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Dr Dejan Kojić, docent
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EDITORS' INTRODUCTION

Dear fellow authors, distinguished readers,

In the front of you is the first issue of the scientific journal of social and technological development - STED Journal in 2022, published by the University of Business Engineering and Management. The first issue in 2022 includes 14 papers. Published papers have got a positive review by two independent reviewers. Reviews are anonymous and reviewers do not know the authors identity. Reviewers have also suggested the sorting of papers into scientific and expert category. Reviewers have given their consent for publishing of paper based on their assessment of originality, novelty, used methodology and literature of paper.

Each paper is assigned COBISS, UDC and DOI number by the National and University Library of the Republic of Srpska. The journal has its analytically revised articles which are published in the current national bibliography, and it is included in the central electronic catalogue. All members of the editorial board have scientific or educational titles from the narrow scientific fields covered by the journal. The journal is included in the DOAJ, CEEOL, INDEX COPERNICUS, GOOGLE SCHOLAR, CiteFactor, Scientific Journal Impact Factor, EBSCO, OPAC (ONLINE PUBLIC ACCESS CATALOG), ROAD & OAJI citation databases.

On the last pages of the journal, there is also the bibliography of papers published in second issue in 2021.

We thank the reviewers of papers whose professionalism and critical approach have greatly contributed to the quality of published papers.

With best wishes,

Dr Dejan Kojić, docent
Editor-in-Chief

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THE INFLUENCE OF WORK MOTIVATION, TRAINING AND WORK PERFORMANCE DISCIPLINE OF THE STATE CIVIL APPARATUS AT CIVIL SERVICE POLICE UNIT KNOWN AS “SATPOL PP” AND MERAUKE DISTRICT FIRE DEPARTMENT

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ABSTRACT

This study aims to examine and analyze the influence of work motivation, training and work discipline of the State Civil Apparatus at Civil Service Police Unit known as “Satpol PP” and Merauke District Fire Department. This study used an associative quantitative approach using saturated sample techniques so that the

number of samples amounted to 106 people. Data sources use primary data and secondary data with data collection techniques through field studies and literature studies. Measurement of variables is done using the Likert scale with data analysis done by using Statistic Product and Service Solutions (SPSS). The results of the analysis shows that the motivation of the work had no influence on the performance of the State Civil Apparatus at Civil Service Police Unit and Merauke District Fire Department. Those Training effects on the work performance of the State Civil Apparatus at Civil Service Police Unit Office and Merauke District Fire Department. The Work discipline affects the performance of the State Civil Apparatus at Civil Service Police Unit and Merauke District Fire Department. The results of the determination test shows that the variables of work motivation, training and work discipline had an effect on the performance of the State Civil Apparatus at the Civil Service Police Unit and Merauke District Fire Department by 67.8% and the remaining by 32.2% were other variables that were not examined in this study.

Keywords: Work Motivation, Merauke District, Work Discipline, State Civil Apparatus, Training Program.

INTRODUCTION

When carrying out a job, State Civil Apparatus should have a high level of

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performance even though it is difficult to achieve well, there is even a State Civil Apparatus with a low performance level even though State Civil Apparatus already has a lot of work experience and has participated in various training and development carried out by institutions aiming to improve their human resources.

In the government organizations, good performance is needed, this is in line with the idea mention the performance of government apparatus is good, surely, the performance both of the organization or government will run well. (Ariesta, 2016). Government organizations have made efforts to realize their performance will largely depend on the scope of work, duties and units responsibilities of the government organizations supported by the individuals performance in the work environment as the improvement that show the performance both of a person or individual are closely related to the quality of the individual's behavior by being oriented to what is the task and work (Sakban, Nural, & Ridwan, 2019, p. 95).

Government organizations aim to carry out their basic tasks smoothly characterized by a clear regulatory system, equitable division of tasks, structured ways of working and the relationship between one's work and another. In realization of those works, it takes a well-organized system of government management so that the work takes place well, quickly responsive, on target, effective and efficient. In order to realize and carry out all the tasks of government, surely, it is necessary for a committed and competent State Civil Apparatus to carry out all the duties and responsibilities carried out themselves. State Civil Apparatus's performance in this study is focused on Civil Service Police Unit known as "Satpol PP" Office and Merauke District Fire Department.

Police Unit Office and Merauke District Fire Department was formed in accordance with (Peraturan daerah kabupaten merauke [PDKM], 2018) which regulates the Establishment of Organization and Work Procedures of Regional Agencies

in Merauke District Government Environment that has the main task of "assisting the Regent in leading, organizing, formulating, fostering, controlling, coordinating as well as accountability for technical policies and implementing the Government Affairs that become the Region's authority and the duty's assistance in the Field of Civil Service Police Unit Office and Merauke District Fire Department. In carrying out these basic duties, they are supported by 106 Civil Servants. In order to evaluate the performance of each Regional Device Organization (OPD) in Merauke District, the Regional Inspectorate of Merauke District has conducted a performance accountability evaluation in accordance with (Peraturan menteri pendayagunaan aparatur negara dan reformasi birokrasi Republik Indonesia [PMPRB], 2015) which regulates the Evaluation Guidelines on the Implementation of the Government Agency Performance Accountability System (SAKIP) against 15 (Fifteen) OPD in the scope of the Merauke District Government in 2020, One of Regional Device Organization evaluated is Civil Service Police Unit Office and Merauke District Fire Department.

Based on the Merauke District Inspectorate Report on the results of the evaluation of Government Agency Performance Accountability System (SAKIP) implementation in 2020, is Civil Service Police Unit Office and Merauke District Fire Department obtained a value of 55.35 or the predicate "CC" Enough. The value concluded that is Civil Service Police Unit Office and Merauke District Fire Department are in the category of "performance accountability is quite good, adheres to policies, has a work system that can be used to produce or share information about performance for accountability but many improvements are needed that are not fundamental". The value is a summary assessment for all elements of performance management that are evaluated at Civil Service Police Unit Office and Merauke District Fire Department. Underlying the results of SAKIP evaluation above, surely,

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the necessity of human resources who work with motivation and high discipline in addition to participating in various trainings that support organizational performance because along with the technology development nowadays all aspects have been running with the system.

Civil Service Police Unit known as „Satpol PP” Office and Merauke District Fire Department have 106 State Civil Apparatus that work to carry out all established programs, especially to enforce the established regional regulations, by looking at the main tasks that exist, Civil Service Police Unit Office and Merauke District Fire Department need to be supported by State Civil Apparatus that is able to carry out the task in question. Certainly, when observed based on the availability of human resources existence in the Office of Civil Service Police Unit Office and Merauke District Fire Department show there is a variation of human resources both in terms of education and age level.

The dominant staff is the age of 40 years old and above followed by the age of 31-40 years old. Considering the productivity of work, certainly, the age of 40 years and above is not necessarily productive to work, especially if the job has to working outdoor or working hours that requires certain attention and competence while the education level show that human resource both of Civil Service Police Unit Office and Merauke District Fire Department is predominantly educated Senior High School, certainly this is an obstacle that if associated with competence and understanding of various rules or policies.

This condition needs to get attention from the local government, especially related agencies to develop existing human resources in this institution itself so that it will also support the performance of Civil Service Police Unit Office and Merauke District Fire Department. In order to improve the performance, certainly, it needs to be supported by a number of factors or supporting indicators that can improve the State Civil Apparatus’s performance in the

offices of Civil Service Police Unit Office and Merauke District Fire Department. From the results of questionnaires distribution to respondents related to variables that affect performance, it can be concluded as follows in Table 1.

Table 1: Early Surveys of Variables (Researcher Data Managed, 2021).

No	Variables	Respondents Chosen
1.	Organization Culture	1 Respondent
2.	Career Development	1 Respondent
3.	Working Environment	3 Respondents
4.	Compensation Policy	1 Respondent
5.	Employee’s Attitude	2 Respondents
6.	Workload	1 Respondent
7.	Training	8 Respondents
8.	Working Discipline	12 Respondents
9.	Working Security	1 Respondent
10.	Working Engagement	1 Respondent
11.	Working Satisfaction	2 Respondents
12.	Motivation	17 Respondents
Amount		50 Respondents

From the results of the survey as table above concluded that there are three dominant factors selected as factors that affect the performance of State Civil Apparatus in the Office of Civil Service Police Unit Office and Merauke District Fire Department, namely work motivation amount 17 respondents, training amount 8 respondents and work discipline amount 12 respondents who became the most dominant factor, while other factors were categorized as supporting factors. This dominant variable is in line with the situation and conditions that occur in the offices of Civil Service Police Unit Office and Merauke District Fire Department.

