCR4: logarithm of 4-firm concentration ratio.

lnCLR: logarithm of capital- output ratio.

PPD: Private/public dummy variable

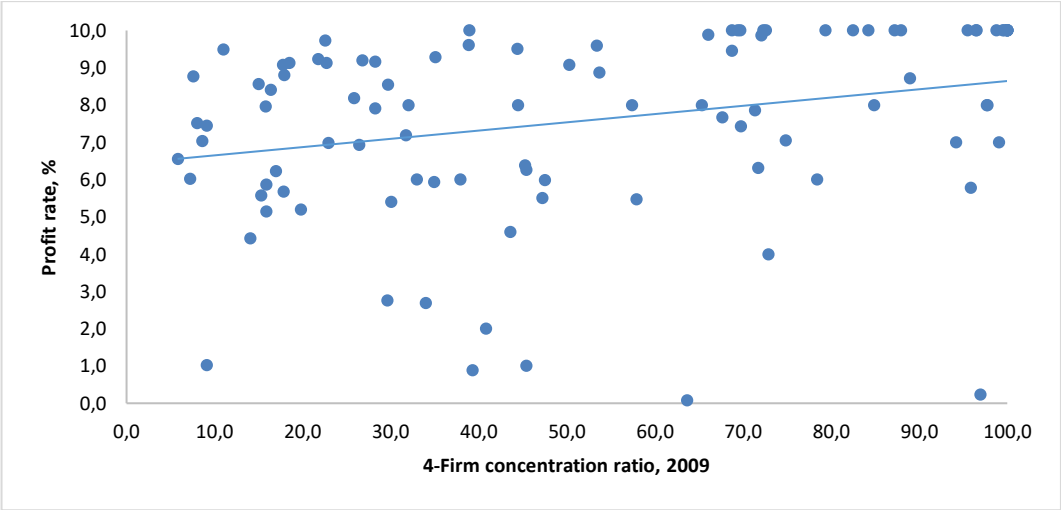
Although the results of this semi-logarithmic model presented in Table 3 are statistically significant (due to high t-values) the model explains only about 23 percent of variation in profit ratio. The model captures the positive relationship between the level of concentration and profitability.

In the same model the negative sign of capital-labor ratio implies that as capital intensity increases, the share of profit in value added falls. This negative relationship can be attributed to the diminishing marginal productivity as capital per labor increases.

To test the relationship between profit and concentration with the new set of data I tried three linear regression models. In the first model I selected a set of industries ($n = 99$ out of 224 four-digit industries) for 2009 with a profit rate of less than 10 percent. The scatter chart

of the data in this sample is given in Figure 3.

Figure 3. 4-Firm Concentration Ratio (CR4) and Profit Rate, 2009



The chart reveals that a slight positive relation does exist between profit ratio and four firm concentration ratio (CR4). This is shown in a dark line with a positive slope in the same figure.

For the same set of data the results of a simple two-variable linear regression model are given in Table 4.

Table 4. CR4 and Profit rate for industries with profit rate less than 10 percent

SUMMARY OUTPUT (Model 1)

Dependent variable: PRO

Regression Statistics

Multiple R	0.274382			
R Square	0.075285			
Adjusted R Square	0.065752			
Standard Error	2.420936			
Observations	99	51.5	7.6	0.150712

ANOVA

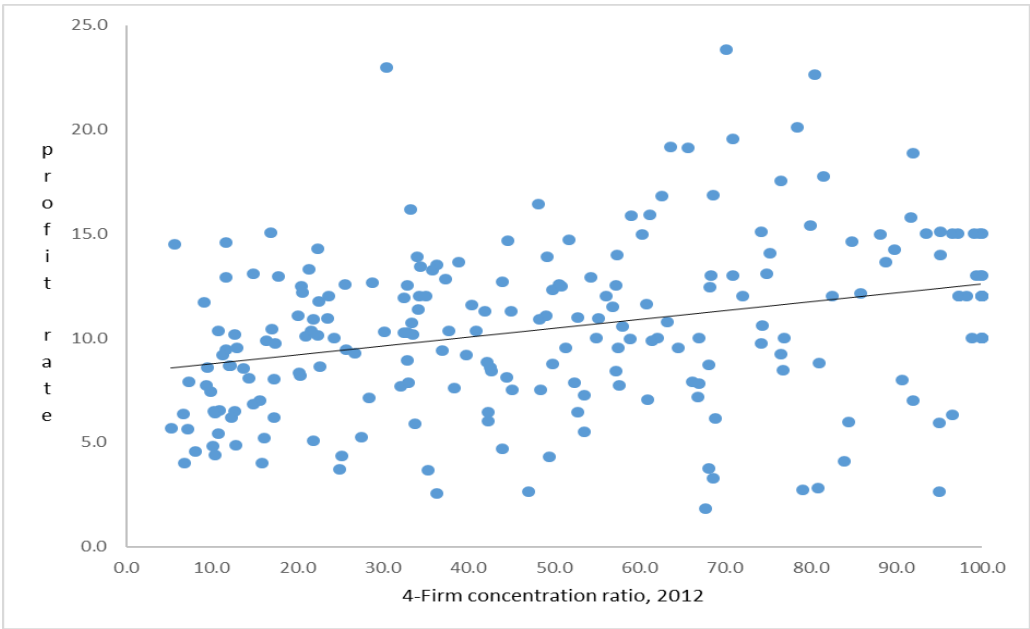
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	1	46.2851	46.2851	7.897229	0.00599
Residual	97	568.5102	5.860929		
Total	98	614.7953			

	<i>Coefficients</i>	<i>Std Error</i>	<i>t Stat</i>	<i>P-value</i>
Intercept	6.429023	0.473305	13.58327	3.59E-24
CR4	0.022152	0.007883	2.810201	0.00599

The regression results support hypothesis stating the positive correlation between concentration and profitability. However the model explains only a small portion (about 7 percent) of the variation in profitability is explained by CR4. From the same regression results it is also possible to calculate that the elasticity coefficient of midpoint is 0.1507. That is to say that a one percent increase in CR4 leads to 0.1507 percent increase in the profit rate.

The second regression model is also estimated with a larger set of data covering 193 sectors for 2012. The scatter chart of the second model is depicted in Figure 4.

Figure 4. Profit rate and CR4 for 193 industries in year 2012



The regression results are given in Table 5.

Table 5. Regression results for profit rate for 193 industries in year 2012

SUMMARY OUTPUT (Model 2)

Dependent variable: PRO

Regression Statistics

Multiple R 0.315954

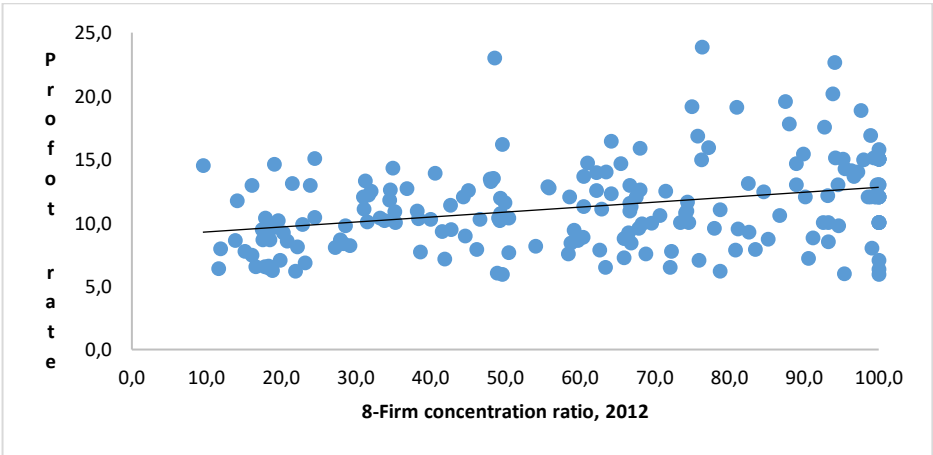
R Square	0.099827
Adjusted R Square	0.095114
Standard Error	3.24761
Observations	193

ANOVA					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	1	223.3998	223.3998	21.18141	7.6E-06
Residual	191	2014.472	10.54697		
Total	192	2237.872			
	<i>Coefficients</i>	<i>Std Error</i>	<i>t Stat</i>	<i>P-value</i>	
Intercept	9.41701	0.476021	19.78277	4.07E-48	
CR4	0.037551	0.008159	4.602327	7.6E-06	

In the second model with increase number of observations the adjusted R^2 is slightly increased to about 10 percent and the t value for CR4 is also increased from 2.8 to 4.6. The mean of CR8 is 49.5 percent and the mean of profitability is 11.3 percent. Accordingly, the elasticity of profitability at the midpoint is 0.1645. It means that as the 8- firm concentration ratio increases by one percent around its mean profitability ratio increases by 0.165 percent.

Finally, a third model is constructed for the relationship between CR8 and profitability with 195 data points (sectors). The scatter chart of the model is given in Figure 5.

Figure 5. Scatter chart for CR8 and profit rate 2012 for 194 industries



The results of the third regression model are given in Table 6.

Table 6. Regression results for CR8 and profit rate 2012 for 194 industries

SUMMARY OUTPUT (Model 3)

Regression Statistics

Multiple R	0.32496
R Square	0.105599
Adjusted R square	0.100941
Standard Error	3.249804
Observations	194

ANOVA

	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Signif F</i>
Regression	1	239.4106	239.4106	22.66884	3.78E-06
Residual	192	2027.755	10.56122		
Total	193	2267.165			

	<i>Coefficients</i>	<i>Std Error</i>	<i>t Stat</i>	<i>P-value</i>
Intercept	8.884798	0.557874	15.92618	5.95E-37
CR8	0.039149	0.008222	4.76118	3.78E-06

Although the R^2 is still relatively (about .10) it is the highest among the last three models. Briefly, the model shows that about 10 percent of the variations in the mean value of profitability is expressed by the variations in CR8. The remaining 90 percent variations are attributed to other variable which are not included in the model. Finally, the mean of CR8 is 61.6 percent and the mean of profit rate is 11.3 percent. So the elasticity for the 8-firm concentration ratio at the average of both variables is 0.214. This figure shows that as CR8 increases by one percent the profit rate in that industry increases by 0.214 percent.

5. Conclusion

Using the TurkStat data for the 224 four-digit manufacturing industries it has been observed that that there is a slightly decreasing trend in the overall level of concentration. This result is also supported by looking at the data collected from the Turkey's top 500 industrial enterprises by the Istanbul Chamber of Commerce. Both of these statistics indicate a falling tendency in the dominant role of large firms in the Turkish economy which is a sign of increased level of competition.

Economists accept that concentration disturbs social welfare, because in concentrated industries the profit margin of firms is relatively higher than unconcentrated industries. In the related literature many researchers adhering to the SCP approach found a positive relationship between concentration and profitability. In the Turkish manufacturing industries there is a falling tendency of overall concentration from 2009 to 2012. However about 100 industries (40 percent) out of 224 industries CR4 is above the critical level of 50 percent. This study also shows that there is a positive and statistically significant relationship between concentration and profitability.

The reasons for this high level of concentration is common to most developing countries. At the beginning of industrialization process governments encourage big size firms and do not regulate markets by anti-trust policies. In Turkey antitrust law is put into force in 1994. On the other hand because of indivisibility and the small size of the domestic market, the firms are born in an uncompetitive environment. For most of the industries the minimum efficient scale (MES), is the natural explanation of this structure. But, the concentration above this technically required level is not acceptable for economic and social reasons. Still there is a need for further study to provide more comprehensive results in the field. In the light of new research the government can apply antitrust policy vigilantly.

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Disputes and their Resolution in the Electronic Communications Market

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Abstract

This short treatment introduces the concept of potential disputes in the electronic communications market, their typology and the background in which exist premises to arise disputes in this market. Broadly represents the forecast of domestic regulatory and legal framework for the treatment of disputes existing in this market, approximation of legislation with EU directives, ways to resolve disputes arising in the potential levels of the market in which those disputes arise. As a summary is treated the concept of internal market/markets structure as domestic part of the electronic communications market, identifying the importance of "treatment" of state and regulatory policies, and their impact on the design, planning and management strategies of the market players. The case of Albania is briefly treated regarding to the aspects referred in topic, closely linked with disputes and their treatment, paying a special importance administrative settlement in procedural terms. Identification of regulatory effect, as potential to be measured and compared with analog markets, and services offered in these markets with other countries, regional, of EU, or wider and mainly in the aspect from they derive, which highly probable are connected to services offered - their tariff - quality products / services. Briefly on the importance of effective competition and its impact on the number of disputes arising in such a market, considering liberalization as factor of market as fundamental aspect in the development of the market, increasing the number of providers of products / services and legal remedies forecast with specific criteria that maximize protection of users of products / services offered.

Keywords: Market, electronic communications, disputes, service providers, users, products/services, regulator, administrative solutions.

Introduction

Despite dimensions that may have a country economy, from the structural point of view it must function and be managed without any difference that occurs as a result of its dimensions.

The concept of economic freedom, of effective competition and the performance in its entirety constitute the core of the development of the economy and therefore also to our daily life.

The trunk of the national economy is healthy if its constituent parts will function in a healthy way or in other words if markets component of the national economy function based on an efficient legislation, drafted and clearly oriented by the rules of good practice, in consultation with market stakeholders and interested parties, and oriented toward increasing competition, creating in this way a field of interaction between state institutions and regulatory as well as market players and consumers products and services derived from it.

Proper harmonization, interoperability and efficiency of the above mentioned links or not, constitute the potential premise for the existence or not of possible disputes, not claimed for any occasion for their nonexistence, but with the final goal to minimize them, because tendency to perfection and harmonization of appropriate instruments and interactive links in specific markets, integral parts of the national economy, which are operated with special material laws, they can lead as their product, reduce disputes, which can be eliminated early in their genesis.

In the final it would result as a strong impetus for the efficient development of such markets, which will be favored by the elimination of additional costs that will be created by the possible solutions of disputes arising, with indirect effect even in the trunk of the national economy.

1. Market/Markets structuring and their long-term strategies

The concept of development of market strategies, of innovative models of technology and the market itself, which in their entirety substantially affect the product itself or services provided to the customer, affect itself market development process, which is related to the phase in which is the legislation "treatment" of the relevant field, and it is also connected directly with regulatory effects that are produced in the respective field.

Appropriate approach to minimize additional external costs for market/markets that have significant weight in the trunk development of the national economy, should first invest and stimulate through state regulatory policies, as the growth and perfection of these policies, convey the direct impact even in the design of strategic decisions affecting their durability, and determine the proper focus in the relevant area favoring proper identification of the competitive advantages of actors in the field and the overall impact on improving the environment of doing business.

Governmental and regulatory policies must be seen how much they impact in terms of "catalyst or not", as they convey their direct impact and how they reflect on the weight of "strategies in action" of the market / markets" because it is sure that state and regulatory policies impose a "mix" between intended strategies and planned strategies, with "emergency" ones, or otherwise dictated by state and regulatory policies.

It is inevitable that the quality of "curing" of state policies and regulatory, not to convey reflections up management strategies by transforming in necessity changes into strategies in action.

The complexity of such a combination presents to the market/markets taking into account and also an extra attention to "potential risk" from the implementation of new strategies, dictated and reflected in pressure conditions that dictate governmental and regulatory policies.

According to the language of the market, this entails the need to see in detail the activities involved in strategy, human resources involved in implementing the "strategy in action" and kind of methodology they use for implementation.

The complexity of the market in identifying strategic skills, for conservation and good use of cost efficiency, the efforts of market players to achieve and sustain competitive advantages, the need for proper diagnosis of strategic skills and perfection of their management, are closely linked to sectoral and intersectoral policies.

E steadfastly summarized, despite the preceding stipulations, all this will be reflected in the additional costs.

Communication Language of the market/markets is related to the impact on "efficiency", is organically linked with careful state and regulatory policies which have for objective the development of effective competition in order diminution of complexity in the normal development of the market, eliminating situations of uncertainty, and to avoid such interventions which would impose the touch of operational decisions to the maximum extent possible, because it is clear that will be produced significant changes in this way.

2. Typology of potential disputes in the electronic communications market

Disputes can be defined as a contradiction between the parties to a given situation, for a violated right or claimed as such, for an unfulfilled obligation etc.

Potential disputes in the electronic communications market, have the premise for their existence in non-compliance of contractual obligations derived from relationships built between the parties.

As a party to the dispute are considered users of market products/services and providers of these products/services, and thus typology of possible disputes in electronic communications market can be considered as:

- *Disputes between providers of products / services within the same market and in the same jurisdiction;*

Relationships built on electronic communications market creates the need for interoperability between communications networks that enable the delivery of products/services, and thus they have built their contractual relationship based on a set of rules that weigh equal in the best possible way interaction of individual networks of providers of products/services.