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According to the survey results of the variables above show that the dominant respondents answered that the factors of motivation, training and work discipline are the most important factors to improve employee performance in an organization, where in previous research showed these three factors have a very strong effect on performance variables in an organization. Some previous studies have helped support that motivational factors, training and work disciplines influence performance. Some of these studies are used as the basis of previous research in this study, among others (Anggoro, Silaban, Munthe, & Turnip, 2020; Ardasanti, 2019a; Sahanggamu, & Mandey, 2014; Sudirman, & Dallyodi, 2013; Sukarman, Hamzah, & Ella, 2018; Wahyulianti, 2015; Zukriah, & Heryanto, 2019).

Motivation mentioned to be one of several key factors to work and achieve maximum performance, previous research from (Wahyulianti, 2015) mentioned that preparing human resources that have a high working spirit is not only seen only in its ability but also from its motivation. Motivation is also related to the commitment level of an employee to their work to achieve the company's goals, as mentioned that motivation is a part that encourages and also supports a person's pattern of behavior to carry out actions in accordance with the will and motivation to work (Wardhani, Susilo, & Iqbal, 2015, p. 1). In reality there is still State Civil Apparatus whose motivation has not been maximal so that it greatly affects its performance in the work environment, this tends to arise due to a reluctance to work well as mentioned in the study that motivation is also related to the lazy feeling inherent in each human individual (Fina, 2013, p. 12).

Improving the quality of human resources is largely determined by the extent to which the systems in which they are able to support the State Civil Apparatus's performance, this is in order to form a State Civil Apparatus's quality itself through established mechanisms as the view that in an effort to form reliable

human resources can be done through a quality education process, mental guidance, training, and the existence of adequate types of employment (Ariesta, 2016), while previous research according to (Ardasanti, 2019a) said the training followed by employees able to contribute the improvements both of job performance and job satisfaction for employees concerned (Ardasanti, 2019a).

Another factor of improving State Civil Apparatus's performance is regarding State Civil Apparatus's work discipline aiming to support its performance. The more disciplined an State Civil Apparatus, the greater task will be achieved, this is as mentioned that the organization's goals will be achieved if employee discipline is good, but if the discipline is low on the contrary it will slow down the achievement of organizational goals (Liana, & Irawati, 2014, p. 18). Discipline does not have to arise because of pressure and efforts to attract the attention of State Civil Apparatus itself, but the discipline of work should return to the identity of an State Civil Apparatus itself as mentioned by (Pangarso, & Susanti, 2016a) stated that discipline leads more to the awareness of the individual in obeying the rules that exist and apply in an organization (Pangarso, & Susanti, 2016a, p. 147).

Not all studies conclude that motivation affects the improvement of employee performance, as other studies mentioned by (Hidayat, 2021; Inaray, Nelwan, & Lengkong, 2016; Maramis, 2013; Meho, & Christian, 2019; Suwati, 2013) stated that Work motivation does not have a positive and significant influence on employee performance levels, while for training variables according to research from (Sukmawati, Ratnasari, & Zulkifli, 2020) mentioned that Research has a positive but not significant effect on employees while research from (Butar Butar, & Irsutami, 2018) concluded that Training has no direct effect on employee performance. On work discipline variables according to research from (Bawelle, & Sepang, 2016; Lestari, & Afifah, 2020; Sawor, Bajari, & Sylvia, 2020) concluded

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that work discipline had no partially significant positive effect on employee performance.

Base on several factors it is expected that State Civil Apparatus will work efficiently and being able to show performance that can contribute to the performance of State Civil Apparatus itself, as the results of (Hutabarat, 2016) mentioned research on teacher performance that those who have training, work motivation and supported by high work discipline will show maximum performance when working compared to teachers whose has lack training, do not have work motivation and good discipline (Hutabarat, 2016, p. 84).

The problem formulation in this study classified into as follows:

- Does the motivation of the work effect on the performance of State Civil Apparatus at Civil Service Police Unit known as “Satpol PP” Office and Merauke District Fire Department?
- Does the training effect on the performance of State Civil Apparatus at Civil Service Police Unit Office and Merauke District Fire Department?
- Does work discipline effect on the performance of State Civil Apparatus at Civil Service Police Unit Office and Merauke District Fire Department?

LITERATURE REVIEW

Mangkunegara said performance is the result of work both of quality and quantity achieved by an employee when carrying out duties in accordance with their responsibilities (Kambey, & Suharnomo, 2013, p. 142). Civil State Apparatus if it works well certainly, the performance will be good anyway, meaning that performance is part of the seriousness of Civil State Apparatus in working. (Ribeiro, Yucel, & Gomes, 2018) mentioned that employee performance is a series that contains records of a particular work activity carried out over a certain period of time (Sukarman, et al.,

2018). Performance is related to the success or achievement levels of a person, improved performance means the resulting achievement is also good as mentioned that performance as a result of work performance and work behavior of employees (Sudirman, & Dallyodi, 2013). In order for organizational development to be more effective and efficient can be done through performance assessment, because by making efforts to assess work achievement, the organization has used all its human resources. To measure it requires a number of supporting indicators, mentioned the indicators used in assessing employee performance whether they already have good performance or not based on the tasks and responsibilities that have been done, the indicator according to (Sukarja, & Machasin, 2015, p. 272) classified into as follows: work performance, responsibility, obedience, honesty, cooperation, initiative and leadership skills. These indicators become a benchmark whether someone has worked well and maximally certainly with all the tasks and responsibilities aimed at improving organizational performance as well.

Motivation

Motivation is built to motivate everyone in the organization to work and achieve the expected organizational goals, motivation will arise when supported by a good work environment so that this motivation arises from the awareness of employees in the organization, according to (Duttweiler, 1986) mentioned that motivation is a factor that assist drive, direct and support continuously to get increasing results (Andjarwati, 2015, p. 46). Motivation is basically a driver for a person being able to improve their performance (Nawawi, 2012, p. 100). According to (Robbins, & Wansink, 2015) said motivation works as a form of willingness being able to try as much as possible in an effort to achieve organizational goals where it is also influenced by the ability and effort in order to be able to satisfy some individual necessity (Hasibuan, & Bahri,

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2018, p. 76). According to (Mangkunegara, 2009, p. 93) motivation indicator classified into as follows: responsibilities, job performance, opportunities to progress, performance's recognition and challenging work. The better and higher one's motivation in working will be very supportive and useful in improving the quality of an organization's performance.

Training

Training is expected to improve the ability of employees in developing tasks in addition to activities in training aimed at improving knowledge, expertise and competence (Roswaty, & Siddiq, 2019). The training provided itself is based on the work of each employee, so that there is an increase in the ability, knowledge and *skills* of employees (Lestari, & Afifah, 2020). Training is intended therefore State Civil Apparatus able to develop itself in understanding the conditions relates on the organization achieve as mentioned that in this case self-development and self-improvement by each human being is carried out in an effort to achieve their personal goals as well as organizational goals (Benny, 2005, p. 61). Training can be said to be an activity to empower employees to have the expertise and ability to carry out their tasks (Zukriah, & Heryanto, 2019).

In achieving this goal an organization certainly has training that is spelled out in the form of a planned program that if chosen appropriately will produce employees who have the right skills (Kambey, & Suharnomo, 2013). Training is needed to improve the understanding of State Civil Apparatus regarding the existence of new rules or understanding of the work's type it does, that in fact every implementer of training activities has to evaluate every training that the employee execute both in terms of implementation to

the resulting impact on performance (Utomo, & Tehupeior, 2014, p. 37).

Working discipline

The better level of employee work discipline, the more it will have a good influence on the organization, it is reinforced that employees who have good work discipline are expected being able to carry out and complete work tasks as their responsibility effectively and efficiently and completed in period time (Setiawan, 2013, p. 1245). According to (Hasibuan, & Bahri, 2018) said that discipline is an awareness and willingness from employees to how they obey both of rules and norms in government organizations (Ariesta, 2016).

Work discipline is certainly a driver of performance improvement, discipline is behavior born of humans, it could be behavior will be different from each other moreover discipline has to also refer to human behavior as said by that discipline will be more effective if directed to non-personal behavior of employees (Sudirman, & Dallyodi, 2013), If the employee's behavior changes in a good direction then it is certain that the level of discipline of the employee will improve as well. While divided work discipline into four indicators moreover (Sutrisno, 2016, p. 94) stated that some obedience should be done such as time, company's rules, behavior's rules and others. Another indicator conveyed by (Rivai, 2017) said that work discipline has several factors that can be used as indicators that contribute for the employees discipline level, while according to (Ariesta, 2016) classified into as follows: attendance; adherence to work obligations and regulations, adherence to work standards, high level of vigilance and ethical work.

Research framework

The frame of mind is a direction to explain the motivation, training and work discipline that affect performance described as follows on Figure 1.

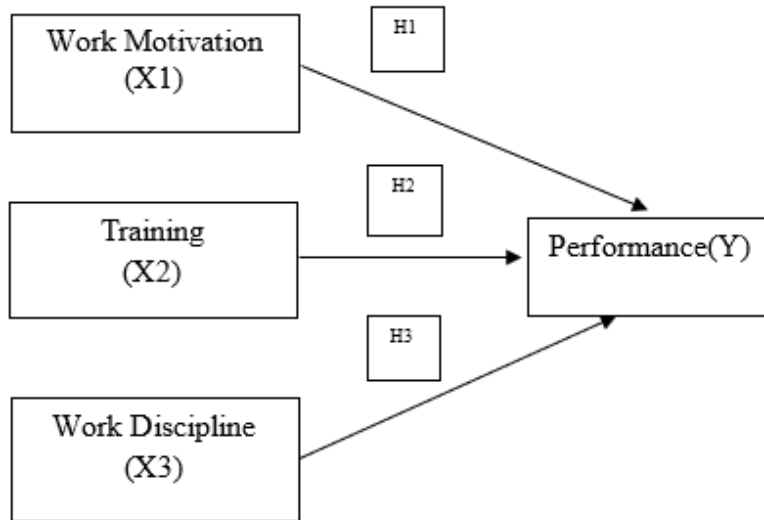


Figure 1. Research farmwork

RESEARCH METHOD

The research approach executed through an associative quantitative approach that is research that uses measurement or numerical to the problem to be studied and data collection as well as analysis. (Pasolong, 2012, p. 165) mentioned about work motivation variables, training, work discipline, and State Civil Apparatus’s performance. The population of this study includes when the entire State Civil Apparatus at Civil Service Police Unit known as “Satpol PP” and Merauke District Fire Department with the total population amount 106 people. Determination of samples are using saturated sample technique. It is a technique of determining samples if all or all the population is used as a sample in the study. According to (Sugiyono, 2009) mentioned the sample in the study is amount 106 people. Research data is collected through observations, questionnaires and literature studies where those institution take as a study’s object. Data test results use validity tests as well as reliability tests while data analysis methods use multiple linear regression tests.

RESULT AND DISCUSSION

Validity Examination

The validity test is a stage of analysis of a measure that indicates the validity of the questionnaire. (Siregar, 2012) said validity show how far a test measures what should be measured. In the product moment method, validity analysis is performed on the instruments of all variables through Statistical Product and Service Solutions SPSS. Policy of decision-making according to (Sugiyono, 2016) classified into as follows:

- If $r_{calculate} > r_{table} = 30$; then the statement is valid.
- If $r_{calculate} < r_{table} = 30$; then the statement isn’t valid.

For r_{hitung} can be seen in the corrected-item from the total correlation column in the correlation table (appendix). The validity analysis presented in table 2.

Based on table 2 above each question of each variable shows the value of $r_{calculate} > r_{table} = 0.30$. According to (Sugiyono, 2016) If $r_{calculate} > r_{table} = 0.30$; The statement is valid, so that the results obtained from the validity test of all questions of each variable are valid.

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Table 2 Validity Examination Result (Data SPSS Managed, 2021).

Variables	Item Statement	$r_{calculate}$	r_{table}	Notes
Work Motivation (X1)	1	0.876	0,30	Valid
	2	0.854	0,30	Valid
	3	0.833	0,30	Valid
	4	0.859	0,30	Valid
Training (X2)	1	0.985	0,30	Valid
	2	0.940	0,30	Valid
	3	0.980	0,30	Valid
Work Motivation (X3)	1	0.814	0,30	Valid
	2	0.875	0,30	Valid
	3	0.772	0,30	Valid
Civil State Apparatus's Performance (Y)	1	0.793	0,30	Valid
	2	0.724	0,30	Valid
	3	0.698	0,30	Valid
	4	0.743	0,30	Valid
	5	0.809	0,30	Valid

Reliability Examination

A research instrument has to be reliable. The reliability of a trusted indicates the stability and consistency of an instrument that measures a concept. Reliability examination are aimed not only testing the same instrument at different times but also delivering the same results. A construct or variable is said to be reliable if

the construct or variable gives a *Cronbach Alpha* value ≥ 0.60 (Sugiyono, 2016). Based on the processing results by using SPSS (attached) Cronbach's Alpha for variables Work motivation (X1), Training (X2), Work Discipline (X3) and State Civil Apparatus's Performance (Y) which can be seen in the table 3.

Table 3. Reliability Examination (Primary Data Managed, 2021)

Variables	Cronbach's Alpha	Notes
Work motivation (X1)	0,939	Reliable
Training (X2)	0,985	Reliable
Work Discipline (X3)	0,908	Reliable
State Civil Apparatus's Performance (Y)	0,899	Reliable

Based on table 3 above, it is known that each variable between the variables Work Motivation (X1), Training (X2), Work Discipline (X3) and Performance ASN (Y) was obtained *Cronbach Alpha*

value ≥ 0.60 so that the results of the rehabilitation test for all research variables are reliable.

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Classic Assumption Examination

Data Normality Examination

The purpose of a normality examination is to find out whether the data distribution follows or approaches the normal distribution. The results of normality testing with the Kolmogorov-Smirnov method are presented in the Table 4.

Table 2. The Examination Result of Kolmogorov-Smirnov (SPSS data results, 2021).

Test Statistic	.081
Asymp. Sig. (2-tailed)	.086 ^c

Based on the normality test with Kolmogorov-Smirnov obtained a test statistic of 0.081 and Asymp. Sig. 0.086 where the value is greater than the level of significance of 0.05 so it can be concluded that the data in the study is normal distribution.

Heteroskedasticities Examination

Heteroskedasticity is a condition that indicates where in regression models consist of a variant of residual that has nothing in common on from one observation to another. Regression models are mentioned to be good if there is no heteroskedasticity. To examine heteroskedasticity is done by using the Glejser test.

The use of Glejser examination is executed through regression between independent variables and their residual obsolete values. If a significant value between an independent variable with absolute residuals indicates more than 0.05 then the heteroskedasticity problem does not occur (Siregar, 2012). The results of Glejser test are presented in the Tabele 5.

According to the table 5 above, the regression results of independent variables with absolute residuals show the coefficients of each independent variable are not significant where the degree of significance > 0.05, thus does not become a problem of heteroskedasticity.

Table 3. Glejser Examination Result (SPSS data results, 2021).

Variables	T	Sig
Motivation	0.162	0.871
Training	-0.434	0.665
Discipline	-1.056	0.294

Multicollinearities Examination

Multicollinearity tests are aimed at testing correlations between independent variables. If there is a correlation, it can be said to be Multicollinearity, namely the occurrence of multicollinearity problems. Regression models are said to be good if there is no independent correlation occurs.

To detect the existence of multicollinearity can be done by looking at the magnitude value of VIF (*Variance in Factor*) and its tolerance value. If the VIF value < 10 and the magnitude of the *tolerance* value is close to 1 then there is no multicollinearity.

Multicollinearity examination results are presented in the Table 6.

Table 4. Multicollinearity Examination (SPSS data results, 2021).

Variables	Tolerance	VIF
Motivation	0.452	2.211
Training	0.425	2.356
Discipline	0.313	3.190

In accordance with table 6 above, it is concluded that the calculation results of all the above variables, multicollinearity of VIF values < 10 and *tolerance* values > 0.100. Thus, there is no multicollinearity between independent variables in the regression model.

Hypothesis Examination Result

Multiple Linear Regression Analysis

The multiple linear regression test results are presented in the Table 7.

Table 7. Multiple Linear Regression Test Results

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	6.961	.990		7.032	.000
Motivation	.009	.066	.011	.130	.897
Training	.505	.112	.384	4.520	.000
Work Discipline	.608	.122	.492	4.980	.000
Nilai R	.829				
R Square	.688				
Adjust R Square	.678				

From the table 7 above the *Unstandardized Coefficients* column shows that the value of work motivation, training and work discipline is for work motivation amount 0.009, training amount 0.505 and work discipline amount 0.608 while *Constanta parameter* value is 6,961. Based on these values, multiple regression equations are:

$$Y = 6,961 + 0,505 X_2 + 0,608 X_3 + e$$

The above equation can be explained as follows:

- The value of 6.961 on the variables of work motivation (X1), training (X2), work discipline (X3) is 0 (zero) then the Civil Apparatus’s performance (Y) is worth 6,961.
- The value of 0.505 on the training variable (X2) is positive therefore it can be said that the higher training performed, effect on the better Civil Apparatus’s performance.
- The value of 0.608 in the work discipline variable (X3) is positive value therefore it can be said that the better the work discipline provided, effect on the better Civil Apparatus’s performance.