Electronic communications market in Albania similarly as other countries works with special organic law¹, with presence of the regulator authority of the field², which oversees and monitors the sequential development of this market.

Material Law No. 9918, dated 19. 05. 2008 "On Electronic Communications in the Republic of Albania" amended, is drafted in accordance with a set of EU Directives³, and has transposed almost completely the provisions of the regulatory framework that refers to contemporary electronic communications market, adapted to national circumstances.

Disputes arising between parties in the electronic communications market, have their basis for the resolution provided definitions of reference interconnection offers (RIO)⁴, which are approved by the national regulator authority of the field and serve as a basis for concluding bilateral contractual relations, and through specific regulatory acts⁵ which have explicitly defined procedures for settling disputes between parties' service providers against service providers.

• *Disputes between providers and users of products / services;*

Primary and secondary legislation of the field has predicted that between providers of products/services and their users, the relevant relationship built on the basis of the contract agreement, which creates another potential background for birth "or not" of the disputes between the parties, depending on the discrepancy between the parties to a particular circumstance, violated right or claimed as such, or unfulfilled obligation etc, and through specific regulatory acts⁶ which have defined procedures for settling disputes between service providers against service users.

• *Disputes between service providers in geographical territories with different jurisdiction (international);*

Another aspect which may serve as a potential space for the establishment of dispute, it is also necessary interaction between providers of products/services with their presence in different geographical territories regarding the jurisdiction of which they are subject. Despite the obligations deriving from the EU Directive (it is about unifying space in which these directives extend their effects) given the fact that the interaction in the field of electronic communications is also beyond these spaces, then it should be estimated that mainly their relationships built on a commercial basis according to the interests of interactive parties. Disputes arising in the cited background above it, practice solution up to the level of arbitration if other stages have not brought possible solutions or liked ones.

• *Disputes between providers of products/services and state institutions/regulatory.*

The requirements deriving from the market are constantly in search of their fulfillment of state and regulatory institutions, in their focus they aim perfection and materializing in primary and secondary legislation in order to eliminate legal and regulatory barriers that impede the proper development of effective competition. Noncompliance of this goal creates the right background for the emergence of disputes between the parties.

¹ Law no. 9918, dated 19. 05. 2008 "On Electronic Communications in the Republic of Albania" amended;

² Authority of Electronic and Postal Communications (AEPC);

³ European Commission Directives:

2009/140/EC - Amending Directives 2002/19/EC, 2002/20/EC and 2002/21/EC

2009/136/EC - Amending Directive 2002/22/EC and 2002/58/EC

2009/396/EC - On the regulatory treatment of fixed and mobile termination rates in the EU (In conjunction with SPEECH/09/218, Neelie Croes - Cutting the price of phone calls new termination rules, Brussels, 7 May 2009)

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⁴ Regulation of AEPC no. 19 dated 14.06.2010 on access and interconnection.

⁵ Regulation of AEPC No. 18 date 11.06.2010 on Dispute Resolution Procedures.

⁶ Regulation of AEPC No. 29 date 29.05.2013 "On the resolution of disputes between subscribers and electronic communications entrepreneurs "

3. Settlement of disputes in the electronic communications market

Despite the backdrop in which a dispute arises it aims to have its resolution and the possible links from which can result a possible solution can be classified as:

- a) solution produced by direct negotiations between the parties;

Disputes arising between the parties have the need for diligence on the causes and circumstances that have created dispute, internal analysis of the effects that produces the failure to resolve the dispute created, and identification of possible tools available for internal solutions without creating additional costs and bringing *inter alia* the economy of the time. Such a thing is realized mainly by the development of that, direct negotiation between the parties

- b) solution produced by the mediated negotiations;

Identification of non-compliance in achieving the settlement through direct negotiations, to increase reliability in potential solutions, can serve as the "mediation" instrument, which is essentially one of the alternative methods for the solution, considering the assistance of intermediaries in the position of "neutral" in order to overcome the differences identified in the background of the dispute. Despite as it is described above it should be understood that in the present case it is characteristic that the solution is again under the control of the parties to the dispute and is accepted as such only with their free will, but the product "solution" reached in this case, has probability to be efficient in the way of implementation by economise on time, not to produce cost for the parties.

- c) solution produced by the judiciary.

Unsuccessfully closure of two stages mentioned above to resolve the dispute created, imposes on the parties as possible solutions that solution that generates the judiciary, considering the parties in dispute as factors that will translate in additional costs for settlement between the parties to the dispute.

4. Administrative solutions to disputes and regulatory effect

Background to the dispute in the field of electronic communications, naturally that is connected with the entirety of the services and/or products offered at different levels of users, as the service provider- service provider level, otherwise known as interconnection services, as well as the level service user - service provider.

Regulatory supervision and its mission to maximize the benefits for users of electronic communications services, necessarily considers the possibility for the existence of the disputes, for which administratively are provided possible administrative solutions, anticipating specific administrative procedures for settling disputes regulated by normative acts and regulations, through public relevant permanent structures or temporarily "*ad hoc*" structures set up specifically.

In the field of electronic communications, material legislation guides administrative dispute solution arising in the market to the relevant body, depending on their typology.

For disputes arising in the level of "service providers - service providers", the regulatory effect is primary because the essence of the dispute between service providers, can be focused with highly probable in the granting/ or refuse of access required for services between parties, in charging of services, or in the quality of them. For each case submitted the regulatory effect is first hand, not only from the legal authority that supervises and regulates the field of electronic communications directly, but also by the fact that the possible solution has a high premium to be highly professional and of a high level of expertise.

Quality of the settlement offered, with high probability increased the possibility of agreement between parties, but even when agreement is not obtained, regulatory effect is first hand, because it imposes solutions application by the parties, without depriving them of the right of judicial review. Regulatory imposition on application of resolution of disputes provided for level "service provider - service provider" aims not to miss the service for users as the last link in the supply chain with services and it is in compliance with regulatory mission and purpose of the substantive law of the field which provides such a mission.

Functioning of the relationship at this level "service provider - service provider" has the hand of the regulator and its effect on the drafting of reference offer for the respective services, and regulation of bilateral relations through interconnection agreements which are based on the definitions of the reference offer, which plays the role of "constitution" in the field of electronic communications for the functioning of commercial relations between the parties. Therefore, it is precisely this interaction space between the parties which also entails potential disputes at the level "of service provider - the service provider" but that administrative solutions offered constitute the main basis in this regard by increasing the role of the regulator in the field.

Regulatory effect is not only measurable and possible to monitor, but also comparable with analog markets and services offered in these markets in other countries, regional, EU or beyond, since each of the potential elements for space dispute as access – charges and respective quality of service is comparable. Monitoring for each of the elements cited above as opportunities for access dispute - tariffs¹ - quality², done through regulatory acts which are prepared by the regulator through a public consultation process with interested parties who mostly are service providers, but not excluding other parties such as the Competition Authority or other government departments that have direct connection with the field of electronic communications, with the final goal to guarantee services to end-users and increasing the maximum safety for consumer protection.

Conclusions:

Treatment and resolution of disputes occupy an important place in the electronic communications market, and considered as such by the relevant legislation of the field, because it is considered that the potential background for disputes in this market, exists in its two levels:

- At the level of wholesale markets, relations service provider - service provider;
- At the level of retail markets, relations service providers and users of products / services.

Regulatory approach in disputes resolution considers :

Normalization of contractual relations two or more lateral, and the use of regulatory instruments that enable effective administrative solutions on time, closely related to the degree of development of effective competition in markets where they offer products / services which are contracting subject between the parties.

- Regulatory supervision mission is closely linked with particular attention to maximizing the benefits of users for products / services available in the market of electronic communications, supporting the market through domestic regulatory framework and the approach to analogous practices in other countries of the region and the EU development of competition in the market.

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- 20Q9/136/EC - Amending Directive 2002/22/EC and 2002/58/EC
- 2009/396/EC - On the regulatory treatment of fixed and mobile termination rates in the EU (In conjunction with SPEECH/09/218, Neelie Croes - Cutting the price of phone calls new termination rules, Brussels, 7 May 2009)
- 2002/19/EC (Access Directive),

¹ Regulation of AEPC no. 27 dated 21.09.2012 on the publication of information on tariffs and conditions of access and use of public electronic communications services ;

² Regulation of AEPC no. 16 dated 16.04.2010 "On the quality of service indicators "

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- 2002/22/EC (Universal Service Directive),
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The Impact of Foreign Direct Investments (FDIs) on Economic Growth: The Solow Model in the Case of Albania

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Abstract

In the developing countries, including Albania, attracting FDIs remains a government priority towards development of investments and the whole economy. Therefore, the main objective of this paper is to analyze the impact of FDIs on economic growth (GDP level) in Albania. The analysis is based on the neoclassical growth model, following the Solow model. The dependent variable in the model is the GDP level and independent variables are: capital (foreign and domestic capital investments) and labor (average salary) for the period 1996-2013 with quarterly data. The results of the econometric analysis indicate that the Solow model is applicable in the Albanian economy, showing a positive correlation which is statistically significant between the explanatory variables and the dependent variable both in the short and long run. The impact of FDIs on GDP is several times smaller than the impact of domestic capital investments. This elasticity can be explained by the lower level of FDI inflows compared to the domestic capital investments and the limitations in evaluating the "endogenous" growth of FDIs. Whereas the analysis of the sector and country of origin concentration of the FDI stock is done using the Herfindal - Hirschman index for the period 2007-2013 and the results determine a significant concentration of FDI stock, based on three sectors and a few countries of origin.

Keywords: *FDIs in Albania, Solow growth model, Herfindal – Hirshman index.*

JEL classification: *C33 and C51*

A. Introduction and literature review

With the development of globalization, the world has begun significantly to emphasize the importance of FDI's. The main priority in the agenda of governments in developing countries, it is the development of appropriate infrastructure to attract foreign direct investment (FDI). In order for the movement of capital flows from one country to another (leading to the creation of FDI), the host country with the country of origin must be in competitive positions with each other, resulting from the many advantages that the host country offers to investors from the country of origin. It is only through the competitive advantages in business, the host country is prone to absorb foreign investments and as a result, the latter in terms of competitiveness, offer more efficient production in a multitude of economic dimensions.

FDI influence significantly in the growth of investment capital in the host country, the transfer of new technologies and their technical knowledge into practice, there by: increasing the quality of their employees, bringing a distribution and productivity growth in the economy, enhancing the level of competitiveness and improving exports, etc. On the other hand, what it is of particular economic importance, is that FDI flows do not have any influential aspect in the debt or creation of debt in an economy; they are seen also as a very efficient tool to finance the external trade deficit of the current account of the host

country, especially for the developing countries, where the deficit from foreign trade is high and often problematic (Demekas, Horváth, Ribakov, and Yi Wul; 2005)

In the past two decades, FDI have become very important in developing countries. Multiple economic theories have identified a number of ways in which inflows of FDI can bring benefits to host countries. Many of these theoretical ideas have been proven in practice in many countries, but still many of these theories remain unproven from the overall conceptual point of view and in particular in certain regional countries. However, almost all studies linking FDI to GDP growth are concentrated in the aggregate effects of the impact of FDI on the economic growth of countries (Khaliq and Noy, 2007). So in this context, FDI are a factor of the productivity of a country's economy.

When we talk about the productivity factors it is recognized that the main factor of productivity is capital. Policies that encourage investments have a positive impact on the proven productivity in terms of medium and long term (Isaksson, 2007). The first studies of the analysis of factors productivity in the context of economic theories were developed by: Solow (1957) on the factors total productivity; Schultz (1961) on human capital; Arrow (1962) on the theory of "endogenous" domestic growth; Nelson and Phelps (1966) on the absorbing capacity; Abramowitz (1986) on the transfer of technology; Chenery and Syrquin (1988) on structural changes; etc. However in the context of measurable econometric analysis, the evaluation of productivity has known an expansion after the 90's. The literature on productivity is very broad and dynamic on the approaches toward productivity and the correlation of the factors between them. In their study Keller and Yeaple (2003) stated that there is a statistically stable and positive between FDI and productivity growth. They also analyzed the fastest spread of FDI in a sector of the economy is closely related with the implementation of new technologies. By supporting the fact that FDI affect positively the growth of productivity. Griffith, Redding and Simpson (2003), analyzed the dynamics of productivity growth in production in the UK for the years 1980-1992, and analyzed the role of foreign investors of multinational corporate. They focused on two mechanisms through which the inflows of FDI can affect either the level productivity growth or the scale of domestic productivity. The level of productivity growth comes as a result of new technology brought by FDI, while the growth of domestic productivity is due to the fact that FDI increase the internal competitiveness of the market and expansion of the markets to the point of becoming international.

The last few years developed also a theoretical approach which says that there are cases that FDI affect negatively a country's economic growth. This phenomenon has occurred in small economies of developing countries, which are influenced by foreign investors with large capital that often led to abuse due to their dominant position in the market. Large investors spread their activities in these countries, being able to win large tenders from the governments of the host countries and the latter use these investments for political positions. In turn, these investors, thanks to the support of the governments of the host countries, often in aggressive way they use the transfer of prices to minimize their tax liabilities. There are other critical opinions among experts of economy on FDI's, according to whom these investments affect in an unstable increase of the balance of payments flows as a result of inflow of capital in the beginning and then a series of profit outflows or repatriation of capital. This kind of problem becomes overtime more evident by putting to risk the vulnerable economies of the host countries themselves when these outflows are a result of financial problems of the headquarter companies (Lehman, 2002; Lehman and Mody, 2004).

In the context of numerous studies in the field of FDI, the literature suggests that the level of benefits from FDI is more considerable than their costs for a host country. It is also the basic reason why many developing countries have it as a government priority the growth of FDI in their country. The positive effects of FDI are particular for the economies in transition and in developing countries. The necessity for comprehensive restructuring and modernization of private enterprises and resources, or limited internal capacities, inevitably creates an environment for benefits from foreign investors. However, in developing countries often it is hard for researchers the measurement of the effect of FDI on economic growth, Isaksson (2007). This, for two reasons: (1) the host countries meaning the beneficiaries are in a very weak economic structure in absorption of these capacities, and (2) the quality of the data obtained for study in these countries is low or with problems.

Based on that what was expressed above, the purpose of our paper is to find the relation between the flow of FDI with the economic growth (GDP) in Albania, according to the Solow model but with the modifications of this model made by Romer (1986, 1990). Such an analysis is not done yet for the economy of Albania neither by local authors nor foreign scholars.

Referring to official statistics in Albania, the level of time series related to FDI flows it is limited in time and in space. In the absence of sectoral classification of time performance of the flow of FDI, this paper will analyze the relationship of total flow FDI in GDP level. The data represent a time series of 1996-2013 with a period of 3-month for Albania. So, the econometric analysis will have as an object the short-term and long-term analysis of these connections.

B. Analysis of the Herfindal - Hirschman index for FDI's in Albania

Initially, FDI flows in Albania have been the consequence of the privatization process of state-owned enterprises, from small and medium to industrial and strategic, since 1992-2005 (eg banking, telecommunications, energy, hydrocarbons, mining, etc.) (METE, 2011). As from 2005 onwards, overall FDI inflows are investments in private businesses. An overview of the performance of the stock of FDI in Albania, according to the years 2007-2013 (the data series of official publications) is given in the table below:

Table 1: Trend of the total stock of FDI, 2007-2013

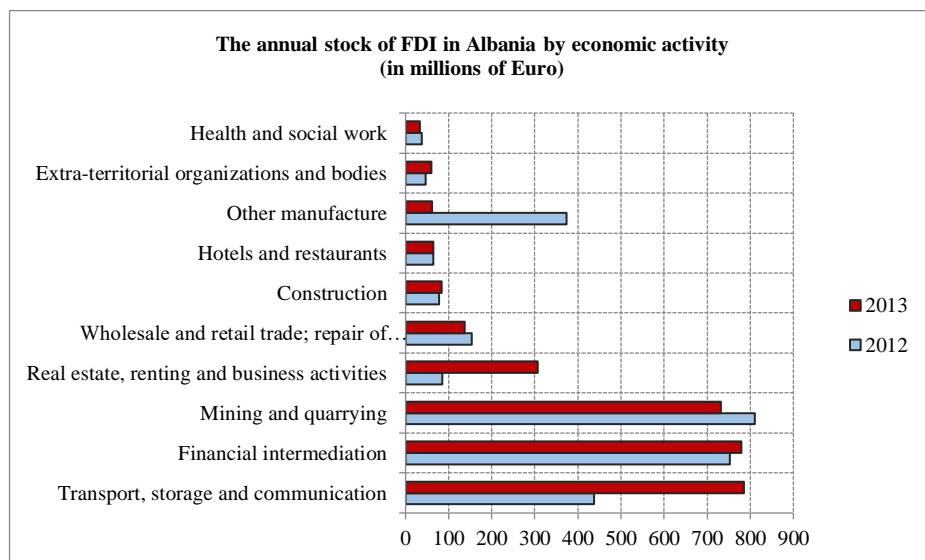
Year	2007	2008	2009	2010	2011	2012	2013
The stock of FDI (in million Euro)	1, 830	2, 061	2, 261	2, 436	3, 400	3, 262	2, 854

Source: Bank of Albania, publications until 2015.