Statistic Examination

T Examination

- Hypothesis 1 (Effect of Work Motivation on State Civil Apparatus’s Performance)

Base on the calculation results obtained the value t calculated for the variable Work motivation is 0.130 and by using the significance amount 5% obtained t table of 1.983. Where t table is obtained from $dk = n-k (106-4) = 102$ (Siregar, 2012), which means that the value of t calculate is smaller than t table which is $0.130 < 1.983$. While the sig value in the table is 0.897 because sig is greater than or more than 0.05, which indicates that work motivation (X1) has an insignificant influence on State Civil Apparatus (Y) performance. Thus concluded the hypothesis that states that work motivation has an influence on the State Civil Apparatus’s performance rejected.

- Hypothesis 2 (Training Effect on State Civil Apparatus’s Performance)

Bases on the calculation results obtained the value t calculation for the training variable is 4,520 and by using the significance level (signification level) of 5% obtained t table of 1,983. Where t table is obtained from $dk = n-k (106-4) = 102$ (Siregar, 2012), which means that the value of t calculate is greater than t table which is $4,520 > 1,983$. While the sig value on the table is 0.000 because sig is smaller or less than 0.05, which indicates that training (X2) has an influence on State Civil Apparatus’s Performance (Y). Thus, hypothesis

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concluded that training has an influence on the State Civil Apparatus’s performance accepted.

- Hypothesis 3 (Work Discipline Effect on State Civil Apparatus’s Performance)

According to the of the calculation’s result obtained the value of t calculate for the work discipline variable is 4,980 and by using the significance level (signification level) amount 5% obtained t table of 1,983. Where t table is obtained from $dk = n-k$ ($106-4$) = 102 (Siregar, 2012), which mean that the value of t calculates greater than t table which is amount $4,980 > 1.983$. While the sig value in the table is 0.000 because the sig is smaller or less than 0.05, which shows that work discipline (X3) has an influence on Civil Apparatus’s performance (Y). Therefore, it is concluded the hypothesis that states work discipline has an influence on the Civil Apparatus’s performance is accepted.

Determination Coefficient

Based on table 9 above shows the determination test of the *Adjusted R Square* value amount 0.678 which means that the variables work motivation, training and discipline can explain the Civil Apparatus’s performance by 67.8% and the remaining by 32.2% which is another variable that is not examined in this study. Based on the analysis results that has been outlined above, a summary for the hypothesis examination results in this study can be seen in the Table 8.

Table 5: Hypotheses Examination Results (SPSS Data Result, Managed, 2021).

No	Variable’s Connection	Research Results
1	Working motivation => Civil Apparatus’s performance	Unproven
2	Training => Civil Apparatus’s performance	Proven
3	Working Discipline => Civil Apparatus’s performance	Proven

In this section discusses the study results, namely the existence of several factors that affect the Civil Apparatus’s performance at Civil Service Police Unit known as “Satpol PP” and Merauke District Fire Department.

1. The Effect on Working Motivation towards Civil Apparatus’s Performance

Based on the analysis results of the research findings, it was concluded that work motivation has no influence on Civil Apparatus’s performance, thus this shows that the better on work motivation, it does not affect the Civil Apparatus’s performance. The results also show that respondents’ perceive about work motivation to Civil Apparatus’s performance which showed a high /good average response of respondents although there were still those who showed a doubtful and disapproving response to the Civil Apparatus’s performance that is currently felt to work motivation, this shows that the motivation is very good as mentioned by (Hasibuan, & Bahri, 2018) stated that motivation is a burning spirit caused by needs and desires, which encourages individuals to exert their physical and mental energy to achieve a desired goal (Hasibuan, & Bahri, 2018).

Based on the research results of Civil Apparatus’s performance mentioned that for work motivation related Civil Apparatus’s performance shows that the employees’ motivation is not too good this is because the majority of Civil Apparatus are over 40 years old therefore, they have lack of high motivation at work. In doing a job, employees should have high performance. However, this is difficult to achieve because even many employees who have low performance or increasingly declining even though they have done a lot of training and development relate to their human resources, aiming to improve the ability and motivation of their employees’ work. The study results as stated also by the results of previous research from (Hidayat,

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2021; Inaray, et al., 2016; Maramis, 2013; Meho, & Christian, 2019; Suwati, 2013) mentioned that motivational variables have no effect on the employees' performance.

Motivation is the support process of driving force that assist creating a passion for one's work's desire to build cooperation, work effectively and integrated to achieve satisfaction by utilizing all their efforts (Hasibuan, 2013, p. 143). Motivation will give meaning to the great or small effort of a person by trying or working hard in order to achieve all their needs, but vice versa if someone with a small or low level of motivation will certainly never be able to achieve something that exceeds the motivation's power in the mindset itself. Before a person fulfills some of motivation, surely they needs has to be created or encouraged first as the view that stated motivation is a thrust or excitatory force to carry out or do something (Moekijat, 2002, p. 5).

Based on the foregoing where the results of this study were not supported by the view put forward by (Alimohammadi, & Neyshabor, 2013; Wardhani, et al., 2015) mentioned that work motivation will have a significant positive impact on a commitment in organization (Wardhani, et al., 2015). Attitudes and values are a force that is able and participates in encouraging individuals to behave well, especially in achieving their goals, the results of this study are also inversely proportional to the conclusions of previous research done by (Agung, Djunaidi, & Astutik, 2019; Brahmasari, & Suprayetno, 2016; Juniantara, & Riana, 2015; Murti, & Srimulyani, 2013; Sanggenafa, & Christian, 2019; Setiawan, 2015) where the results of the study showed an influence between motivation on performance.

2. Training Effect towards Civil Apparatus's Performance

Based on the analysis findings conducted on this study, it is known that training has an influence on the Civil Apparatus's performance, this finding is like previous research done by (Ardasanti,

2019b) mentioned that one of the indicators, namely partial and simultaneous training, has a positive and significant effect on the work performance of employees in Wajo Regency, especially at the Majauleng District Office. This shows that the better training received by Civil Apparatus, the performance itself will increase as well. The results also showed respondents perceive about training to Civil Apparatus's Performance which showed a high/good average response of respondents although there were still those who show doubtful responses and disagreed with the currently perceived on Civil Apparatus's Performance on training program.

The output of the training program is targeted to improve Civil Apparatus's Performance effectively and efficiently according to the work training program that has been in accordance with the relevant agencies necessity so that employees are more skilled and competent, in the same view also stated by (Zukriah, & Heryanto, 2019) mentioned that training is an activity of empowering employees to have the expertise and ability in carrying out their duties. However, it does not rule out the possibility of job training that has not been fully able to improve the abilities and weaknesses around Civil Apparatus itself because the training carried out is still less than the maximum or lack of the awareness from Civil Apparatus itself (seriousness of undergoing training) is still minimal, therefore, Civil Apparatus does not have the will and still lacks understanding in training program participation. According to the opinion from (Utomo, & Tehupeiry, 2014) stated that the necessity to evaluate every training from its implementation to its impact on performance, they are an important thing because the training followed by employees clearly has directed *output* in accordance with what is the purpose by the participant join in training as stated by (Tabassi, & Bakar, 2009) stated that the purpose of training and development aims to improve the ability of employees to participate in training, as well as achieve good performance.

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Based on the interviews results with Civil Servant at Civil Service Police Unit known as "Satpol PP" and Merauke District Fire Department who were found said that for training related to Civil Servant's Performance shows that the Civil Servant's Performance at Civil Service Police Unit and Merauke District Fire Department is good enough, but it needs to be improved again. Employees who have participated in training have technical ability to do work and have competence in carrying out their task. In addition, employees who have participated in training have better behavior in carrying out their task.

Based on the results of this study as stated by (Dewi, 2018; Hasibuan, 2011) stated that training is an effort in order to improve the performance of workers in a certain job that has a responsibility or a job related to their work (Dewi, 2018, p. 89). The results were also supported by research with the title "Analysis Influence of the of Human Resource Training and Development on Employee Performance in the Office of Women Empowerment and Child Protection of Musi Banyuasin Regency of South Sumatra" (Roswaty, & Siddiq, 2019) where the results show that the better training followed by employee, the performance itself will increase as well.

3. The Effect of Work Discipline on Civil Apparatus's Performance

Based on the analysis findings study, it is known that work discipline has an influence on the Civil Apparatus's performance, in line with the results of research executed by (Endratno, & Afrizal, 2020) which concluded that one of the variables studied, namely work discipline has a significant influence on the performance in Kroya subdistrict village devices in Cilacap Regency. This shows that the better of work discipline done by Civil Apparatus, the performance itself will increase as well. The results also show respondents' perception about work discipline to Civil Apparatus's Performance which show a high/good average response of respondents although there were still

those who showed doubtful and disapproval responses to the currently perceived the Civil Apparatus's Performance to work discipline.

Based on the interviews results done with Civil Apparatus at Civil Service Police Unit known as "Satpol PP" and Merauke District Fire Department who were found said that for work discipline related to Civil Apparatus's Performance shows that Civil Apparatus's Performance at Civil Service Police Unit and Merauke District Fire Department is good enough, but it is necessary to improve the perceived their work discipline. According to (Pangarso, & Susanti, 2016b) said that discipline as an action of management to encourage every member in an organization to fulfill every applicable thing or provision. This is shown by every employee at Civil Service Police Unit and Merauke District Fire Department able to complete the task on time and obey all regulations that have been set by the agency.

In addition, every employee obeys the rules of the ethics code in maintaining the organization's image which means that employees have worked effectively, as stated by (Prabowo, 2020) mentioned that one of the factors that determine the effectiveness of performance is work discipline. These results are also strengthened by the views expressed, where work discipline is expected to be a characteristic of every human resource in the organization, because along with discipline an organization will take place well and being able to achieve each of its goals as well (Moenir, 2010).

These results were strengthened by the previous research entitled "The Influence of Work Discipline on Employee Performance in the Deputy Secretariat for Tourism Destination Development" which found there was a positive and significant influence between discipline on employee performance (Rahayu, & Ajimat, 2018), while according to (Marlius, & Vebrian, 2020) in the research entitled "The Influence of Work Discipline and Organizational Culture on Civil Apparatus's performance in the Community

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Empowerment Office and Village of West Sumatra Province", where work discipline has a positive influence on employee performance variables.

Every employee should have and build a work discipline in the organization of the workplace, they can be shown by complying with all regulations both written regulations or unwritten regulations that have been set by the agency or organization itself, because by complying with all these regulations will stimulate to create a conducive and harmonious work environment that has a positive impact on the employee's performance itself.

CONCLUSIONS AND SUGGESTION

According to the research result above, the researcher takes a various conclusion classified into as follows:

Work motivation variables have no effect on the Civil Apparatus's performance at Civil Service Police Unit known as "Satpol PP" and Merauke District Fire Department. Training variables effect on the performance of the State Civil Apparatus at Civil Service Police Unit and Merauke District Fire Department. Work discipline variables effect on the performance of the State Civil Apparatus at Civil Service Police Unit and Merauke District Fire Department.

While the suggestion classified into as follows: In order for the next study to include more than three variables or add a number of variables that are not explained in this study. Future research needs to use a much larger sample in number than the number of samples in this study. Further researchers should include more than one organization or research locus as the study material. Researchers should then use a more complete *SmartPLS (Partial Least Square)* analysis tool in analyzing influences between variables.

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KORPORATIVNA SOCIJALNA ODGOVORNOST U BANKARSKOM SEKTORU

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APSTRAKT

Tržišna ekonomija je donijela povećanje konkurentskog pritiska iz godine u godinu. Upravo ova konkurentska situacija je uticala na potrebu prilagođavanja korporacija sredinama u kojima posluju, a posljedično tome i na razvoj „soft skills“ u svom poslovanju. Sve ovo je dovelo do uvođenja etičkog kodeksa u poslovanje korporacija kojim je definisano šta je prihvatljivo i šta nije u obavljanju poslovnih aktivnosti. Jedno od polja ili sastavnih dijelova etičkog kodeksa je i društveno odgovorno poslovanje oličeno u korporativnoj socijalnoj

odgovornosti (*Corporate Social Responsibility - CSR*).

CSR aktivnosti, ako su ispravno implementirane, dovode do pozitivnog uticaja na poslovanje korporacija. To se prvenstveno dešava na polju odnosa sa klijentima, oličeno u olakšanom privlačenju i zadržavanju klijenata. Osim ovog pozitivnog efekta implementiranih CSR politika, javlja se i pozitivan efekat na polju zapošljavanja, a on se očitava u olakšanom privlačenju kvalitetnijih zaposlenih, u dužem zadržavanju tih zaposlenih, kao i u unapređenju motivacije zaposlenih. Sve ovo pozitivno utiče na poslovanje korporacija koje implementiraju CSR aktivnosti, a što se odražava na njihovu profitabilnost, kao i na konkurentski položaj na tržištu.

Ovim je upravo i postavljen cilj ovog rada, a to je utvrditi da li postoji pozitivna korelacija uspješnosti poslovanja banke i uspješnosti provođenja programa društvene odgovornosti u zajednici u kojoj posluje.

Ključne riječi: etičko poslovanje, etički kodeks, društveno odgovorno poslovanje.

UVOD

Temeljni cilj svakog korporativnog poslovanja je ostvarivanje profita. Ispunjenje tog cilja podrazumijeva određeno djelovanje kompanije ili banke koje pritom može imati pozitivan ili negativan uticaj na društvo i okolinu. Savremeni tržišni uslovi i društveni pritisci uticali su na to da se od korporacija očekuje da preuzmu odgovornost za svoje djelovanje. Zbog toga sve više pravnih subjekata, tj. kompanija nastoji suzbiti aktivnosti koje bi se mogle negativno

odraziti na zajednicu te svoje ciljeve ostvariti na način koji će imati pozitivan doprinos za društvo u cjelini (Simon, 2001).

U posljednjih 20-ak godina, davanjem na značaju važnosti ovom području poslovnog djelovanja, korporacijska ili/i bankarska društvena odgovornost (*Corporate Social Responsibility - CSR*) utiče na sveobuhvatno organizacijsko ponašanja, ne samo kao slobodni izbor već i kao potencijalna obaveza u budućnosti. Pritom se, s obzirom na veliki privredni značaj banaka, aktualizuje problematika identifikacije stepena njihove angažovanosti u pitanjima šireg društvenog značaja. Pristup pitanjima od šireg društvenog značaja, banke definišu kroz etički kodeks. Obzirom da je CSR jedna od oblasti od šireg društvenog značaja, time bi se CSR politike trebale definisati kroz etički kodeks banke i biti njegov integralni dio. Povezanost društvene odgovornosti korporacija i finansijske uspješnosti ukazuje na osnove pokretačkih motiva banaka da se uključe u CSR.

Shodno zadnje navedenom, cilj ovog rada je utvrditi da li postoji pozitivna korelacija uspješnosti poslovanja banke i uspješnosti provođenja programa društvene odgovornosti u zajednici u kojoj posluje.

Krećući od ove pretpostavke, postavljena je hipoteza ovog rada da banke sa razvijenom CSR praksom unapređuju svoju konkurentsku prednost i imaju bolje pretpostavke za profitabilnije poslovanje.

ETIČKI KODEKS

Definicija i pojam etičkog kodeksa

Po definiciji IFC-a (International Finance Corporation [IFC], 2009), koje je članica grupacije Svjetske banke (*World Bank*), etički kodeks koji se naziva i kodeks ponašanja ili izjava o etici i odgovornosti, jeste osnovno uputstvo o ponašanju koje propisuje dužnosti i odgovornosti za menadžment i zaposlene prema njegovim nosiocima interesa, uključujući, između ostalih, kolege, kupce, klijente, poslovne partnere, državu i društvo.

Etički kodeks je dokument kojim se bliže određuju etička načela. On predstavlja

skup opšte prihvaćenih pravila ponašanja i profesionalne standarde kojih bi trebali da se pridržavaju svi zaposleni u jednoj kompaniji (Freeman, 2009). Ipak, potrebno je naglasiti da on ne predstavlja skup pravila već samo skup načela, te stoga ne može biti garancija etičkog ponašanja svakog pojedinca u kompaniji. Etički kodeks postavlja standarde ka kojima bi profesionalni menadžeri trebali da teže. Poštovanje načela kodeksa trebalo bi da doprinese većoj humanosti i pravičnosti u radu i poslovanju. Svaka ozbiljna korporacija definiše svoj etički kodeks i upoznaje zaposlene sa načelima ponašanja u kompaniji, te od njih traži da se pridržavaju ovih načela (Hopkins, 2006).

Ovako definisan i implementiran etički kodeks bliže određuje korporativnu kulturu, kao jedan od bitnih kohezivnih elemenata za velike organizacije, pogotovo one koje posluju na većem broju tržišta. Obzirom da veći broj različitih tržišta u pravilu donosi različite kulturološke navike, bliže određivanje korporativne kulture postaje jedan od bitnih ujedinjujućih elemenata svake korporacije.