Albania, as much favored by geographical position for trade exchanges, when it comes to territorial space of communication of the markets between them and the number of residents is in disadvantage (according to official sources there are about 2, 821, 977 habitants in Albania¹). According to past and current practices, usually small countries do not manage to attract multinational corporation and industries which produce for export markets of a higher level of activity. However, the attractive aspect of FDI in our country relies heavily on the labor market's potential (eg labor market costs), also known as the phenomenon of "Fason industry". But the biggest partners in trade of our country such as Italy and Greece, are currently in a difficult economic situation, which puts into question the strategic development of investments from these countries of origin.

According to the opinion of the experts, FDI in Albania play an important role in many aspects of economic development of the country. These investments should be viewed as economic resource that can meet not only current needs, but even more the strategic ones. Currently about 80% 2 of the FDI flow in Albania is an investment in share capital, the focus of foreign investors in our economy is in the following sectors: banking system; transport, commerce and telecommunications; energy and hydrocarbons; in the extractive industry; in the light industry of Fason production; construction and construction materials. While it remains a challenge attracting FDI in: agriculture and agribusiness; tourism; mining industry (not only extractive); hydrocarbons; etc.

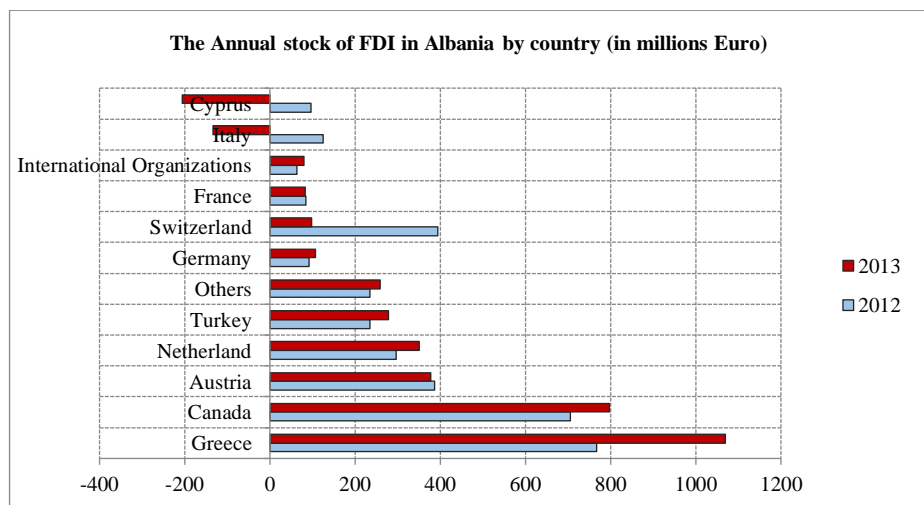
However, to identify the focus of the stock of FDI by economic activity in Albania for the past two years according to official data (2012-2013), we built the graph in Figure Nr. 1, where you can see that the focus of foreign investors in Albania is in the activities of: (1) financial intermediation, (2) transport, storage and communication and (3) the extractive industries.



Source: Calculations by the authors with data from publications, the Bank of Albania 2015.

Figure no. 1: The performance of the stock of FDI by economic activity in Albania, 2012-2013.

In order to identify the focus of the stock of FDI in Albania by countries of origin of foreign investors for the past two years according to official data (2012-2013), we have built the graph in Figure Nr. 2, where you can see that the countries of origin with the highest level of stock of FDI in Albania are: (1) Greece (2) Canada and (3) Austria.



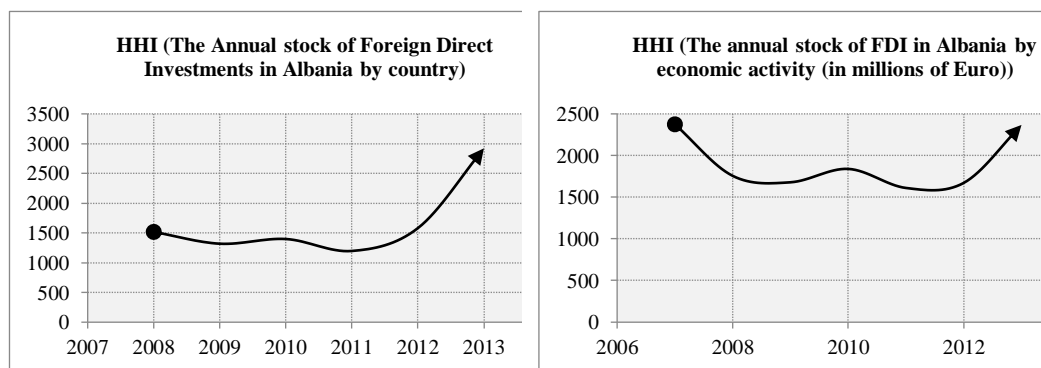
Source: Calculations by the authors with data from publications, the Bank of Albania 2015.

Figure no. 2: The trend of the stock of FDI in Albania, by countries, 2012-2013.

One way of analyzing the unequal distribution of FDI (or concentration of FDI) is the use of Herfindal - Hirschman index (S. Ledyeva and M. Linden, 2006). This index will be used to show the distribution of the stock of FDI in Albania. Herfindal Index - Hirschman Index (HHI) is given by the formula:

$$HHI = \sum_{j=1}^k \left(\frac{IHD_j}{IHD} \cdot 100 \right)^2$$

Where: IHD_j is the level of the stock of FDI by country of origin of the investor j or by economic activity j , FDI is the level of total annual stock of FDI and k is the number of countries or economic activities in our research (as shown in Figure no. 1 and Figure no. 2 above). The HHI calculation is made for the time frame 2007 - 2013, where the result obtained as in Figure no. 3:



Source: Calculations by the authors with data from publications, the Bank of Albania 2015.

Figure no. 3: HHI for Albania by countries and economic activities, 2007-2013.

According to this index you can see that after 2010 there is a high tendency of concentration of the stock of FDI in Albania in a few countries of origin. This shows that the attraction of foreign investors in Albania is concentrated in a few countries, so the real competitive advantages of Albania in attracting foreign investors from different countries of the world are in decline.

If you look at the value of HHI by the distribution of the stock of FDI in economic activities in Albania, there is a consistency of concentration of the stock of FDI for the years 2007 - 2013 (except for 2007 and 2013 with higher concentration than other years). But how should this stability be seen, as a positive or a negative fact? If we look at the index's value for 2010, it shows an average value of it, this means that we can use this as the base year in our analysis. To answer the question whether the HHI stability in Albania by economic activity is a good indicator or not, logically we should know how it was in 2010 in view of the distribution of FDI by economic activity. According to the Ministry of Economy (Annual Report, FDI, 2010) it is emphasized the fact that FDI should be absorbed to develop economic sectors such as business services, agriculture and agribusiness, mining and heavy industry, energy, tourism, because the levels are much lower than what was expected.

So 2010 is characterized by a concentrated distribution of the stock of FDI in a few economic sectors in Albania, it means that according to HHI the entire time frame of 2007-2013 has the same characteristic as the year 2010. Therefore, the sustainability of the HHI of the stock of FDI in Albania by economic activity shows that some sectors do not offer real competitive advantages in attracting foreign investors.

C. Analysis of FDI in Albania, according to the Solow model

The methodology and data: In his opinion neoclassical Solow (1957) argued that economic growth is an "output" that positively influenced by "input" such as technology, capital, labor, or a vector of variables additional economy (such as imports, exports, institutional dummy variables, etc.). This connection is determined by the following equation:

$$Y = A\varphi(K, L, \Omega)$$

Where: Y = the total output, or GDP (or growth),

K = capital investment,

L = work (labor force),

A = efficiency of production (the constant of model),

Ω = vector of additional variables.

Findlay (1978) developed more Solow model assuming that the growth rate of technological distribution is an increasing function of FDI, reclassifying the "input" with foreign capital and "input" with domestic capital. He argued that the growth of foreign capital increases internal capital. According to the internal growth models, technological changes in the production process, internal growth models "endogenous" are applied to see the effect of FDI on economic growth of a host country (Romer, 1986). Based on the Cobb-Douglas function, it follows that the Solow model has the form:

$$Y = A \cdot K^{\alpha} \cdot L^{\beta} \cdot \Omega^{\gamma}$$

By logarithmic transformation of the above equation, we get the form:

$$\ln Y_t = \ln A + \alpha \ln K_t + \beta \ln L_t + \gamma \ln \Omega_t + \varepsilon_t$$

Where α , β , γ are respectively elasticity of: Y (economic growth or GDP) related to capital (divided into two parts: in the capital of FDI and domestic investment DI), L (labor cost, so the average salary or the number of employees), auxiliary variables Ω (qualitative variables "dummy" indicator technology, foreign trade, no. of population, etc.) depending on the time " t ". With ε_t stated term error model that incorporates all factors that are not included in the model.

In this analysis it aims to explain the relation of capital (foreign direct investment and domestic investment) and labor (the average monthly wage) gross domestic product. The data represent a time series from 1996-2013 with 3-month period for Albania. To identify links explanatory variables and the importance and usefulness of their connection, this analysis consists in finding connections for use predictions for economic purposes.

Table 2: Economic variables and their description

Variables	Description of the variable	Source of data
GDP	Gross Domestic Product (value in million ALL).	INSTAT, 2014
FDI	Foreign Direct Investment (values in million ALL), assesses the impact of foreign capital in the economy of the host country.	Bank of Albania, 2014
ID	Albanian capital investments (value in million ALL), assesses the impact of domestic capital in national production.	Bank of Albania, 2014
L	The average monthly wage (value at ALL).	INSTAT, 2014

Source: Review of literature by authors.

The statistical results of the model: doing testing program EViews 7 for Solow model, the case of Albania, we get statistical results in Table 3, below:

Table 3: Results of statistical significance of the dependent variable log (GDP)

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	1. 297673	0. 642820	2. 018718	0. 0475
LOG(IHD)	0. 032184	0. 011606	2. 773042	0. 0072
LOG(ID)	0. 532712	0. 037289	14. 28607	0. 0000
LOG(PAG)	0. 469908	0. 053546	8. 775720	0. 0000

Source: Calculations on EViews 7, by the authors.

Even in the case of Albania, the Solow model shows a statistically significant relationship and positive dependent variable log (GDP) with independent variables: log(FDI), log(ID) and log(L). As you can see, this model assesses the relative degree of responsiveness of GDP or its elasticity with respect to the dependent variables:

$$\text{Log}(\text{GDP}_t) = 1. 297673 + 0. 032184 \cdot \text{log}(\text{FDI}_t) + 0. 532712 \cdot \text{log}(\text{ID}_t) + 0. 469908 \cdot \text{log}(\text{L}_t) + \varepsilon_t$$

So the model is statistically significant by Fisher test, with statistical significance level of 5% and the adjust coefficient of determination is 87. 73%. This coefficient shows a very high level of explanation links economic indicators as independent variables in the effect on the dependent variable, GDP. Referring to the model, the coefficients of independent variables in the model, show the effect of the change in percentage of GDP, when variables grow by 1% in the conditions "ceteris paribus".

The constant of the model is statistically significant and expresses the average of the 3-month rate of growth of GDP from 1996 to 2013, on the basis of 3 months, which means the technological level of Albania.

According to the model, if FDI will rise by 1%, it will have a positive effect on GDP growth only 0. 03%, while much larger is the effect they have IDs, where if IDs increased by 1%, they will have a positive effect on GDP growth of 0. 53%. The same conclusion we receive for the level of the average wage, if L will increase by 1%, will have a positive effect on GDP growth of 0. 47%. As we said above, the time period 1996-2005 was not clean FDI investment in new businesses, but as a result of privatization, and after 2005 they have dominated more inflows of FDI into new businesses. This explains why the direct effect is several times smaller by FDI than domestic investment. However, FDI has had a significant impact on employment, the number of employees (particularly fason industry), which increases "endogenous" employment and economic growth. In Albania, one of the markets more informal, accepted by the IMF and World Bank (2013) is the employment market, therefore variable labor (average salary) is an indication that there is a high margin of error in the official statistics and it makes measuring the effect impossible for "endogenous" FDI in average salary.

But to use this model to obtain evaluation results with high statistical reliability, the effects of linking economic variables in the future, model is the subject of a set of econometric tests that prove the usefulness of using the model, according to the explanatory parameters derived from the data analyzed. This means that should satisfy all the basic assumptions of Theorem Gauss-Markov (Alexander Ludwig and Klaus Schmidt, 2010). Table 4, below reflects the type of test and the result for our model:

Table 4: Results of econometric tests, for an efficient model

<i>Denomination Test</i>	<i>The explanatory description</i>	<i>The result</i>
Functional forms, test-RESET	This test shows if the form of the model is appropriate (that is completely flexible or semi-flexible)	The right form is fully the elastic function for 5% significance level.
Multicollineritety, VIF-test	This test shows if there is a correlation between independent variables included in the model.	There is multicollinearity but it is not perfect (since the variables are statistically significant, we have not made the elimination of any variable).
Heteroskedasticity, White-test	This test shows the absence of connectivity residues constant variance model with population data.	No heteroskedasticity (logarithmic form eliminates it)
Autocorrelation, LM-test	This test shows the serial correlation of independent variables and ϵ model residues.	There is autocorrelation but it eliminated by adjusting the model with AR (1) and coefficient of about +0315.
Normal distribution of residues (ϵ_t), J-B test	The model is tested If residues are normally distributed or not.	ϵ_t residues have normal distribution.

Source: Calculations on EViews 7, by the authors.

Results of econometric tests from Table 4, support the argument that our model estimated with its parameters above, it is right to explaining the dependent variable GDP changes of independent variables arising at the level of foreign direct investment, domestic investments and the average wage level.

Table 5: results of the Wald test for long-term connection to the model

Test Statistic	Value	df	Probability
F-statistic	170. 2908	(3, 68)	0. 0000
Chi-square	510. 8724	3	0. 0000

Null Hypothesis: $C(2)=C(3)=C(4)=0$

Null Hypothesis Summary:

Normalized Restriction (= 0)	Value	Std. Err.
C(2)	0. 032184	0. 011606
C(3)	0. 532712	0. 037289
C(4)	0. 469908	0. 053546

Source: Calculations on EViews 7, by the authors.

By Wald test, the table 5 above, our model of multiple regression is statistically significant, with the level of importance $p < 5\%$, this means that the model can also be used for long-run economic analysis. So, the impact of FDI on the growth of GDP is not only in the short-run but it is sustainable and in the long-run.

D. Conclusions and Recommendations

FDI flows in Albania began after 90s, which for more than a decade, were in the form of privatization of state-owned enterprises, while after the year 2004-2005, these flows were generally the capital investment in businesses. According to the analysis of Herfindal-Hirschman index, the stock of FDI in Albania in 2007-2013, is focused on activities such as: financial intermediation, transport and telecommunications and mining industries. While agriculture and agribusiness, tourism, mining industry (non-extractive) continues to be not preferred by foreign investors. Even the origin of foreign investors is concentrated in a few countries of origin, led by Greece, Canada, Austria, the Netherlands, Turkey and Italy. So, government authorities should mitigate this concentration trend of FDI by promoting also other sectors of the economy, even by putting together a package of additional facilities with regulatory nature (legal), contractual and fiscal.

According to econometric analysis of the model in our paper, it resulted in a statistically significant relation of GDP to FDI, domestic investment and average salary. Indicating that (*ceteris paribus* conditions), when:

FDI increased by 1%, GDP will grow by 0.03%,

investments in domestic capital will increase by 1%, GDP will grow 0.53%,

aggregate average wage will increase by 1%, GDP will grow 0.47%.

By using Wald test, with a statistical significance level of $p < 5\%$ turns out that the model parameters are stable and have simultaneous effect in the long run.

The elasticity level of the GDP to the explanatory variables is different, but according to the model, the greatest impact on GDP comes from domestic capital investments, then from the average wage. While FDI have an impact several times smaller than the Albanian capital investments. This happened for several reasons:

First, the level of investments from Albanian capital (private and public) from 1996 to 2005 had an average weight of 11.5 times higher than FDI, and from 2006 to 2013 had average weight about 5 times larger than FDI. Over the recent years it is observed that the reduction of the share of investment with domestic capital has come as a result of their declining rate that was higher than the declining rate of FDI.