Etičkim kodeksom se, takođe, bliže definišu i razgraničavaju prihvatljive od neprihvatljivih poslovnih odluka i ponašanja. Ovime se u principu smanjuje prostor za samovolju pojedinaca u velikim korporacijama, te na taj način smanjuje i mogućnost nastanka potencijalno kažnjivih, ali isto tako i društveno neprihvatljivih ponašanja unutar korporacije. U konačnici ovo treba dovesti do sigurnijeg i transparentnijeg poslovanja korporacija sa usvojenim naprednim etičkim kodeksima.

Odluke menadžera i poslovna etika

Kada menadžeri donose odluke podrazumijeva se da one moraju da budu zasnovane na pozitivnim zakonskim osnovama. Postavlja se pitanje u čemu je razlika između etičkih i ostalih menadžerskih odluka?

Razlike između „običnih i etičkih“ odluka sastoje se u tome što se etičke odluke donose uvijek kada usvojena pravila ne definišu dovoljno precizno postupke u situaciji u kojoj se našao menadžer ili u

kojoj će se naći sama korporacija. U donošenju etičkih odluka vrijednosni stavovi menadžera imaju prevashodni značaj. Oni su naročito značajni u slučajevima koji nisu obuhvaćeni zakonskim pisanim aktima, niti su se ranije pojavljivali u praksi. Visoki etički standardi zahtijevaju i od poslova i od pojedinaca da se prilagode i poštuju moralne principe. Javno prezentovana CSR politika koja za osnov koristi osnovne etičke principe, predstavlja tu vrstu poslovne filozofije i društveno odgovornih inicijativa.

Kada se etika primjenjuje u korporativnom poslovanju i upravljanju treba imati u vidu da poslovi moraju da stvaraju profit, kao i da poslovni poduhvati moraju da izbalansiraju svoje želje za profitom sa potrebama i željama društva u kojem posluju.

Održavanje navedenog balansa iziskuje kompromise. Zato je društvo razvilo pravila, zakonska i implicitna, kako bi poslovni poduhvati ostvarivali profit, ali na način koji ne nanosi štetu pojedincima ili društvu u cjelini. Poslovna etika i CSR obuhvata moralne principe i standarde kojima se rukovode učesnici u biznisu. Dilemu da li je neko ponašanje dobro ili loše, etičko ili neetičko, često rješava javnost otjelotvorena u masovnim medijima i interesnim grupama, ali i u moralnim stavovima i vrijednostima pojedinaca. Mada ni pojedinci ni korporacije ne moraju da budu „u pravu“, njihovi sudovi utiču na društveno prihvatanje ili odbacivanje poslovnih aktivnosti. A poslovne aktivnosti su te od kojih zavisi krajnji profit.

Društvena odgovornost kompanije ili banke se povezuje sa konceptom „stakeholders“, koji podrazumijeva da za poslovanje nekog privrednog subjekta nisu zainteresovani samo vlasnici kapitala i menadžment strukture. Legitiman interes imaju i drugi elementi unutar ili van posmatranog sistema (zaposleni, potrošači, dobavljači, poslovni partneri, organi društvenog odlučivanja, pa i javnost uopšte). Savremeni menadžment prihvata činjenicu o postojanju konflikta interesa ovih grupa, i svoju akciju usmjerava na njihovo rješavanje.

Razlozi donošenja i usvajanja etičkog kodeksa

Donošenje etičkog kodeksa, a sa njim i zvanične CSR poslovne politike, ima za cilj da strukturu upravljanja u poslovnom društvu učini transparentnom, da ovim aktom unaprijedi društveno odgovorno poslovanje i utiče na odlučivanje u menadžerskim i drugim strukturama koje će posljedično dovesti do boljih rezultata poslovanja. Svako rukovođenje zasnovano na etički zasnovanim odlukama je moralno odgovorno i društveno pouzdano. Odgovornim radom nadzornog i upravnog odbora, kao i menadžmenta privrednog društva se postiže povećanje vrijednosti samog društva i povećanje vrijednosti za akcionare. Transparentnim i odgovornim poslovanjem korporacija unapređuje imidž i svoju vrijednost. Etičkim kodeksom se, takođe, stimuliše da rad interne kontrole bude studiozan i odgovoran, a samim tim i da upravljanje rizicima bude na što optimalnijem nivou. Korporacija usvaja etički kodeks jer taj akt (IFC, 2009):

- Poboljšava reputaciju/imidž društva. Reputacija i imidž društva predstavljaju integralni, mada nematerijalni, dio njegove aktive. Ustanovljavanje etičkog kodeksa je djelotvoran način da se saopšti važnost koju društvo pridaje dobrim poslovnim praksama;
- Poboljšava upravljanje rizikom i krizama. Etički kodeks može pažnju uprave i članova nadzornog i upravnog odbora usmjeriti na potencijalne probleme prije no što dođe do potpune krize, tako što zaposlene čini osjetljivim i podstiče ih da reaguju na etičke dileme;
- Razvija korporativnu kulturu i stavlja korporativne vrijednosti u prvi plan. Etički kodeks koji je razvijen i koji je široko distribuiran funkcionerima i zaposlenima društva može pomoći da se izgradi kohezioni korporativna kultura, zasnovana na zajedničkom skupu vrijednosti, koja pomaže usmjeravanju zaposlenih u njihovom svakodnevnom radu;

- Unapređuje komunikaciju s nosiocima interesa. Etički kodeks ima i snažan demonstrativni efekat prema nosiocima interesa društva tokom kriznih perioda, saopštavajući posvećenost društva etičkom ponašanju i ističući da su eventualni pristupi izuzeci, a ne pravilo;
- Izbjegava sudske sporove. Etički kodeks, u kombinaciji s djelotvornim etičkim programom, može pomoći da se smanji rizik od sudskih sporova koji nastaju kao rezultat prevare, sukoba interesa, korupcije i podmićivanja i insajderskog trgovanja.

Menadžment shvata da jedna nepromišljena odluka može dovesti do narušavanja reputacije korporacije koja je godinama izgrađivana, tako da je cijena neodgovornog poslovanja prema društvu izuzetno visoka. Iz tih razloga menadžment banaka počinje sve više da vodi računa o uticaju poslovanja na društvo i jasno predstavlja svoju CRS politiku kao osnovu poslovanja i društvenog djelovanja u zajednici.

CSR POLITIKA KAO DIO ETIČKOG KODEKSA

Definisanje i pojam CSR politike

Donošenje odluke o CSR djelovanju koji za osnov koristi etički kodeks nije pravno obavezujuće za bilo koji pravni subjekt. Međutim, sama poslovna etika i nove etičke vrijednosti koje se javljaju u poslovnom svijetu posljednjih 20-ak godina dovele su do usvajanja i primjene CSR politike kao jedne od osnovnih politika u poslovanju modernih korporacija. Naime, korporacije su pod sve većim pritiskom različitih sudionika da se angažuju u društvenim i klimatski odgovornim aktivnostima. Zbog toga, menadžeri moraju pronaći načine kako korporacije koje vode mogu postati više socijalno odgovorne, ekološki održive i ekonomski konkurentne (Orlitzkey, Siegel, & Waldman, 2011).

Najčešće navođena definicija CSR-a kaže da je to koncept putem kojeg

kompanije integrišu socijalne i ekološke aspekte u njihove poslovne napore i u svoje komunikacije sa poslovnim sudionicima, na dobrovoljnoj osnovi (Dahrslud, 2006). Etičke smjernice ili norme koje se predočavaju u CSR politici neke banke, ukratko, bile bi (Shova, 2014):

- „Moralni minimum“ – moralni minimum je djelovanje koje obezbjeđuje da se namjerno ne nanosi direktna šteta. Ovaj moralni minimum važi za sve postupke svih ljudi, korporacija i zemalja. Namjerno nanošenje direktne štete znači svjesno povređivanje nekoga;
- Banke ne samo što ne bi smjele namjerno da nanose direktnu štetu već moraju da koriste društvu da bi njihovo djelovanje bilo moralno opravdano. Prirodna posljedica ove norme jeste da dobrobit društvu uključuje i dobrobit cjelokupnog naroda;
- Poštovanje ljudskih prava radnika, potrošača i svih drugih u društvu u kojem banka posluje. Kao i prva norma i ova važi za bilo koju kompaniju koja posluje u bilo kojoj zemlji;
- Podsticanje razvoja društveno odgovornih inicijativa, kako na nacionalnom tako i na međunarodnom planu;
- Poštovanje zakona zemlje domaćina kao i njenu kulturu i lokalne vrijednosti pod uslovom da te zemlje ne krše ljudska prava ili ne nameću nemoralne zakone, ukoliko je u pitanju međunarodna banka koja posluje u drugoj zemlji.

U radu *“Green Governance: Boards of Directors’ Composition and Environmental CSR”* Corinne Post, Noushi Rahman, and Emily Rubow na uzorku od 78 Fortune 1000 kompanija u elektroničkoj i hemijskoj industriji zaključuju da je udio eksternih članova u upravnom odboru korporacije u pozitivnoj korelaciji sa zastupljenom CSR politikom. Na istom uzorku se izvodi zaključak da veći broj članova upravnog odobra ženskog pola, pozitivno korelira sa

zastupljenom CSR politikom (Orlitzkey, et al., 2011).

Sira društvena zajednica, uključujući i zaposlene, ima tri osnovna motiva zbog kojih očekuju od korporacija da se uključe u CSR programe, pa prema tome vrše i svojevrsan pritisak u ovom smjeru (Aguilera, Rupp, Villiams, & Ganapathi, 2007):

- Lični interes vođen ličnom koristi;
- Relacioni interes koji uzima u obzir odnose između različitih grupa;
- Moralni interes koji ima u vidu moralne etičke standarde i moralne principe.

Važnost CSR-a u bankama

U poslovanju banaka važnost odgovornog poslovanja, tj. primjena donesenih CSR standarda mogla bi se ukratko svesti na sljedeće razloge:

CSR aktivnosti unapređuju lojalnost klijenata banaka

Dobro je poznata činjenica da su današnji klijenti izuzetno zahtjevni i relativno nepovjerljivi, te usljed brojnih mogućnosti na tržištu, svoje povjerenje često sele iz jedne u drugu banku. U isto vrijeme, povjerenje klijenata važno je za izgradnju dugoročnih poslovnih odnosa, smanjenje odbijanja klijenata, kao i mogućnost pružanja personalizovanih usluga i rješenja koja rade na izgradnji tih odnosa. CSR je jedan od načina da se pomogne izgraditi to povjerenje, i unaprijediti lojalnost klijenata. Ako se uspije unaprijediti, CSR ima značajnog pozitivnog uticaja na poslovanje banaka, znajući samo neke od podataka (Vaselić, 2017):

- šestostruko je skuplje privući novog klijenta i prodati mu proizvod ili uslugu u poređenju s prodajom proizvoda ili usluge već postojećem klijentu;
- kompanije mogu povećati svoje profite i do 85% putem povećanja zadržavanja svojih klijenata za 5%;
- izgledi prodaje novom klijentu su 15%, dok su izgledi prodaje postojećem klijentu 50%;

Iz navedenih razloga, banke bi trebale biti, pored društveno odgovorne svijesti pojedinaca, zainteresovane i sa biznis stanovišta za ulaganje i promociju CSR napora na tržištima na kojim posluju.

CSR omogućava pozitivan odnos sa klijentima

Pozitivan odnos prema klijentima znači aktivno sudjelovanje u zajednici i događajima od značaja za klijente. Ovo se u pravilu veže za pozitivne emocije klijenata prema banci, a što u konačnici znači unapređenje postojećih odnosa sa postojećim i potencijalnim klijentima. Ovo, takođe, može podstaći značajnu pažnju javnosti i medijsku pažnju poslovanja banke. Pozitivan društveni angažman aktivno poboljšava javni imidž organizacije, mijenjajući način na koji ljudi doživljavaju tu organizaciju. Na primjer, kompanije koje doniraju lokalnim javnim kuhinjama smatraju se većim filantropima od onih koje ne rade ništa. Organizovanje i pružanje edukativnih programa za učenike može podstaći svijest o banci kao odgovornom brendu u oblasti finansija. Ovi napori mogu pomoći u podsticanju ove vrste pozitivne percepcije kod klijenata banke, te unapređenja samog poslovnog odnosa.

Klijenti pozitivno reaguju na CSR aktivnosti

Redovnim informisanjem javnosti o CSR aktivnostima banke, klijenti postaju upućeni u djelovanje iste, te pozitivno reaguju na one koje provode CSR aktivnosti. Istraživanja razvijenih tržišta pokazuju da potrošači postaju spremni platiti više za proizvode i usluge društveno odgovornih kompanija. To je jedan od podsticajnih faktora za buduće CSR angažmane i interakciju s javnošću tj. društvom u cjelini.

Pojedinci se često osjećaju puno bolje zbog pokroviteljskih aktivnosti jer smatraju da se njihov novac ispravno troši i osjećaju da donosioci odluka aktivno brinu o njima i njihovoj zajednici, kao i zato što mogu vidjeti kako se novac aktivno vraća u zajednicu. To se odražava na način na koji klijenti biraju nove i postojeće proizvode, koliko su vjerni klijenti neke banke, te

koliko preporučuju i daju javnu podršku nekoj banci.

Positivan podsticaj produktivnosti i angažmanu zaposlenih

Iako CSR nudi mnogo u smislu vanjskog podsticaja marketinga, angažmana i povjerenja klijenata, on također, gradi unutrašnje povjerenje i lojalnost zaposlenih (Kahn, 1990). Iako nisu svi zaposleni direktno uključeni u projekte društvene odgovornosti, mnogi su dio njihovih zajednica. Zbog toga zaposleni cijene CSR programe jednako kao i potencijalni potrošači. To podstiče stvaranje pozitivnijeg radnog okruženja, izgradnju povjerenja zaposlenih i smanjenje odlazaka iz organizacije (Bhattacharya, Sen, & Korschun, 2007).

Studije (Gross, & Holland, 2016) pokazuju da su zaposleni u društveno odgovornim kompanijama više i aktivnije angažovani u svom poslu. CSR je treći faktor po važnosti za angažovanost i zadržavanje zaposlenih. Iste studije pokazuju da zaposleni u kompanijama koje aktivno provode CSR programe, vrše poistovjećenje ličnih vrijednosti sa vrijednostima u koje banka ulaže, te da vrlo često ističu pripadnost banci koja ulaže u CSR. Ovo je još jedan od pokazatelja da se CSR s vremenom može itekako isplatiti.

CSR programi podstiču stvarnu vrijednost

Iako su najočitije prednosti društvene odgovornosti preduzeća usmjerene na poboljšanje percepcije klijenata i imidža u javnosti, CSR aktivnosti usmjerene na dobiti zajednice mogu imati veće koristi. Na primjer, ulaganje u finansijsku pismenost zajednice u kojoj se posluje, značiće da je ta zajednica spremnija za donošenje dobrih finansijskih odluka. To znači da će sa protekom vremena ta zajednica biti bogatija, a opšte poznato je da u takvim uslovima i banke posluju bolje. Ovo je samo jedan od primjera u kojima se direktno ulaganje u zajednicu vraća bankama i indirektno utiče na unapređenje njihovog poslovanja (Hopkins, 1998).

ISTRAŽIVANJE

Metod

Imajući u vidu na početku istaknuti cilj ovog rada da se utvrdi da li postoji pozitivna korelacija uspješnosti poslovanja banke i uspješnosti provođenja programa društvene odgovornosti u zajednici u kojoj posluje, te postavljenu hipotezu ovog rada da banke sa razvijenom CSR praksom unapređuju svoju konkurentsku prednost i imaju bolje pretpostavke za profitabilnije poslovanje, pristupilo se istraživanju.

U istraživanju je učestvovalo 67 ispitanika. Ciljna skupina su bile osobe starosti od 20 do 60 godina, sa radnim stažom od najmanje 5 godina, te minimalno srednjoškolskim obrazovanjem. Ispitanici su odabrani metodom slučajnog odabira. Struktura uzorka prema polu, godinama starosti, godinama radnog staža i stručnoj spremi predstavljeni su u tabeli 1.

U kategoriji pol najviše ispitanika se nalazi u kategoriji muški, i to 61%, dok je 39% u kategoriji ženski. U kategoriji starost najviše ispitanika se nalazi u kategoriji 31-40 godina, i to 51%, zatim 39% u kategoriji 51-60, dok je 10% kategoriji 20-30 godina. U kategoriji dužina radnog staža najviše ispitanika se nalazi u kategoriji 11-20 godina, i to 63%, zatim u kategoriji 21 i više 24%, dok je u kategorij 5-10 godina 13% ispitanika. U kategoriji stručna sprema najviše ispitanika je u kategoriji visoka, i to 57%, u kategoriji srednja je 28%, dok je u kategoriji magistar i više 15%. Obzirom na predstavljenu distribuciju uzorka, smatra se potpuno reprezentativnim.

U istraživanju je korišten servej metoda. Kao instrument je korišten upitnik podijeljen na dva dijela. Prvi se odnosio na socio-demografske faktore predstavljene u Tabeli 1, a drugi je sadržavao tvrdnje na koje su ispitanici trebali dati svoje potvrđne ili odrične odgovore na petostepenoj skali Likertovog tipa (u potpunosti se ne slažem, djelimično se ne slažem, nemam stav, djelimično se slažem, u potpunosti se slažem). Obrada podataka je obavljena u statističkom softveru SPSS 26.0. Za analizu podataka je primijenjena deskriptivna analiza.