Secondly, FDI in Albania have had a positive impact on the employment rate, in the number of employees (especially with the Fason products), affecting in an "endogenous" way in the employment growth and the latter in economic growth itself. But due to high informality levels in the labor market and the absence of official data, it is impossible to measure the effect of "endogenous" FDI in average salary.

Thirdly, FDI are absorbed from privatizations and concessions during their contracted duration, or a natural resource, adding a low value in the economy. This in return indicates that the Albanian institutions have shown weakness in the achievement of their objectives. Succumbing to secret corrupted agreements, or showing inefficiency of infrastructure for evaluation and control of investments in the country. In these conditions, it would be better to orient the investment focus on domestic capital initiatives.

Also a significant problem in Albania is the lack of detailed official statistics, because of missing time series for various study purposes, especially in the real economy. This led to the limitation of our model's variables. In this context, we suggest to the Institute of Statistics and various other institutions in Albania, to create a database for all researchers, policy and project makers, expert evaluators, etc.

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Economic and Social Development - Paradox of Convergence Hypothesis; A Comparative Approach

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Abstract

Classical economic theories have been quite effective in explaining economic development. Convergence hypothesis, however, aims to explain economic growth rather than economic and social development. Therefore there is a dilemma in explaining economic and social development in the world. Part of this dilemma could be attributed to the fact that many economic theories are *ceteris paribus*. For example endogenous development theories consist of technological and innovational change. This theories explained by Romer. Convergence hypothesis is based on neoclassical model. According to this theory a poor country is expected to catch up a rich country in the long run. But today convergence hypothesis faces a paradox. In line with the assumptions of the convergence development theories, Turkey has achieved significant economic progress towards convergence to the EU and OECD countries. The roots of this achievement are recent social, economic, and fiscal reforms. If Turkey succeeds in radical reforms in educational, scientific and R&D areas it will catch up more economic and social development. There is evidence to this matter in other countries. For example, Austria was successful in becoming a member of the EU in one year as suggested by the convergence hypothesis. This case of Austria supports my hypothesis, that is, if a country is ready for new sectors, it is more likely to achieve economic and social development. Otherwise, the convergence hypothesis may be rejected. According to Kuran "...why the Middle East became underdeveloped. In particular it points to certain Middle Eastern institutions, including ones rooted in the religion's dominant religion, as past and in some cases also continuing obstacles to economic development (Kuran,2004)". This problem is main structure Middle East and Muslim countries. Another literature review Quah, according to Quah "The idea that countries that differ in terms of initial conditions experience diverging growth performances has also inspired a set of related contributions, which have studied the evolution of the world distribution of income and pointed out the existence of increasing polarization between the club of rich and the group of poor countries (Quah, 1996a; 1996b; 1996c; 1997) For the last 150 years divergence and convergence has been investigated together. But today social and economic life has been investigated separately at different levels including social, individual and state level. In this paper, I simply try to identify positive and negative effects of convergence hypothesis on social life and real politics. For example, in 2013 the UK (GERD) spent 28.9 billion pounds on research and development. In current prices, this corresponds to 7% increase in the GDE compared with 2012 (adjusted for inflation). On the other hand, in constant prices, R&D expenditure increased by 5%. In general, economic and social development, and especially economic growth has its roots in Industrial revolution -including first Industrial Revolution, second industrial revolution, and Colonialism. In this period, developed countries were called as convergence club. This situation also supports my hypothesis for Turkey and EU. Convergence hypothesis have also been widely used to demonstrate local and regional development (i. e. NUTS for EU). I compared the NUTS classification of the regions in the EU and Turkey to examine local convergence economic and social development.

Keywords: Convergence Hypothesis, Mena Region, EU, NUTS, Social Development

Introduction

Economy is social sciences. In this study dependent variable is economic and social development independent variables are finance, human capital, natural resource, region, cultural effects. Convergence hypothesis has some paradox. I

investigated how this paradox is and I suggested some solution. Economic development is aim to improvement in welfare for country. Convergence has been using different social sciences for example mathematics, Psychology and biology, this terms had been use as economic and development terms.

In this paper have aims to three goals. First one is theoretical and literature framework, second one is cooperation some countries paradox of convergence hypothesis and lastly some solution multidisciplinary approach.

Econometricians have been forecasting economic activities such as population and employment for a long time two types of forecasting methodologies can be broadly classified forecasting on the basis of cross-national data versus that based on time series (Chan, 2011; p. 18) Mises proposes the term "preaxeology" (the logic of action) for the branch of knowledge exemplified by economics. (Hoppe, 2007; p. 8) In particularly to explain economic events researcher will see, includes three modes of investigation which are empirical, theoretical and historical. I tried to explain my idea by using these models.

According to this hypothesis under the closed economy conditions, because of diminishing rate of return of the capital per person real income different across countries tend to decrease. Growth was an important sensed discovery of economics at his second world war. Of course economic development has always been grand theme of historically minded large mind and blood concept More, Schumpeter, Kuznets. (Nordhaus and Tobin. 1972; pp. 1-80) 2. In order to understand the current trends in the dispute over convergence, it is very helpful to use the classification proposed by (Islam, 2003: pp. 309–362.) The whole discussion may be described in the form of the following seven dichotomies: 1. Convergence within an economy vs. convergence across economies; 2. Convergence in terms of growth rate vs. convergence in terms of income level; 3. Beta (β) convergence vs. sigma (σ) convergence; 4. Unconditional (absolute) convergence vs. conditional convergence; 5. Global convergence vs. local or club-convergence; 6. Income-convergence vs. total factor productivity (TFP)-convergence; 7. Deterministic convergence vs. stochastic convergence. (Vahter and Urmas, 2005; p. 8)

Literature review:

The term convergence has several distinct meaning different fields. This means that biology explained himself, a psychology explains this terms himself but this paper I will try to explains economic and development aspect. Because of this theory aims to catching up at the aggregate level analysis in technology and this theory explains productivity and to explain convergence in economic structure. Less underdeveloped countries household has expenditure subsistence level. While Solow and Swan explain household has expenditure endogenous Cass and Koopmans explain time series. Convergence hypothesis is four differences approach namely, cross-section, panel section, time series methods, and distribution approach. There are several perfect research and result. I will try to contribute this field economic and socio-political approach. Because social and economic structure is differ from country to country. Convergence, explains to countries with lower levels of GDP per capita will grow faster on average than those with higher levels until they catch up the others. Countries with similar structural characteristic including production, technological level, production performance and government policies are called club convergence.

The Japan miracle is strongly evidence paradox of convergence hypothesis. "The three major reform policies implemented by the American forces were breakup of the zaibatsu, land reform and labor market democratization.... The ability of the Japanese people to imitate and apply the knowledge and skill learned from the western countries the single most important factor for Japan's amazing growth" (Takada, 1999; p. 3.) Japan government has shared 12% budget for education in 2014. it has shared 57. 7 for defense. In primary school teacher student ratio is 1/25. Secocndary school teacher/student ratio is 1718. Higher education lecture/student ratio is 1/11. Compulsory education period is 9 year, its 6 year is primary school, 3 year is secondary school, pre school enrollment ratio is %65, primary school enrollment is %99. 9, secondary school enrollment ratio is %96. Vocational and general school ratio is %92, higher education ratio is 539. in addition to there are three term in year. There are 240 working day in one year. Government supported and financed %98 for lunch students in school. This means that Japan economic growth and social development depends on social structure and culture rather than convergence.

" The proportion of workers organized into labor unions rose rapidly, from zero in 1945 to nearly 60 percent 1948-1960. This is extraordinary high rate view of the fact that the international change is about 30 percent"(Takada, 1999; p. 9)

Dodge plan, this plan applied in Japan whereas Marshall Plan applied another countries. Dodge plan had been successful the others.

Real GDP Growth, Japan and US selected sub period

Annual percentage rate

Sub period Japan USA Turkey

1905-1920 3. 49 2. 85 1923-1938 7. 4

1946-1960 9. 38 3. 45 6. 3

1975-1990 4. 12 2. 96 5. 5

Source: Takatoshi calculated. (Adopted article's author)

In this world, there are quite differ end land tenure systems. These tenure systems have developed under the influence of natural factors (climate, soil conditions, topography) and socio cultural factors (value systems, political ideologies, technological levels, population development, changes in price/cost relation, etc.). As these factors vary from country to country and from time to time, and are so intrinsic parts of cultures, in the case of land tenure issues it is very difficult to transfer experiences from one country to the other. (KUHNEN, p. 78)

The speed of convergence has varied significantly across these transition countries. As shown in Table 1. 1, real convergence went fastest in some of the least developed transition countries, especially in the three Baltic States. These dynamics has been slower in the more developed transition countries, such as Slovenia and Czech Republic, all conform β -convergence. An outlier on the β -convergence pattern is the strong growth performance of Slovakia, and the less impressive growth of Bulgaria, Hungary and Romania.

Table 1. 1: Real convergence of "catching-up MS" expressed as per capita GDP in PPP

1993 1998 2003 2007 93-07 Years to

----- catch-up--

EU – 27 100. 0 100. 0 100. 0 100. 0 3. 9 -

Bulgaria 31. 7 26. 9 32. 5 38. 1 5. 2 77

Czech Republic 71. 6 70. 5 73. 4 81. 7 4. 9 21

Estonia 35. 3 42. 3 54. 4 70. 8 8. 9 7

Latvia 31. 7 35. 6 43. 3 58. 0 8. 3 13

Lithuania 38. 3 40. 1 49. 1 60. 3 7. 2 16

Hungary 52. 2 52. 7 63. 2 63. 4 5. 3 34

Poland 40. 3 47. 8 48. 9 53. 8 6. 0 30

Romania 27. 7 27. 7 31. 3 40. 6 6. 2 41

Slovenia 70. 6 78. 6 83. 4 91. 2 5. 8 5

Slovakia 45. 0 52. 1 55. 5 68. 5 7. 0 13

Greece 84. 7 83. 3 92. 1 97. 5 4. 9 3

Ireland 94. 3 121. 5 140. 8 146. 2 7. 1 -12

Portugal 75. 5 76. 6 76. 7 74. 8 3. 9 ∞

The β -coefficient results from the following regression: $\log(\text{GDPpc08}/\text{GDPpc93}) = c + \beta \log(\text{GDPpc93}) + \text{error term}$;

The σ -coefficient is defined as the coefficient of variation of GDPpc : $\sqrt{\text{VAR}/\text{MEAN}}$

Empirical calculations based on standard deviations calculations for two sub-groups of MS, namely for the Luxembourg group (Slovenia, Poland, Hungary, Estonia and Czech Republic) and the Helsinki group (Lithuania, Latvia, Bulgaria, Romania and Slovakia), have shown that convergence within the Luxembourg group countries has been significant between 1995 and 2005 while the Helsinki group has experienced no intra-group convergence in this very same period (Varblane and Vahter, 2005, p. 18-1) (Reinhilde Veugelers and Mojmír Mrak, 2009, p. 19)

Economic convergence may be divided into two categories. First, micro convergence refers to a tendency towards the equalization theorem (FPE) provides a rigorous theoretical framework for micro convergence...has been the object to considerable attention since the early 1980s. (Rassekh, 1988, p. 1)

1. 2. Data Analysis:

According to Sala-i Martin beta convergence is a necessary is estimated on the basis of a unvaried cross-country regression of per capita income growth between year and $g[y(t)-y(0)]$ on the initial level of per capita income $y(0)$, i. e. $[y(t)-y(0)] = a + \beta y(0) + e$ where e denotes an error term. The coefficient an initial income is labeled as beta, and a negative sign indicates convergence (Barro and Sala-i Martin, 1992; pp. 227-249). I compared with in history goods value for today. For example we can ask himself "what is 1 US Dollars 1867 worth in 2015?". 2015 price = 1867 price (2015 CPI/1867 CPI). 2015 price = 1 dollars, $x(711.1/42)$. 2015 price = 17. In this method 711.1 is for 2015 Consumer price Index. 42 is in 1867 consumer price index. This evidence supported this result for example, USA purchased Alaska from Russia in 1867 7.2 million dollars. In today its value is 122.400 million dollars. This method can be used same compare research. This method can be use an estimate for future years are based on the change in the CPI.

1. 3. Islamic Countries:

All Muslims are not Arab, Middle-Eastern or of African descent. Islam is a universal religion and way of life that includes followers from all races. There are Muslims in and from virtually every country in the world. Arabs only constitute about 20% of Muslims worldwide. The countries with the largest Muslim populations are not located in the Middle East. They are Indonesia (over 200 million Muslims) and Pakistan and India (over 350 million Muslims combined). According to Wallerstein, while the Ottoman Empire was outside the capitalist world system, the Dutch Republic became the core of the new western capitalist world system in the seventeenth century. He attempted to improve Braudel's static (statistic) analysis by introducing the concept of the 'world economic system' (Wallerstein 1974; 1978-80) This idea shows that economic growth and social development depending on social structure.

Geostrategically, it is significant to note that three main poles of the Islamic world in south East Asia, the Middle East and North Africa include the most strategic channels and straits, which are the Straits of Malacca between Malaysia and

Indonesia, the Hormuz Strait in the midst of the middle-eastern Islamic countries, and the Bab al-Mandeb and Suez Canal in North-east and horn of Africa area, as well as the Dardanelles and Bosphorus straits which are strategic international waterways in Turkey. (Jawan,2013:p. 5)

Organization of Islamic Cooperation Countries, and top 25 Humanitarian assistance Donor and recipient Countries (2012)

Donor countries US Dollars (million) Recipient countries US Dollars

EU Institutions 1. 881 Haiti 237

Canada 691 Mali 258

USA 4. 686 Burkina Faso 98

Sweden 785 Cote D'ivoire 103

Norway 613 Niger 291

UK 1. 825 Chad 298

Finland 162 Sudan 441

Ireland 147 DR Congo 464

Belgium 250 Zimbabwe 152

Luxemburg 59 South Sudan 865

France 427 Kenya 404

Spain 253 Somalia 627

Italy 276 Ethiopia 484

Saudi Arabia 109 Yemen 305

United Arab Emirates 90 Jordan 303

Qatar 69 The Philippines 137

Kuwait 327 Thailand 85

Australia 357 Myanmar 130

Japan 1. 112 Bangladesh 87

Netherlands 410 Pakistan 529

Germany 949 Afghanistan 492

Austria 62 Iraq 98

Switzerland 399 Lebanon 404

Turkey 1. 638 Syria 1. 536

Denmark 409 Palestine 654

(Source: Development initiatives based on OECD DAD and UN OCHA FTS da online-zakat. reportV9a. www.globalhumanitarianassistance.org/wpcontent/uploads/2015/03/ONLINE-Zakat_report_V9a. pd)

Those data is for 2012 year. In 2016 Turkey helped Syrian refugees' approx. 8 billion US Dollars. EU promised for Syrian refugees 3 billion will pay Turkey USD dollars. Therefore Turkey paid seven billion US Dollars expenditure for aid. This value is extraordinary number in the World. Those data and rate of aid has been supported my hypothesis. I. e, social structure and social change are differing from country to country. We should be thinking about new approach new economic order. Including, those may be (ethical economy-trust economy-green economy-Islamic economy-structural economy). Another example is

Arab spring had been multiple effect social economic- politics –international area, is this movement result or cause?. This case is dilemma. There is a difference opinion among economist on the goal of economic method. This means that, some countries labeled himself "socialist Islam" or "light Islam" or ext. those mottos is fallacy.

The view that economic growth is a complex function of a wide range of interrelated factors, over and above traditional factors inputs has led some analysis to develops idea of conditional convergence. (Kalnsai,Nahid,...)He applied above Formula and he found that non-oil countries convergence and oil countries convergence did not support convergence hypothesis.

G/Y: share of government consumptions to GDP

K: per capita capital

X+M/GDP: index for openness where X and M represent export and imports'

SEU: secondary schooling

Inf: Inflation rate

Bagdad Pact was signed in 1955, abolished in 1959. This agreement was 8 articles, in which 2. article including economic subjects. Baghdad pact was a defensive organization for promoting shared partial military and economic goals this aims to signed in 1955,Between Turkey-Iraq-Great Britain-Iran and Pakistan. Sadabaad Pact and agreement was signed 1935 between Turkey-Iran-Iraq- Afghanistan. This treaty lasted for five years. Sadabaad pact, Baghdad pact, RCD cooperation, Cento all of them abolished and did not achieved especially economic area. This means that we should be re thing about economic field fort his region.

The elements and economic growth and human development, those elements are Responsively-empowerment-equilibrium-endowment-almsgiving. (Nisar Ahmat et. al,2013,p. 3). Labor is one of the moral pillar of Islamic system of economy. Because

Muslims share of world population, 19. 22%

Muslims share of world income, 5. 98%

Islam is second largest religion in the world,

IOC is second largest organization in the world.,

Most needed oil of the world is exported from the Middle East region which includes most Muslim majority countries too. The only significant international oil organization with 12 members that produces about 40% of the world's oil is OPEC 4, in which only Venezuela and Ecuador are non-Islamic countries. According to OPEC report, the Islamic countries have produced more than 43% of the world's oil production in 2010 (OPEC, 2011). It is also interesting to note that, according to estimates in 2010 "more than 80% of the world's proven oil reserves are located in OPEC Member Countries" (OPEC, 2012b). In addition, there are

a few Muslim countries which are considered as oil producers, but are not members of this organization. Those are countries such as Brunei, Indonesia and Malaysia in south-east Asia, and Kazakhstan, Azerbaijan, Tunisia, Egypt, Syria, and Yemen, in Central Asia, Africa, and Middle East regions. This is enough to reveal the economic power of the Islamic world in the form of its hard power resource. (Naji and Jawan, 2012 p. 6)

Economy : Qatar Turkey Malaysia Kazakhstan Lebanon

Strategic location: Yemen Iran Egypt Turkey Malaysia, Indonesia

Geoeconomics of oil: Saudi Arabia Iran Iraq UAE Kuwait

Military might: Turkey Iran Pakistan Egypt Indonesia

Ideology : Saudi Arabia Iran Egypt

Table 2: Horizontal axes

Iran, on the other hand has its ideological innocence amongst Shia Muslims, and has been known as the leader of the anti-American movement amongst Muslims. From this view, indeed, Iran as a Muslim country has constantly acted as a challenge to the US world leadership to date. In the fifth axis, Saudi Arabia, Iraq, Iran, and Kuwait are oil rich countries that have enough capability to use oil as a political-economic weapon. This capability is seriously presentable within OPEC with each other and with other members too.

Geo-economics of oil Strategic location, Military might ideology: Iran

Geo-economics of oil ideology: Saudi Arabia

Strategic location, Military might, Economy: Turkey

Strategic location, economy: Malaysia, Indonesia

Military might, strategic location, ideology: Egypt

Table 3: Vertical axes (. (Naji and Jawan, 2012 ;p. 9)

In this respect, this integrated unit will have material capabilities, particularly in terms of oil and gas resources (especially Saudi Arabia, Iraq, Kuwait, and Iran), a large amount of income due to this natural resource, potential ability to use oil as a geo-economics factor, a relative military might (Turkey 8th and Iran 12th in the world) (GFP, 2012), an appropriate GDP growth rate in some countries (Turkey 8. 2%, Malaysia 7. 2%, Turkmenistan 9. 2%, Kazakhstan 7%, and so on) (CIA, 2011), ability to incense control of the most important straits, including the noticeable proportion of the world population, a relative geographical integrity in the Islamic World from west Africa to East Asia. (. (Naji and Jawan, 2012 p. 10)

1. 4. Historical background.

While the convergence hypothesis implies that poor countries or poor region tend to grow faster than richer country and region, but real politics and social and economic structure versus this idea. I discussed and I compare with comparative

approach for development countries for solution. Convergence hypothesis is one of the most important subject economic growths. Solow who is guru of endogenous growth sometimes these ideas could be under the closed economy condition.

Horald Hotelling advocates location independence theory. In industry must be primary resources are found. In this condition it region can be developed. For example south Asia poor regions are not primary industrial region. There is another case; Africa has similar climates North and South of the Equator. Because for development requires skilled human, fiscal capital, natural resources are major categories. Japan is highly industrialized and very wealthy despite its lack of natural resources. Japan is second countries steel productivity in the world.

According to the Pew Global Attitude survey, there is a significant degree of convergence between East-Central Europeans and West Europeans concerning the balance between the market and a state-guaranteed social safety net. (Jacques Rupnik, 2005 p. 58). Inflation of more than 100 percent annually raged from 1946 through

1948. The following year, the occupation authorities implemented a stabilization program crafted by Joseph Dodge, a Detroit banker who had undertaken a similar job in war-torn Germany. The fiscal and monetary policies known as the Dodge line stabilized the economy and set the stage for a revival of investment and growth, (Japan economy, p. 6)

In Japan, Dodge plan aims to in stabilization policy in 1949, which are including civil law, labor force, agriculture, and social policy. In this period Japan government abolished subventions (government grant) some goods, revised budget, and reduced inflation. 1 USA dollar=360 Japan yen in 1949. In this period USA had been growth %3, western countries had been growth %5, and Japan had been growth %9. I compared with in this time Marshall plan proposed in 1947, and it come into force 1948-1953 for sixteen countries. This countries are Avustria, Belgium, Luxembiurg, Danmark, France, Germany, Greece, Italy, Irland, Izland, The Netherlands, Norway, Portugal, Sweden, Switzerland, United Kingdom and Turkey. In 2015 Turkey is candidate members of European Union. Norway and Izland is not member European Union. This situation supported my hypothesis. This means that convergence hypothesis is not always time and condition correct. It depends on social structure. Developing countries should be benefits from its technology. If under developed countries goods x level, revenue level y will be increases regards to developed countries.

According to Romer, "if a country amount financial value connected with knowledge and skills law of diminishing will be loses its effects." (Romer, 1986; pp. 1002-1037). For example if Turkey has chanced planned economy it will be successful for The Netherlands and France agriculture sector. Two countries applied very successful planned economy and did not occurs crowding out effects this countries.

While there is a degree of economic convergence (in productivity or employment

rates), the gap between the lower income convergence and more developed regional Competitiveness and employment (RCE) regions remains significant. Moreover, there is little convergence, even divergence, in regional innovation performance (Hollanders, Rivera León, and Roman 2012). (from Hollanders and et. el. Alessandro Muscioa, Alasdair Reidband Lorena Rivera Leon, 2015; pp. 155)

The communist manifesto had been wrote Marx and Engels in 1848. originally capitalism was ultimately doomed as the working class would revolt against their powerful employees and seize the means of production in which no group and citizen would be more politically or economically powerful the other. I mean that, human capital, human resource

Equality, cultural deviation had been affected 150 years ago.

For example, in the 1940s, 97 percent of the student population in Ghana and Nigeria were from missionary schools. In South Africa during this period, there were 5,360 mission-sponsored schools and only 230 states sponsored schools. See Edward H. Berman (1974, 527) for details. (Nunn, 2010 p. 147)

Industrializing England in the 18th century Germany and Japan from the ashes of World War II economic miracle, China developed after 1990. But some countries are conflicts Maoist ideology this is dilemma.

According to Lehmann and Silvagni" analysis convergence in per capita cross regional produces of Russia's regions during period 1995-2000 using a panel regression framework we find no evidence for beta convergence". (Lehmann and Silvagni,2013 p3)

The Industrial Revolution (1750-1914) indeed we can think of industrial revolution 1 th. 2 th and technological revolution. In the period of first industrial revolution includes new crops, new farming methods, new technology, man women and children skilled into various products' addition to in this period there had been population growth, promote investment and business. In this period main sectors are textiles. Factory system comes into effects also. For example those are machines, skilled workers, trade overseas. This period main instruments had applied telegraph 1844, telephone 1876, wireless telegraph 1895 had been applied, 1807 machines adopted ships' second Industrial revolution (1870-1914) Gasoline (1880), oil-mixed powered (1880) Airplane (1903) in Europe. 1860-1888 Meiji period in Japan had been effect Japan industrial growth. In Russia Czar Alexander III. Had been struggle for growth. In this period some scholar has attribute as thinker, for example R. Bentham -utilitarianisms, R. Owen- utopianism, C. Fourier- socialism, K. Marks and F. Engels - communism. Bismarck - adopted social security in Germany. Beveridge report had adopted in England.

In sum up, western society of economic growth and social development pillars are, rapidly population growth, skilled workforce, external factor is Plessey war's goods, and colonialism.

Westphalia agreement (1648), which was signed 1648, solved religions problems between princesses in Germany. But today Mena region and Middle East countries are face to face this problem.

According to Acemoğlu, The dual economy paradigm, originally proposed by Lewis (1954) still shapes the way that many economist think about the economic problems of less-development countries. According to Lewis, many less-developed or undeveloped economies have a dual structure and are divided into a modern sector and traditional sector. (acemoğlu, 2010:34) In antic Athens possibly 255 of the adult population were slaves (morris, et. al. 2009) in the late Roman Empire may be 155 (Harris 2007) and according to the Domesday Book of 1086 around 105 of the adult population were slaves (engement, 2007) (Acemoğlu, et. al. 2010, p. 28)

James Strachey (1887-1967) approach is psychological view for convergence hypothesis.

Jan Tinbergen (1903-1994) approach is econometric view for convergence hypothesis.

Max Weber (1864-1920) approach is methodological views for convergence hypothesis.

Thorstein Veblen (1857-1927) approach is institutional, heterodox approach and different field, one horizontal.

John Rogers Commons (1862-1945) approach is social and law, it is (convergence) changes time and country's institutions.

Wesley Clair Mitchell (1879-1940) approach is all conjectures flows are different the others.

Baumol was envisaged 16 country by convergence hypothesis horizontal regression analysis he found that those countries between there are convergence especially GDP.

"The first phase of Catch-up growth was in the 19th. Century was triggered by technological development; economic liberation and integration of German economic are related population dynamics. Since end of the 19th century legal development in Germany, in particular the decision by the German Imperial Court of 1897 that cartels are legally binding led to centralization of economic power in particular in the key industries "(Seliger, 2010; p. 4)

1-5. Theory:

Convergence hypothesis had been support economic theory (+), non support (-) below

Economic and trade theory mainly had been began A. Smith in 1776. D. Ricardo, J. S. Mills, A. Marshall, E. Heckscher, B. Ohlin, J. M. Keynes, J. Viner, P. Samuelson, T. Veblen, J. Schumpeter, T. Malthus, F. Bastiat, J. b. Say had been contribute also. But Malthus and Ricardo sometimes are pessimistic rather than other scholars. Those theories, which is called theory of classical growth summarized above roughly. The political motto "power collapse, power corrupt absolutely" might be chance "scarcity and le corrupts scarcity collapse absolutely". Therefore we should be thinking about this problem. We do not aware of theory and real politic. T. Jafferso's motto "information is the currency of democracy".

Theory: Main pillars:

1. Modernization Theory: Internal factors, enrollment student, vocational education, type of agriculture, division of labor, skilled workforce
2. Dualist Theory:-Boeke- A county has opposite extremes two sectors. Dualism includes social structure, geography, technological effects are not important. But capital formation is important. Dualism is using another discipline. But economic concept is important for this paper. Another verb is Circulus Vitouses.
3. Strategic Theory: This theory is concerned mainly with capital flow and market economy. B. Ohlin 1889-1979 advocated international capital flows for growth.
4. Balanced Growth Theory: Nurkse-Type of market and investing planning are important. Nurkse and Singer advocated sterile vicious circle.
5. Unbalanced Theory. Entrepreneurial abilities are important. Change is important.
6. Big Push Theory. P. R. Rodon-Take -off stage is important rather than others. This means that (x) less developing country must be invest both great and different sector, according to this theory therefore (x) county can be develop.
7. Development Poles: Perroux. Regional economy is important. For example Cassa region in Italy, Tennesy Valley region in USA, Seas Anatolia Project, East Anatolia Project, in Turkey.
8. Circular Causation Theory. Myrdal. Positive and negative effects is always circular.
9. Social- Psychological Theory. Holistic approach is pillars this theory. Economic activity is effects from individual to society.
10. Sociological Theory. Weber-Pearson-Smelter- Sombart. W. S. Javons contributed to as "Economic Sociology" terms had been used in 1879.
11. Social Change Theory: Hagen-This theory pillars is economic development and change is prior to social development and social change.
12. Dependency Theory: A. Gunter Frank. Dependency of social economic Structure's county's economy depends on another countries economy. Frank interested in Latin American countries economy.
13. External Trade: Benefits of international trade is pillar this theory.
14. Circular Deterioration: Prebish. Technological progress is this theory main thesis and promotes center and periphery countries.
15. Imperialism: Lenin. Colonialism has multiple effect donor countries.
16. Modern Imperialism-Galtung. This theory is politics rather than economy.

17. Imeriserizing theory. Bhaguati-A county has exports more than imports. Internal price can be increases and can be devaluation.

18. Innovation, invention economic theory: Schumpeter, this theory pillars are innovation, invention, and business cycle. Entrepreneurship is important part of this theory, from R. Cantillon (1755) to J. M. Schumpeter. (1883-1950) according to Schumpeter, surplus profit was the entrepreneurs rewards for innovation.

19. Institutional economic theory: T. Veblen, who is rejected "homo economics" instead of existence of an individual acting into context habits.

20. Others. F. List (1789-1846) protectionism, N. O. Kondratieff, Long waves in Economic Live and Soviet Five-Year plan those concept Kondratieff had been tripped. K. Wickse 1851-1926 he advocates marginal theory of distribution. A. Weber 1868-1958 supports role of production cost for growth.

Accordingly, up to date, the theory of convergence has evolved into quite a number of branches, which have been comprehensively classified by Islam (2003: 312) in the form of antinomies: '(a) Convergence within an economy vs. convergence across economies; (b) Convergence in terms of growth rate vs. convergence in terms of income level; (c) σ -convergence vs. β -convergence; (d) Unconditional (absolute) convergence vs. conditional convergence; (e) Global convergence vs. local or club-convergence; (f) Income-convergence vs. TFP (total factor productivity)-convergence; and (g) Deterministic convergence vs. stochastic convergence'. (Malkow, et. al. 2011, p. 25) In theory directly extract material comes from earth this labeled primary sector, for example mining.

Table:4 Economic approach and convergence hypothesis.

Approach	Convergence	Main theme	Economic instruments ⁷
a.)Classical Economy.	+	Comparative advantage	Division of labor.
			Free competition
			Technological change
			Factor production
b.)Neo Classical Economy	-	Factor Endowment	Improved technical trade
			Trade for growth
			Taxation
c.)Keynesians Economy	+	Regional Export base	Investment
			Capital and labor complementary
d.)Development Economies	+	Cumulative Caution	
e.)Endogenous Economy	-		

f.) Exogenous economy	+	Technological development	Human capital
f.) New Trade Theory	+	Regional	
g.) Urban Growth Economy	-		
h.) Urban State Economy	-		
i.) Intuition Economy	+	Institutions	Institutional regulation
i.) Business Strategy Economy	+	Cluster	
j.) Evolutionary Economy	+	Learning-Regional	
h.) Stages Economic Growth	+	Economic stages	Years-Rostow Myrdal-Vernon
i.) Center-periphery model	-		
j.) Entrepreneurs	-		Vernon
k.) Capabilities	+		A. Sen- Nussbaum
			S. Alkire
l.) Trust economy	+	Human-social-capital-religion	
m.) Ecological economy	+	Green economy-protect environments	
n.) Islamic Economy	+	Social system-welfare state	
o.) World system theory	+	Wallerstein thesis (G. Frank)	
r.) Economic Geography	+	International trade-geopolitics	Nye-Kjellen
s.) New Trade Theory	+	Free trade	
ş.) Product life-style	+	Growth-maturity	
t.) Absolute Advantage theory	+	Some goods (public good-private goods)	

u.)Economic nationalism	-	Productive power-skill, industry, initiatives a. pastoral b. agricultural c. b+ manufacture d. b+c+ commercial	
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1. 6. New Approach.

NUTS The Nomenclature of Territorial Units for Statistics or Nomenclature of Units for Territorial Statistics (NUTS for French Nomenclature des unités territoriales statistiques) is a geocode standard for referencing the subdivisions of countries for statistical purposes. The standard is developed and regulated by the European Union, and thus only covers the member states of the EU in detail. The Nomenclature of Territorial Units for Statistics is instrumental in the European Union's Structural Fund delivery mechanisms (wikipedia. com., 2015) Mainly NUTS-1 is using national, NUTS-2 is using provincial, NUTS is using regional level. This method can be using convergence, especially EU and candidate members country.

Country: Turkey :

Region, 12:

Sub region, 26:

Provinces, 81:

Communes, 923:

Villages, 38640:

NUTS 3 : TR100

NUTS32010 code and name : TR100 Istanbul

UA city in NUTS: Y

City code : TR012C1

City name: Istanbul

Functional urban code Ports in NUTS3: TR12L1

Port ID : TRSLE

Name of Ports: TRSLE-TRAMB-TRCUB-TRHAY-TRIST-TRSIL

K. Marks, who is theorist, popularized the study of social class but, social and economic in addition to politics class means has changed. Today social science scholar have been using revenue slide instead of class. Measures of Economic Welfare MEW: Value of GDP+ Value and leisure time+ value and unpaid work Values of environment damage ISEW: personal

expenditure public expenditure+ value of unpaid work-private defense- value environment damage I found that GDP greater than isew. This means that about economic and social development we should be thinking about and analytical framework.

In future, population can be effect convergence and economic development. Therefore there is population data's below.

Table 5: The share of developing countries in world population and world GDP

World Population %

	1820	1870	1913	1950	1973	2001
Africa	7. 1	7. 1	7. 0	9. 0	10. 0	13. 4
Asia	65. 2	57. 5	51. 7	51. 4	54. 6	57. 4
Latin Americ a	2. 1	3. 2	4. 5	6. 6	7. 9	8. 6
Develo ping Countri es	74. 4	67. 8	63. 2	67. 0	72. 5	79. 4
Industr ialized Countri es	25. 6	32. 2	36. 8	33. 0	27. 5	20. 6
	1820	1870	1913	1950	1973	2001
World GDP						
Africa	4. 5	4. 1	2. 9	3. 8	3. 4	3. 3
sia	56. 4	36. 1	22. 3	15. 4	16. 4	30. 9
Latin Americ a	2. 2	2. 5	4. 4	7. 8	8. 7	8. 3
Develo ping Countri es	63. 1	42. 7	29. 6	27. 0	28. 5	42. 5
Industr ialized Countri es	36. 9	57. 3	70. 4	73. 0	71. 5	57. 5

Note: The group of developing countries is made up of states in Africa, Asia and Latin America. The group of industrialized countries comprises Western Europe (Andorra, Austria, Belgium, Channel Islands, Denmark, Faeroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Iceland, Ireland, Isle of Man, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland and the United Kingdom), the Western offshoots (Australia, Canada, New Zealand and the United States), Eastern Europe (Albania, Bulgaria, the former Czechoslovakia, Hungary, Poland, Romania and the former Yugoslavia), the former Soviet Union and Japan.

Source: Nayyar 2009 based on Maddison 2003. (Nayyar,2013:pp. 3)

In 2015 row world's data is below. Total GDP (2013): \$87TPopulation (2013):7. 1BGDP per Capita (2013): \$13,100Population Growth (2013): 1. 0%GDP Growth (2013): 2. 9%

Future: Population change by region in 2010, 2030, and 2050

Region (s) : Year 2010: Year 2030: Year 2050:

Europa(inc. Russia)

Population unit : 730 million 720 million 690 million

Population Change: 100. 0 98. 7 94. 3 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

Western Asia (Middle East)

Population unit : 230 million 310 million 370 million

Population Change: 100. 0 134. 1 159. 8 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

South Asia

Population unit : 1. 780 million 2. 230 million 2. 490 million

Population Change: 100. 0 125. 4 140. 1 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

Africa

Population unit : 1. 030 million 1. 520 million 2. 000 million

Population Change: 100. 0 147. 5 193. 5 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

East Asia

Population unit : 1. 560 million 1. 670 million 1. 600 million

Population Change: 100. 0 106. 5 102. 3 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

Southeast Asia

Population unit : 590 million 710 million 770 million

Population Change: 100. 0 119. 8 129. 9 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

North America

Population unit : 350 million 410 million 450 million

Population Change: 100. 0 116. 6 127. 5 (pop. in 2010 is regarded as 100)

Region (s) : Year 2010: Year 2030: Year 2050:

Latin America and Caribbean

Population unit : 590 million 690 million 730 million

Population Change: 100. 0 117. 2 123. 9 (pop. in 2010 is regarded as 100)

(Source: NRI papers no. 159- 2010 p. 2 (from compiled based on materials published by the United Nations. This table had been regulated by author. 2010 year beginning. (unit. Million peoples.) Percentage change from 2010, population in 2010 is regarded as 100.). This data's can be using for future regional economic cooperation and international trade.

World Population by Religion

According to a recent study (based on the 2010 world population of 6. 9 billion) by The Pew Forum, there are:

2,173,180,000 Christians (31% of world population), of which 50% are Catholic, 37% Protestant, 12% Orthodox, and 1% other. 1,598,510,000 Muslims (23%), of which 87-90% are Sunnis, 10-13% Shia. 1,126,500,000 No Religion affiliation (16%): atheists, agnostics and people who do not identify with any particular religion. One-in-five people (20%) in the United States are religiously unaffiliated. 1,033,080,000 Hindus (15%), the overwhelming majority (94%) of which live in India. 487,540,000 Buddhists (7%), of which half live in China. 405,120,000 Folk Religionists (6%): faiths that is closely associated with a particular group of people, ethnicity or tribe. 58,110,000 Other Religions (1%): Baha'i faith, Taoism, Jainism, Shintoism, Sikhism, Tenrikyo, Wicca, Zoroastrianism and many others. 13,850,000 Jews (0. 2%), four-fifths of which live in two countries: United States (41%) and Israel (41%). (source:Pew Forum,2016)

World Population Forecast:

Year	Population	Yearly Change %	Yearly Change	Median Age	Fertility Rate	Density (P/Km ²)
2020	7,758,156,792	1. 09 %	81,736,939	31	2. 47	60

Year	Population	Yearly Change %	Yearly Change	Median Age	Fertility Rate	Density (P/Km ²)
2025	8,141,661,007	0.97 %	76,700,843	32	2.43	63
2030	8,500,766,052	0.87 %	71,821,009	33	2.38	65
2035	8,838,907,877	0.78 %	67,628,365	34	2.35	68
2040	9,157,233,976	0.71 %	63,665,220	35	2.31	70
2045	9,453,891,780	0.64 %	59,331,561	35	2.28	73
2050	9,725,147,994	0.57 %	54,251,243	36	2.25	75

TOP 20 LARGEST COUNTRIES BY POPULATION (LIVE)

1 China 1,407,668,396 2 India 1,293,405,263 3 U. S. A. 323,361,033
 4 Indonesia 257,829,971 5 Brazil 204,867,455 6 Pakistan 190,256,318
 7 Nigeria 187,046,051 8. Bangladesh 161,779,982 9 Russia 141,856,145
 10 Japan 126,759,164 11 Mexico 126,297,679 12 Philippines 103,017,569
 13 Ethiopia 100,676,834 14 Vietnam 94,021,897 15 Egypt 85,665,457
 16 Germany 82,527,736 17 Iran 80,215,630 18 Turkey 77,377,632
 19 Congo 72,569,385 20 Thailand 67,582,412 (www. worldometers. info. 04. 03. 2016)

The formula:

I formulated my hypothesis which is below. Dependent variable is economic growth and social development.

$$\begin{aligned}
 EcGrw &= \sum_{t=1}^5 f(t), f: A \rightarrow BA \\
 &= \{social\ change + economic\ structure + institutions \\
 &\quad + social\ structure\}
 \end{aligned}$$

B: Inferences, positive probability.

If negative independent variable use, formula will be below.

$$EcnGrw = \sum_{t=1}^5 f(t) - g(t) = \sum_{t=1}^5 (f - g)(t), f: A \rightarrow B$$

A: (Technological gap+ productivity+ unskilled population +migration (internal and external)

B: Inferences, negative probability.

Command and solution: From less developing countries to developing countries, from developing countries to developed countries can be step follow. This called f (five). Those is.

A. Education:E1. Enrollment student, which are Pre School, primary school, secondary school, vocational training high school, E2. Vocational education, E3. Education quality, E4. Higher education system, E5. Education related to business sector.

B. Culture:C1. Religion, ("celestial Islam, Christianity, Jews", Hinduisms, Confucianism, Buddhism,) C2. Motivation Entrepreneurship, C3. Promete to work C4. Cultural heritage, C5. Culture and ethics, (including corruption, shadow economy ext.)

C. Geogaphy:G1. Jeopolitics, (land and air) G2. Climate and railways (including communication) G3. Natural resources, G4. Important straits and port, G5. Protect of environment (including footprint, Emission level,)

D. Population:P1. Unemployment rate, P2. Employment rate, P3. Workforce (including man and women) P4. Number of 16-64 age population, P5. Incrases of population

E. Capitals:c1. Human capital,(including social capital) c2. Intellectual capital, c3. Fiscal capital, c4. Phsiycal capital, c5. Natural capital

F. R&D and innovation policy: I1. Number of R&D staff, (10000) I2. Number of full time R&D staff, (10000) I3. Number of patent, I4. Rate of R&D of GDP, (billion dollars) I5. Number of internet user.

In sum up, dependent variable is economic and social development, independent variables are in tables. Measuring for convergence can be using time. 5 years, method can be al lot of statistical methods especially time series.

1. 7. Conclusion:

Convergence hypothesis' effects is depends on social and economic structure from country to country, for example x country as a donor country paid for economic aid y country, this aid should be spend as a tied aid. This situation y country must be regulating economic condition. In country could be aims to growth of its GDP especially economic growth Harrod-Domar growth model supported economic growth. Because economic growth aims to increases in the real output an economy all time. This means that a country should be prefer to total area under line of equality Gini index. In addition to a country should be measuring economic development especially household income gathered national surveys and point of Lorenz curve. This method is very easy and clear total population welfare. Anyone a growth model for the entire country can not be modeled in a manner generally accepted, even within the country will be discussed even a single growth model can but be solve problems. Germany, France and USA has some natural resources including coal, iron they barrowed British experts or technology. But this time Ottoman Empire did not catch up technology. This subjects had affects other fields. In 1800 Ottoman land nationalist revolt break out, today these regions are less underdevelopment regions. Industrial revolution began to spread of mass production after that USA and Japan applied this method as assembly line for example T model. This means that if countries have a development instruments than it will be well-being. Therefore convergence hypothesis depends on the time and social structure. In sum up if less developed countries less than 5% may catch up with developing country y years; this period depends in y countries annual growth. Therefore we can think about, and we can

ask me this question, "how is appropriate convergence hypothesis for this situation"?, a. absolute convergence, this type of convergence may growth rate is zero. Another convergence type is conditional, this type is depends on county social and economic structure. Another convergence type is club convergence, this type convergence is member of club social and economic development is differing from others. This paper has been investigated different concept.

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Management of Business Processes in Industrial Enterprises from Bulgaria Along the Lines of Balanced Scorecard and QPR Process Designer – Practical Conclusions

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Abstract

Processes generate results that the company provides to its customers. Customers outcomes and processes are connected in dependable interaction. The capacity of the company to provide results that customers expect, largely depends on how well managers or business analysts design and manage processes. A key factor to ensure sustainable achievement of the organization's business process management in industrial enterprises from Bulgaria, which inevitably requires continuous measurement of their effectiveness. Ideally, the measurement must be linked to high company goals, to ensure that the processes are oriented towards these goals and assessed according to their contribution to achieving them. On the other side, measurements should be used to assess the performance of individual employees involved in the process. In other words, the high efficiency of the steps (taken as synonymous with the activities in the project context and modeling terminology using software tools) of processes should be rewarded. In a time when resources are more intangible, tangible shift as a tool for value creation, financial analysis of business becomes increasingly insufficient for the establishment of adequate assessment and prognosis. The new business reality provokes appearance of new methodologies to improve the management of business processes, and measuring and managing organizational performance.

Keywords: improvement; business process management; modeling; measurement; software tools; high efficiency.

Introduction

Numerous references have already been addressed on the process architecture and expectations from a graphical representation of processes as a basis for their analysis and optimization. The next steps of the implementation methodology Business Process Management (BPM) are measuring the effectiveness of processes and their management, with or without the use of IT tools.

Measuring the effectiveness of processes.

Ideally, the measurement must be linked to the company's high-level goals, to ensure that the processes are oriented towards these goals and evaluated according to their contribution to achieving them. On the other hand, the measurement must be used to assess the performance of individual employees involved in the process. In other words, the high efficiency in the execution of steps (accepted as a synonym for activities in the context of the project and terminology modeling using software tools) from operations should be rewarded.

Balanced Scorecard (Balanced Scorecard or BSc) is a very good tool for measuring business processes, as assessed not only short-term financial performance, but also covers customer relations and quality of the activities of the company. In fact, it is essential to monitor the needs and expectations of all parties involved in the functioning of the company. Another positive feature of the BSc is that it clearly highlights the relationship of efficiency of processes with corporate goals, and also binds to them and appropriate initiatives and action plans.

Once selected performance indicators should allow employees to senior levels of the organization to act proactively, to redirect resources and offer optimization of processes before they become real negative effects on the final performance.

When an organization develop fully the activities of measurement and performance management, the question arises how to be weighed against the performance of processes across organizational units or competitors. In these cases, it is convenient to use the technique of comparative analysis (benchmarking). However, before proceeding to compare the effectiveness with other departments and companies, it is imperative to consider all characteristics and features that would make the performance indicators comparable. Too often, organizations compare numbers together disregarding differences in scope, complexity, or even corporate culture.

Benchmarking can affect the processing time, waiting time, costs, Quality Management Systems, customer satisfaction, profit, etc. and be carried out at different levels - at the level of product, process, business unit or the entire company.

Business Process Management.

Business Process Management (BPM), like the customer relationship management (CRM) and other concepts is both organizational strategy and segment of the software industry. It focuses on modeling, automating, managing and optimizing business processes in order to improve the performance of the company. If you look and analyze the complete end-to-end processes, methodology eliminates the boundaries between departments, information systems and users. It also applies in and outside the company, affecting not only employees but customers, partners and suppliers. Adoption of BPM inevitable not only improves return on investment (ROI), but the visibility, accountability and predictability of operations. Put on this strong foundation, everything in the company is going faster and easier, with less wasted time and money.

The rapid development of the methodology is based on the increasingly popular perception that success in today's "customer economy" is achieved through the efficiency of the organization and especially its business processes. Depending on the process of implementing BPM improves productivity, visibility and speed of change, but also reduces costs, errors and time to perform a business task. At full deployment business process management is a key factor for improving and financial results.

Solution market for business process management is formulated from the merger of several niches, each of which relates to the settlement of a separate part of the problem prior to the development of BPM:

- Automation of work processes (Workflow Automation) - the application of information technology in the process based on human labor;
- Integration of enterprise applications (Enterprise Application Integration) - to ensure the exchange of information between heterogeneous systems;
- Modeling and analysis of business processes (Business Process Modeling Analysis) - awareness of the details of the business processes and the potential effect of the

Introduction of the changes;

- Monitoring of business operations (Business Activity Monitoring) - measuring and analyzing the effectiveness of business processes and individual activities.

Too many people still have no clear view of what includes BPM methodology. This should not be the subject of a surprise due to the fact that the community of scholars, consultants and practitioners working in the field of business process management is not reached common definitions and approaches. BPM includes everything that is relevant to the effective and efficient management of processes in the company. At the center of these processes are people, so naturally it would be to try to make them part of the solution to existing problems.

"We are implementing optimization, but the real difference was evident when we decided that this activity is no longer a project and business strategy" (Stephen Schwartz, former vice president of IBM)

This way of thinking of managers is one of the keys to understanding the nature of business process management and key success factor related methodology endeavors. Without discounting the work on the realization of a project, it is the easy part of the task. The real challenge for companies is to institutionalize BPM and make it a fundamental management practice based on the ability to manage the process faster and predictable.

Milestones in the theoretical sense:

Implementation of initiatives for business process management usually pass through seven stages:

Modeling and documentation of processes to increase their understanding and initially identifying opportunities for optimization.

Redesign of business processes running on paper into electronic processes, eliminate paper forms, records and other documents, as well as inefficiencies associated with them.

Full automation of the process step by integrating them into corporate information systems.

Adding intelligent automated checks on data in electronic form in order to avoid gaps (blanks) or errors - for example, the selection of merchandise from the code instead of manually filling in her item number.

Introduction of automated control procedures to ensure the continuity of the process and to ensure functionality in the event of technical problems or human error.

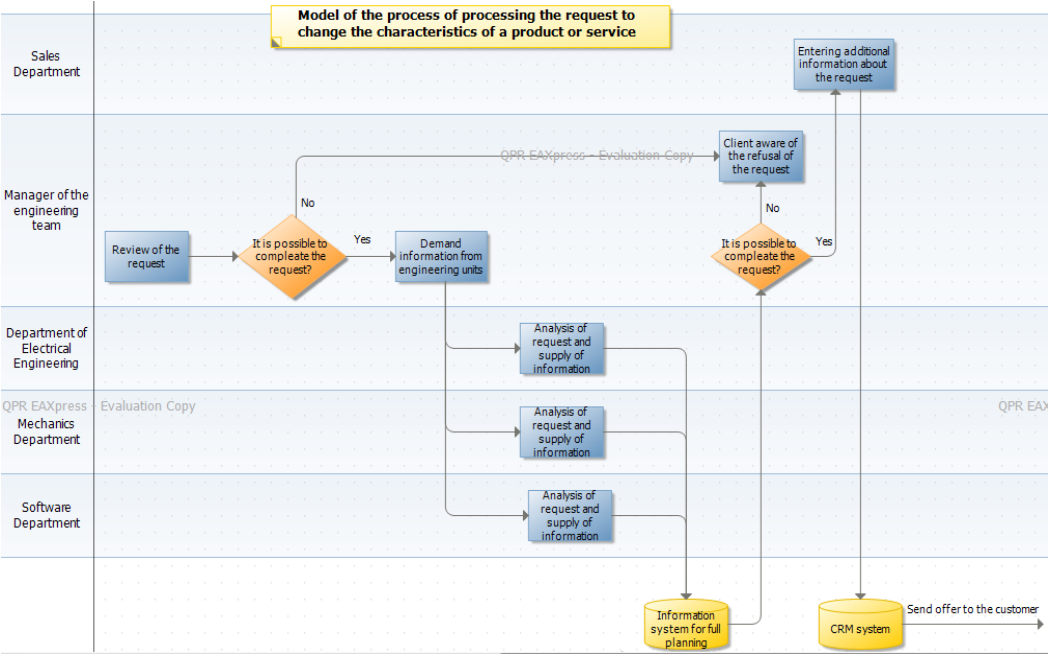
Providing visibility of the status of processes in real time.

Analysis of the efficiency of processes in order to facilitate their subsequent development.

What is the situation in practice.

To illustrate the capabilities of business process management can be considered a simplified diagram of the process for the implementation of applications for modification of the characteristics of a product or service from the customer. (example QPR Process Designer)

Figure 1. Process to implement the change requests on the characteristics of a product or service in Bulgarian enterprise



The process begins with the receipt of the request from the client, which is viewed by the head of the engineering team of the company. It may either reject the application, which will cause the sending of e-mail notice to the customer or to request simultaneous analysis of the application of one or more of the engineering departments - Electrical, Mechanical and Software. When you answer all departments are ready, the process is reversed to the corporate information system planning. It processes the data and the calculated estimate of the time and costs required for the requested change. This information is returned to the head of the engineering team that has the opportunity to once again consider whether to refuse the application if its implementation requires too many resources. Otherwise, the information is transmitted to the sales department, which can add additional information about running the application. The company's CRM system automatically prepares bid based on the information and send it by email to the customer.

This process can take a close look and analyze opportunities for adding value through BPM according to its description, by means of the software tools - Balanced scorecard and QPR Process Designer. (Table 1)

Table 1 Analysis of the possibilities for adding value through BCs and QPR Process Designer in Bulgarian enterprises

Element of the description of the process	Ability to manage the process
Processing of the request for change is a sequence of activities - from initial customer notification, review by the head of the engineering team and engineering departments, references to information systems, etc.	Modeling allows to identify the individual steps, and thus the opportunities for optimization, eg automate sending of e-mail or using the information sent by the client for automated assessment of who paid to be included in the analysis of the application (thus eliminating the first step in a review by the manager).
The sequence of steps in the process is clearly structured. Tasks are carried out in accordance with a logic or set of rules. In this process:-incoming requests must be reviewed by the head of the engineering team;-head to	With the help of automation system ensures that each of the steps will be executed according to the real data coming into the process. In addition to providing speed and ease of transfer of the implementation of activities

determine which departments to analyze the request and to provide information;-If the application is refused, the shipper must be notified by email.	from one unit to another. If delays occur, it is possible to generate notifications or automatic corrective action.
Assurance that all activities are carried out according to plan, one of the main ways in which BPM eliminates many errors encountered in manual work.	
Activities can be performed sequentially or in parallel according to the logic of the business process. In this example, three engineering departments analyze the client's simultaneously (in parallel).	Designing parallel tasks can be achieved by significantly reducing the time required for their implementation. The sequence of steps can often be changed on the basis of the received process in real data. These specific situations conveniently handled in a process using automated information systems.
In almost all business processes involving two or more employees or organizational units. In the case involved the head of the engineering team, employees in engineering and sales department. Besides their important role in the play and several technological solutions - e-mail, text editor and information systems planning and CRM.	With the availability of tools to manage all the processes involved in them can review the status of the various stages of implementation without the need to interact with another participant. Different departments and even clients if they wish, to know what is happening with each request at any time. This level of transparency is difficult to achieve with traditional manually performed processes.
The sequence of activities in the process must be oriented towards a common goal or result. In our example, the purpose of the process is to be sent to the customer accurate offer.	If the organization implements computing the process, it can monitor the fulfillment of other goals: for example, how long it took the preparation of the tender and which organizational units were the fastest and slowest in the performance of their tasks. The analysis of this information will assist the organization to evaluate its operational performance. Depending on the findings and conclusions that can be added or removed from the process steps are simple some forms or to change the rules of business logic in it. Taking these actions would be much more difficult if the process was not automated.

Here can be established that the ability to optimize the performance of business processes by introducing a methodology for managing them are significant:

- Modeling of processes leading to promotion and better understanding of the activities of the employees, and often brings opportunities for the immediate improvement.
- Automate the process reduces the number of errors and the time for one cycle, and increased transparency and accountability.
- Process management ensures their implementation with maximum efficiency and supports their projects further optimization.
- The optimization of processes becoming their constant improvement of the life of the company.

Systems for resource planning in the company.

One of the biggest phenomena in business over 90 years is the emergence of so-called systems for enterprise resource planning (ERP). These software products provide customers with an integrated set of modules (for finance, manufacturing, logistics, etc.) using jointly shared database and are compatible with one another.

Many companies in Bulgaria bring the ERP specific technical objectives: to replace outdated systems already difficult to maintain, reduce the cost of the hardware platform required for the operation of their software, etc. Companies that have already started their initiatives, taking into account such purposes are starting to have problems. The reason for this is that they do not appreciate the true nature of ERP - its modules are so closely integrated that such a system is virtually maintenance tool for a complete business process. An ERP system leads to cross-functionality and teamwork (element along the process). On the other hand, this system requires discipline in the company (organization element). It requires the execution of processes within a company, whether she wants it in the way they are or not, and whether it is ready for them or not. When companies prepare effectively for this by switching to process-oriented, they succeeded with the ERP system. If not - their life becomes more difficult.

Target business process management and automation:

The biggest companies in Bulgaria run a large number of processes. They define the tasks, rules, systems and employees engaged in the provision of goods, services or information to internal and external customers. Although undoubtedly BPM can cover any process, it can be applied primarily to those who possess certain characteristics and hidden value to be unlocked:

Volume - the processes that occur most often are a source of significant costs for companies. With their skillful management incremental optimizations can have great value. If in addition to the frequency of these processes, and have any of the other features described below (below), the benefits of their management should be even greater.

Transfer of implementation (steps) - the more employees are engaged in a process, the more likely it is during its execution to occur errors or delays. Automating processes reduce delays and improve coordination among the participants. If processes involve employees from different organizational units, value added increased further.

Ability for automating - in some processes quickly becomes apparent that some activities can be completely automated, allowing the systems and technology to carry out all the work. Automating the steps creates significant added value and still cannot be counted on to eliminate any human intervention.

Errors - many business processes suffer from errors during execution. Some errors are unintentional, while others are due to insufficient information and understanding of the process.

Prioritization of BPM initiatives based on their described features can be further and identification and analysis of those processes that are the biggest problem for the company. It is sometimes difficult to be recognized, but most companies have such a problematic and difficult to implement processes. Often the problems are felt by all stakeholders - from employees to customers who expect the result of it. Focusing efforts on problematic processes will allow you to avoid the typical resistance to change, as employees are ready to help improve their work. By taking action to optimize processes problematic not only increasing the chances of success, but the readiness of the company to use the methodology of its other processes increases, creating organizational (corporate) culture of perfect execution of activities oriented towards internal use and satisfaction of the customer.

It is vital that the company does not undertake activities automating those business processes that are not sufficiently optimized and efficient. The launch of the project in this way will not solve the occurred problems in the process - and just help them occur faster in a much larger scale and more often.

"The first rule in the implementation of any new technology is that automation of an effective action will multiply its effectiveness. The second rule states that automating an inefficient operation will multiply its inefficiency." (Bill Gates)

The reason for the failure of many business ventures to automate business processes lies in the inherited inefficiencies in these processes. In these cases much more accurate would be to carry out a thorough analysis of the process, including an assessment of their effectiveness and pre-optimization before taking the next steps of the project. This would prove quite difficult for companies with established from decades practices that are zealously protected by the participants and their managers. A careful approach to overcoming resistance and creating a belief that each participant in the process would benefit from its optimization and automation is the key to success in these cases.

In conclusion

Continuous optimization of business processes with help of BSc and QPR Process Designer is a key competing advantage for many companies. Those who actually are process-oriented experience the following:

- Work more quickly;
- Operate more predictable and consistent;
- Had pride theirs employees, better understand their roles and the roles of others;
- Perform fewer projects to reengineer information systems;
- Adapt better to new business expectations much easier than other competing companies.

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The Investment and Net Interest Margin: Case Study Commercial Banks in Kosovo

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Abstract

In Kosovo, but in all developing countries, the foreign investment is the locomotive of the country that considered as the most important economic sectors. In general it can be concluded that most of the investment originates from developed countries and that these investments return to these places. Origin of investments in Kosovo mainly comes from countries such as Austria, Germany, Slovenia, Great Britain, Switzerland, Turkey, the Netherlands, Albania, Serbia, USA, France, Macedonia, Croatia, Cyprus, Norway, Italy, Greece etc. The banking sector in Kosovo has been very attractive to the foreign investors. A total of nine commercial banks, seven are foreign owned. Foreign investments are primarily generated as investments in shares of foreign shareholders from different countries of the world. Investments in securities have increased by the banking sector in 2014. With the change of the interest rate it has also changed net interest margin of the banking sector. Interest on loans and deposits has continued to decline. Especially interest rates on deposits in 2014 have fallen to 1. 1%. This linked to the investment bank in securities of our government as the initiator in this area but cannot be denied to the investment of foreign governments. With the decrease of credit interest rate will be the development of sustainable economic growth and boost investment.

Keywords: Commercial banks; Investments; Net interest margin

Introduction

The foreign investments are the main segments of the economic activity of a country. The most attractive sectors for FDI in developing countries and countries in transition are the mining, minerals, metals, food production and the traditional sectors of industry, chemical industry, services and public infrastructure (especially energy and telecommunications).

The banking sector in Kosovo also has been very attractive to foreign investors. A total of nine commercial banks, seven are foreign owned. And three major banks in Kosovo that consistently generate high profits are from foreign-owned banks. Foreign investments are mainly generated as investments in shares of foreign shareholders from different countries of the world. In general it can be concluded that most of the investments originate from developed countries and that these investments return to these places. Origin of investments in Kosovo mainly comes from in Kosovo mainly come from countries such as: Austria, Germany, Slovenia, Great Britain, Switzerland, Turkey, the Netherlands, Albania, Serbia, USA, France, Macedonia, Croatia, Cyprus, Norway, Italy, Greece etc. In the financial account of the balance of payments under liabilities, the main category continues to be the category of FDI, whereas the main category are assets are the other investments (mainly deposits and commercial loans) outside Kosovo's economy. Analysis of investment in shares in commercial banks in Kosovo shows that foreign-owned banks continue to dominate with higher amounts in the financing of capital stock although their amounts were constant continuously while analysis of net interest margin that is calculated with ex-post method, as the difference in interest rates on loans and deposits that banks specify in the contract from the outset. This indicates that banks play an important role in the economic development of a country but without leaving aside their own benefits. If we would decrease the interest rate on loans will have to further develop sustainable economic growth, increased foreign investment, increase funding capital stock, increasing investment in securities but also risk greater for banks and they undertake, due to reduction of their net margin.

Literature review

Broadly understand collaborating with investment of funds, real estate, securities (stocks, bonds, etc.), studies and scientific research, education of personnel, etc., and the goal of all these investments is to maximize profit. So we recognize investment in real assets and financial assets. The purpose of investing is to ensure the existence of unsafe surroundings, increasing the level of efficiency and well-being now and in the future, etc. Investment needs arising from the hinterland through the competition and this dictates the need to improve the technology, the ability of personnel, increasing the range of products, market occupation in the country and abroad, etc. Investments can be defined as commitment of funds, or other material goods be expressed financially, for the realization of development goals and the investments represent an act of conscious withdrawal from the consumption of current in the name of hope for the greatest effects serial in the future (risk and profit are inseparable and are proportional to the rational investor but minimizes risk and requires adequate return). (Kadareja, 2012) During the investment should be considered serial effects that are expected from investment in the future and the uncertainty and risk that accompany the investment. Regarding investments Massa says "investment represents parts of a good safe from consumption of which waived, with the hope that we have the facility of investing" while SHARPE says "investment is sacrificing value to the current value to the future with great potential," he Also it makes the difference between saving and investment. While savings represents waiver of consumption, investment made for output could be achieved in the future. Keeping money disengaged or spending it on consumption, is a waiver of return on investment. The desire of investors is much greater profit, but faced with the risk of investment. Foreign direct investments are one of the main economic activities Tucked country, especially in developing countries such as Kosovo. According to OECD (2007), FDI reflect the intention of securing a lasting interest in either direct or indirect economy. They work out of the territory of the country of the investor. That an investment be considered FDI subsidiary parent should invest at least 10% of the usually shares from its foreign subsidiaries. (Zoto, 2012) Investments in shares are owned by the assets of a joint stock company and have virtually no predetermined maturity date. Shares are divided into: common shares and preferred shares. (Asllanaj, 2010) The advantages are that investors in stocks, dividends benefit, the size of which is variable according to economic conditions and the progress of the corporation; Open the possibility for capital gains, i. e. They can bring extra benefits; In case of bankruptcy or liquidation of the corporation have limited liability to the creditors until the settlement of the value of investing in shares. Maximum loss is the value that shareholders invested in stocks; Lower cost of service for their possession; Maintaining high security (currently in book-entry form). Currently not verified ownership of shares in the form of materialized (with certificate), but in the form of computer records. Investor will be issued a receipt (document) that proves ownership to ownership. Book-entry system protects investors from losses, forgery, theft, etc. securities. The rate for buy and sell them, etc. Bernanke was determined by the cost of mediation as the difference between the costs paid by the borrower's gross and net returns obtained by savers. (Bernanke, 1983)

Although there is no single definition of the interest margin in the empirical literature, one that prevails is the net interest margin (ratio of net interest income to earning assets). Often times, this indicator is calculated in relation to total assets and the changes are not very significant if earning assets comprise a significant part of total assets. There are two ways of measuring the net interest margin, and ex-post ex-ante. Under the first approach, the net interest margin is calculated as the difference between interest rates on loans and deposits that banks specify in the contract from the outset. These are the rates that the public sees and that are readily comparable among them. Under the second, the indicator is calculated as the difference between the interest income and expense that the bank has realized during the period, according to data from financial statements (once attained). The difference between the two margins is related to the loans. Another treatment determinants margin is the theoretical interests. For the first time such a treatment is performed by Ho and Saunders (1981) and was named model of intermediation.

Methodology

Theoretical paper for the primary data are scientific works published in international journals and conferences and secondary data are other publications, books and articles by local and foreign authors. For the practical part of the paper records are investiture central bank reports, the financial statements of commercial banks, from data Monetary Fund International and the World Bank for Kosovo, the ministry of research reports, agencies and institutions operating in the country. Research methods are used, the method of statistical analysis, and comparative. The data presented cover the period 2011-2014.

The foreign direct investment in Kosovo

FDI are the main segments of the economic activity of a country. Kosovo but also in the developing countries, considered as the locomotive of the country that focus on important economic sectors.

In general it can be concluded that 92% of investments originating from developed countries and 72% of them return to these places. (Rinvest, 2002). The most attractive sectors for FDI in developing countries and countries in transition are the mining, minerals, metals, food production and the traditional sectors of industry, chemical industry, services and public infrastructure (especially energy and telecommunications). Sector Banking and Insurance were among the most attractive sectors for foreign investment in postwar Kosovo. These sectors have absorbed € 30. 6 million, of which 19. 3 (63%) is the share of foreign capital which consists of 13 million € of the banking sector and € 6. 3 million of insurance. (Rinvest, 2002). The origin of investment mainly comes from countries as indicated in table below.

Table 1. Investment by countries

(In million of Euros: State on 31 December 2014)

Code	Countries	Total Inward Direct Investment			Total Outward Direct Investment		
			Equity capital	Other capital transactions		Equity capital	Other capital transactions
European Union		987.0	755.0	232.0	74.3	62.4	11.9
AT	Austria	149.9	133.4	16.4	3.6	3.3	0.3
BE	Belgium	12.8	9.5	3.3	2.7	2.7	0.0
BG	Bulgaria	31.6	3.8	27.8	0.6	0.6	0.0
CY	Cyprus	6.7	2.0	4.7	3.7	3.7	0.0
FR	France	14.4	15.2	-0.8	3.1	3.1	0.0
DE	Germany	253.5	249.2	4.3	21.2	21.2	0.0
GR	Greece	9.5	8.8	0.7	1.9	1.9	0.0
IT	Italy	16.9	16.9	0.1	3.3	3.3	0.0
NL	Netherlands	164.1	145.8	38.4	15.1	3.5	11.6
RO	Romania	3.8	3.7	0.1	0.3	0.3	0.0
SI	Slovenia	216.7	87.5	129.2	7.5	7.5	0.0
SE	Sweden	17.3	17.0	0.3	1.2	1.2	0.0
GB	United Kingdom	38.7	35.2	3.5	6.4	6.4	0.0
Other EU Countries		31.2	27.2	4.0	3.8	3.8	0.0
Other European Countries		644.3	442.6	201.6	85.5	84.7	0.7
AL	Albania	98.5	60.3	38.2	39.8	39.2	0.6
HR	Croatia	11.8	9.6	2.3	3.3	3.3	0.0
MK	Macedonia, FYR	24.5	14.5	10.0	10.5	10.4	0.0
NO	Norway	16.1	14.9	1.2	0.6	0.6	0.0
RS	Serbia, Republic of	14.3	10.6	3.6	6.4	6.4	0.0
CH	Switzerland	178.6	158.1	20.4	10.3	10.2	0.1
TR	Turkey	291.6	166.8	124.8	3.8	3.8	0.0
Other European Countries		9.0	7.8	1.2	10.8	10.8	0.0
Other countries		12.5	10.9	23.5	14.8	14.8	0.0
US	United States	69.0	51.5	17.5	7.9	7.9	0.0
AE	United Arab Emirates	37.4	32.8	4.6	1.5	1.5	0.0
Other Countries		22.1	20.6	1.5	5.4	5.4	0.0
ZZ	Not Specified	1,199.3	936.5	262.8	0.0	0.0	0.0
Grand Total		2,959.1	2,239.2	720.0	174.6	161.9	12.6

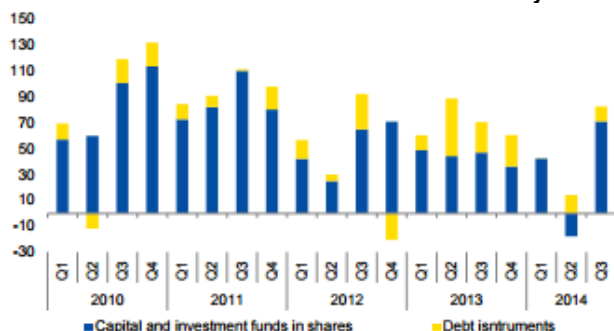
In the financial account of the balance of payments under liabilities, the main category continues to be the category of FDI, whereas the main category are assets and other investments (mainly deposits and commercial loans) outside Kosovo's economy. FDI balance was characterized by deterioration in 2014, mainly determined by the decline of FDI in the country, which was reduced to 151. 3 million euros from 280. 2 million euros as they were in 2013. (CBK, 2015)

Table 2. Financial account

(In million of Euros)

Description	Balance	Investments abroad	Investments in reporting economy	Direct investments			Portfolio investments			Other investments			Financial derivatives	Reserve assets
				Abroad	In reporting economy		Abroad	In reporting economy		Abroad	In reporting economy			
2004	-57.6	47.4	105.0	-42.9	...	42.9	32.1	32.1	...	66.0	108.0	62.0	-	-102.7
2005	-53.8	126.5	180.3	-107.6	...	107.6	17.5	17.5	...	66.7	141.3	72.6	-	-32.4
2006	35.7	367.5	331.8	-289.2	5.6	294.8	65.4	65.4	...	18.6	218.7	37.0	-	77.9
2007	5.8	508.5	502.7	-431.0	9.7	440.7	34.5	34.5	...	108.0	170.0	61.0	-	264.3
2008	-188.4	231.2	519.6	-341.5	28.4	389.9	100.9	100.9	...	-75.1	74.7	149.7	-	18.2
2009	-100.0	230.6	339.7	-278.0	10.5	287.4	14.4	14.4	0.5	118.3	160.1	51.6	-	-84.8
2010	-275.8	405.6	681.4	-331.1	37.4	368.5	48.6	48.6	...	-46.7	266.2	312.9	-	53.4
2011	-377.5	63.7	461.2	-378.9	5.5	384.4	57.8	57.8	...	4.8	81.7	76.8	-	-61.2
2012	-141.0	316.6	457.6	-215.3	15.8	229.1	165.7	165.7	...	-374.9	-146.3	228.5	-	261.4
2013	-151.2	217.2	348.4	-250.2	30.0	280.2	119.3	119.3	...	14.4	83.5	69.1	-	-35.7
2014	-145.1	100.4	235.4	-123.9	27.3	161.3	13.3	13.3	...	22.8	106.8	84.2	-	-57.0

FDI in Kosovo are mostly concentrated in sectors of the economy such as real estate to 142. 1 million euros from 151. 2 million euros in total FDI carried out in Kosovo in 2014, financial services with 41. 9 million euro, energy by 13. 4 million euro, trading 8. 4 million. (CBK, 2015) The value of investments in real estate has steadily increased (4. 5 percent increase in 2014) and the financial sector who noted that in previous years has decreased in 2014 increased significantly. The important component within the balance of payments is the category of Foreign Direct Investments (FDI). In 2014, the balance of FDI was euro 123. 9 million, which represents a significant decline compared to the value of euro 250. 2 million in the previous year. This decline in FDI can be attributed mainly to the sale of shares of some of the foreign companies operating in Kosovo to the Kosovo residents and distribution of the super dividend of some of the foreign companies operating in Kosovo.

Chart No. 1. Structure of FDI by components, in millions of euro

Source: CBK (2015)

In general for banking sector in Kosovo

Reform of the banking system in Kosovo after the war began in 1999, led by the Banking and Payments Authority of Kosovo (BPK), as the forerunner of the Central Bank of Kosovo (CBK). The banking system plays a very important role in the financial system in Kosovo, whose assets account for about 90 percent of the assets of the entire financial system. Banks have become key actors in channeling funds from lenders to borrowers, source of funding for businesses, individuals and economic development in general. Therefore, it is very important that their intermediary role to ensure a higher welfare for society, possibly much lower cost.

The structure of the banking sector in Kosovo in 2014 was similar to previous periods. According to the ownership structure of the banking sector continued to be dominated by foreign-owned banks, whose assets make up 90.4 percent of total assets of the banking sector, while the remainder is managed by the local banks. (CBK, 2015) The table number 3, which indicated that commercial banks operating in Kosovo and their filial. Besides Bank for Business (No. 4 in the table) and the Economic Bank (no. 5 in the table) which are locally owned, all other banks are foreign owned.

Table No. 3. Commercial banks and their branches

No.	Name of bank	Branches
1.	Procredit Bank	55
2.	Raiffeisen Bank Kosovo J. S. C	52
3.	NLB Prishtina	50
4.	Business Bank	41
5.	Economy Bank	40
6.	TEB	26
7.	National Commercial Bank	24
8.	Komercijalna Banka – Mitrovica	9
9.	Turkiye is bankasi – Pristina	1
	Total	298

CBK (2015)

Investments in shares in foreign-owned banks in Kosovo (2011-2014)

Investments in shares are owned by the assets of a joint stock company and have virtually no predetermined maturity date. Shares are divided into: common shares and preferred shares. Advantages of investments in shares are ambitious. The following analysis shows investment in shares for the five foreign-owned banks in the four quarters of the years 2011-2014, issued by the balance sheets of commercial banks in Kosovo.

Chart no. 2. Investments in shares 2011 Chart no. 3. Investments in shares 2012

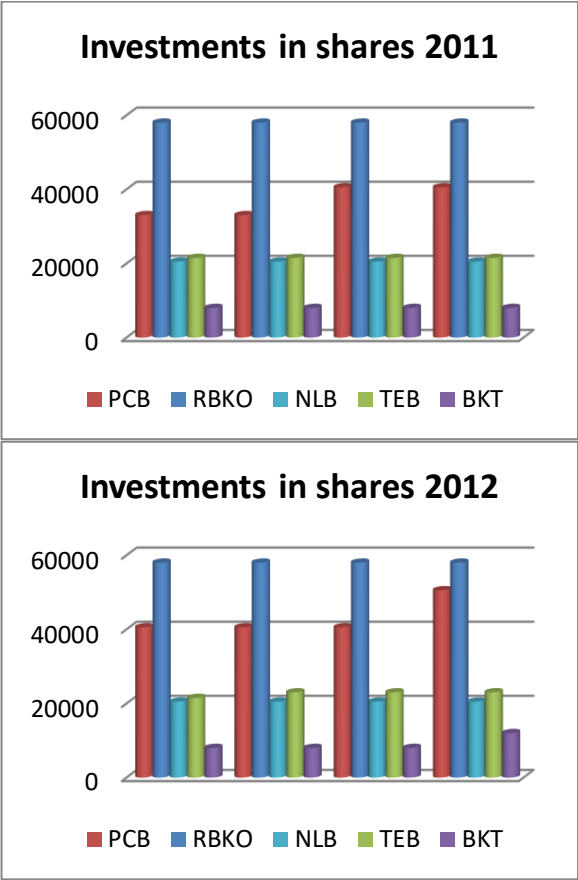
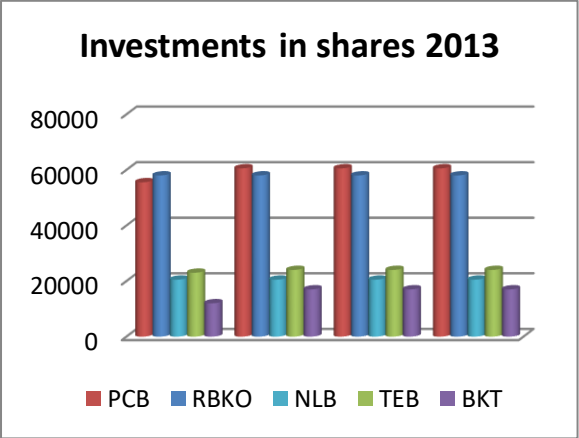
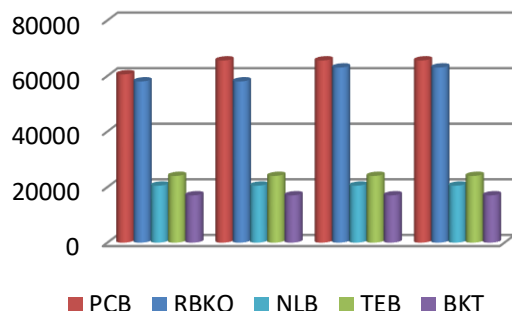


Chart no. 4. Investments in shares 2013 Chart no. 5. Investments in shares 2014



Investments in shares 2014

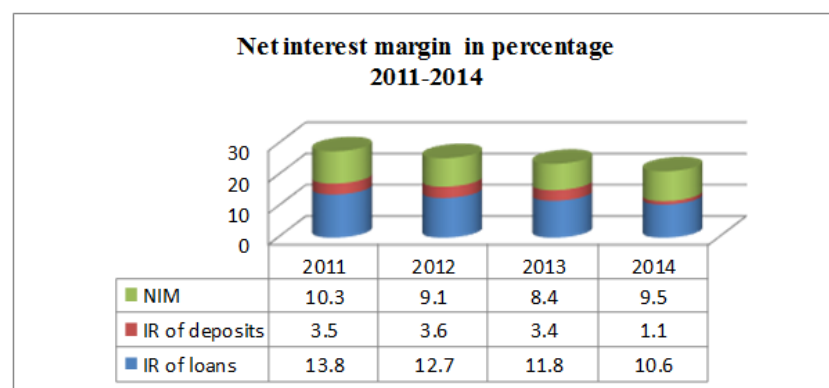


From the charts we see that two foreign banks and the largest in the country (Raiffeisen Bank and ProCredit Bank) have the largest investment shares. In 2011 and 2012 leads Raiffeisen bank and in 2013 and 2014, Procredit Bank reaches and exceeds 2550 Raiffeisen for more shares. Then the investment is participation in Turkish bank TEB shares following the NLB Prishtina, while smaller participation in National Bank has shares trading.

Net interest margin on commercial banks in Kosovo

Net interest margin is called NIM (Net Interest margin) represents the cost of mediation between interest income and interest expenses. Interest income includes amounts arising from credits that banks grant a customer and get paid every month in the form of installments, while interest expenses include amounts arising from savings as a result of the deposit to the bank by private, where the amounts exceed the amounts deposited represent interest expense that the bank must give them to customers. There are two ways of measuring the net interest margin, and ex-post ex ante. Under the first approach, the net interest margin is calculated as the difference between interest rates on loans and deposits that banks specify in the contract from the outset. Under the second, the indicator is calculated as the difference between the interest income and expense that the bank has realized during the period, according to data from financial statements (once attained). In the analysis it was evaluated with the net interest margin ex ante method for commercial banks in Kosovo in four-year period 2011-2014.

Chart no. 6. Net margin interest rate in percentage



From the picture we see that effective interest rates of loans issued by the Central Bank data to Kosovo since 2011-2014 have continued to decline, from 13.8% in 2011 to 10.6% in 2014. In comparison with rates deposits of which also declined notably in 2014 with 1.1% in the interest rates in 2012 and 3.6% in the interest rates.

The difference between the interest rate on loans and deposits gives us the net interest margins of commercial banks in Kosovo.

From the chart we can see that the net interest margin was lower in 2013 by 8.4%, while in 2014 rose to 9.5%, which was due to the decline in deposits at 1.1%. This shows that the banks have created liquidity to adequate and that there is more need for deposits.

If you give a look at the graph of investment in shares of commercial banks in Kosovo, then we can say that investing in shares have remained constant from year to year, they more have helped banks to start immediately to after opening their branches, we these last four years we noticed that most banks were generates more from retained earnings and net profit for the year is shown by margins net of interest and less deposits. Because the rate of interest for deposits has fallen in 2014. Fall of the deposit interest rate to be compared with the graph of investment in securities from commercial banks where it is noted that banks have had an increase of 8.3% in 2014.

Results & Discussions

The investments whatever are like as firm or country, whether made directly or indirectly for the purpose of profit growth or sustainable development. From analysis to see FDI in Kosovo in the past year they have decreased, not as generous thing for our country. Investments in shares of commercial banks in Kosovo have remained constant and dominated by foreign-owned banks. Investments in securities of commercial banks in Kosovo have increased in 2014.

The analysis of net margin, effective interest rates on loans have continued to decline, from 13.8% in 2011 to 10.6% in 2014. In comparison with the deposit interest rates, which also declined notably in 2014 with 1.1% in the interest rates in 2012 and 3.6% in the interest rates? Net interest margin was lower in 2013 by 8.4%, while in 2014 rose to 9.5%, which was due to the decline in deposits at 1.1%. This shows that the banks have created liquidity to adequate and that there is more need for deposits. Fall of the deposit interest rate to be compared with the graph of investment in securities from commercial banks where it is noted that banks have had an increase of 8.3% in 2014.

More or less expected results have known that we are a developing country and battling every day.

Evidently interest rate interconnection with net margin, as higher is the interest rate the higher will be the net margin, and it is clear that the interest of commercial banks is to maximize profits.

Conclusions

With this paper, we came to the conclusion that what investments will have an impact on whether the sustainable development of a country. Kosovo but also in the developing countries, FDI is considered as the locomotive of the country after that focus on important economic sectors. In general it can be concluded that most of the investments originate from developed countries and that these investments return to these places. The origin of investment by state in Kosovo mainly come from countries such as: Austria, Germany, Slovenia, Great Britain, Switzerland, Turkey, the Netherlands, Albania, Serbia, USA, France, Macedonia, Croatia, Cyprus, Norway, Italy, Greece etc. The banking sector in Kosovo has been very attractive to foreign investors, immediately to the war. A total of nine commercial banks, seven are foreign owned. And three major banks in Kosovo that are constantly generating high profits are from foreign-owned banks. Foreign investments are mainly generated as investments in shares of foreign shareholders from different countries of the world. Investments in shares have been constant from year to year, but dominated by foreign-owned banks. Banks which have much larger shares of investments in Kosovo are Procredit and Raiffeisen bank. The Turkish bank TEB, NLB and BKT then comes. Net interest margin which indicates the difference in interest rates on loans and deposits continued to grow, this variable shows how interlinked and direct effect of interest rates, changing their changing the margin. Interest on loans and deposits has continued to decline. Especially interest rates on deposits in 2014 have fallen to 1.1%, it can also be related to banks'

investment in securities of our government as the initiator in this area but cannot be denied the investment of foreign governments. Most of the investments and development activities by the banks is accomplished by retained earnings or net interest margins, especially from interest income on loans. With the decline of interest rates on deposits of banks have received have sufficient liquidity and their focus is on securities, rather than in public deposits. Loans interest rates continue to remain high for our country, there is no risk but also the desire for higher profits. The market is saturated with credit and has no direction to hold. So if you have a decrease in the interest rate on loans we will have on sustainable economic development, increase in foreign investments, growth capital financing in shares, and increasing investment in securities.

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