Tabela 1. Struktura uzorka prema socio-demografskim faktorima za N=67
Table 1. The structure of sample according to socio-demographic factors for N=67

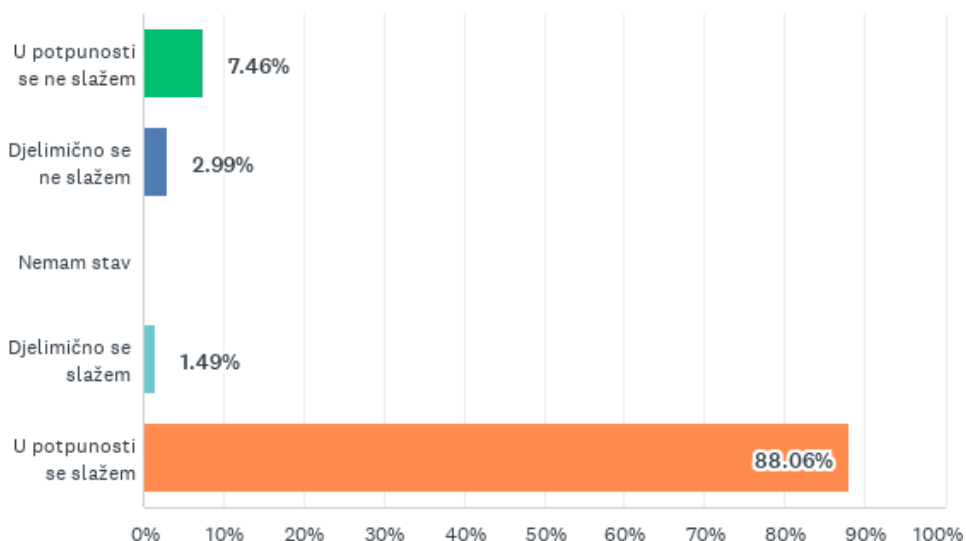
Socio demografski faktori		Frekvencija	Procenat
Pol	Muški	41	61%
	Ženski	26	39%
Starost	20-30	7	10%
	31-40	34	51%
	51-60	26	39%
Dužina radnog staža	5-10 god	9	13%
	11-20 god	42	63%
	21 i više	16	24%
Stručna sprema	Srednja	19	28%
	Visoka	38	57%
	Magistar i više	10	15%

Rezultati i diskusija

Rezultati deskriptivne analize su predstavljeni na narednih 6 slika u nastavku, zajedno sa tumačenjem dobijenih rezultata.

Na Slici 1 je jasno i ogromnom većinom od 89,55% potvrđena tvrdnja da banke treba da se ponašaju društveno odgovorno prema zajednici u kojoj posluju.

Procent odgovora od 7,46% da se potpuno ne slažu je statistički insignifikantan, obzirom da predstavlja 5 od 67 ispitanika. Ovime postaje jasno da su očekivanja klijenata i opšte populacije da se banke moraju ponašati odgovorno prema duštvu, kao i da one koje se tako ponašaju će biti u skladu sa očekivanjima većine populacije.

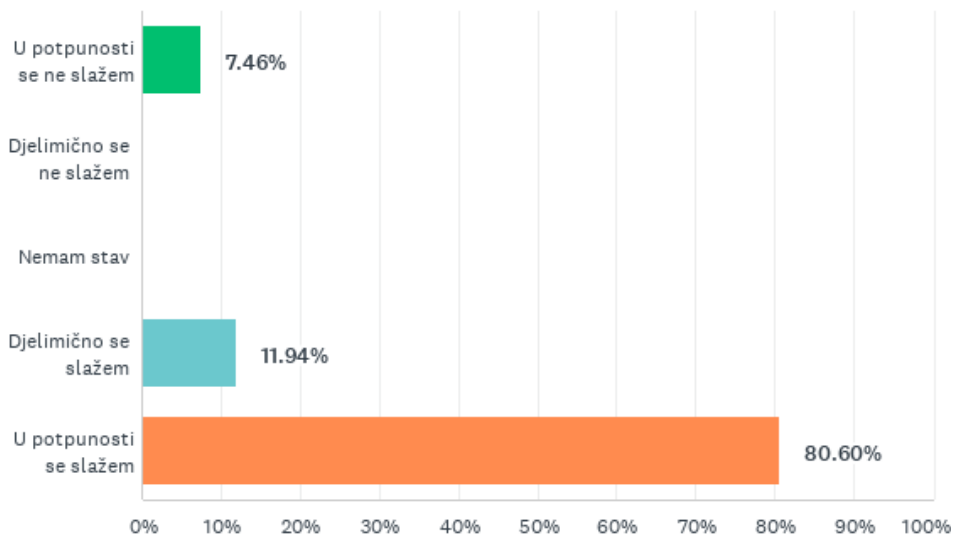


Slika 1. Slaganje/neslaganje sa tvrdnjom „Smatram da banke treba da se ponašaju društveno odgovorno prema zajednici u kojoj posluju“

Figure 1. Agreeing/disagreeing with statement “I believe banks should behave socially responsible toward community where they do business”

Slika 2 pokazuje da CSR aktivnosti prave razliku kod opredjeljivanja klijenata banke. Ova slika jasno pokazuje da bi, u slučaju istih uslova koje nude banke, klijenti se opredijelili za onu koja ima razvijene CSR aktivnosti i to u procentu od 92,54%. Ovim nalazom se jasno može

dovesti u uzročno-posljedičnu vezu ulaganje u CSR sa brojem klijenata koje opslužuje određena banka. Obzirom da broj klijenata je u direktnoj pozitivnoj korelaciji sa prihodima banke, izvodi se zaključak da CSR aktivnosti utiču povećanje prihoda banke.



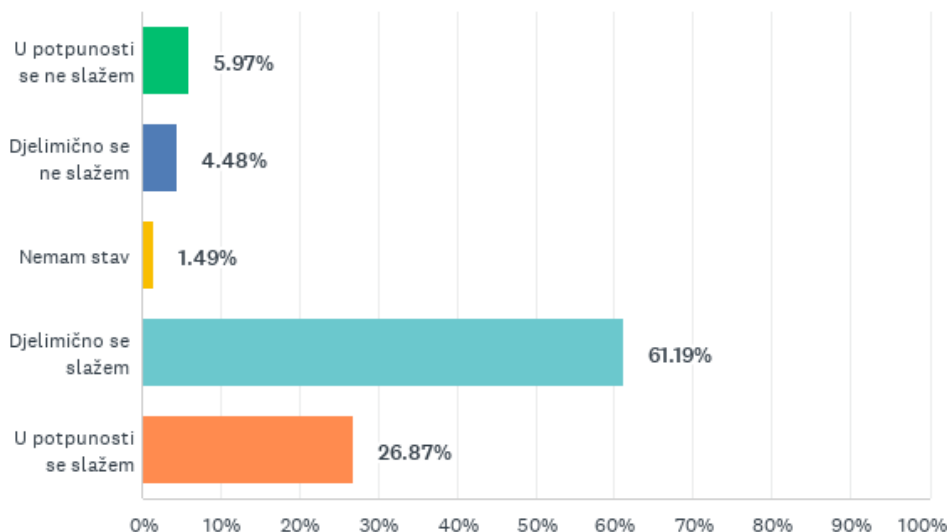
Slika 2. Slaganje/neslaganje sa tvrdnjom „Ako bi različite banke nudile iste uslove, uvijek bi bio klijent one banke koja više ulaže u CSR“

Figure 2. Agreeing/disagreeing with statement “If different banks would offer the same conditions, I would always be client of a bank that invests more in CSR”

Slika 3 pokazuje da CSR programi mogu uticati i na zadržavanje klijenata banke. Naime, ovom slikom predstavljeni podaci ukazuju da 88,06% ispitanika je spremno oprostiti manje propuste banke, ako ona ima izgrađen imidž institucije koja se brine o zajednici u kojoj posluje. Ipak, ovo ne treba interpretirati kao datu premisu, iz razloga što je pitanje bilo postavljeno za „manje propuste“, tako da bi se banke mogle osloniti na ove odgovore samo u slučaju manjih, nenamjernih i povremenih propusta u poslovanju. Isto tako, potrebno je obratiti pažnju da je većina odgovora na ovo pitanje bila u grupi djelimično se slažem sa 61,19%, a ne u grupi u potpunosti se slažem, kao što je bio slučaj kod prethodna da pitanja. Ovo takođe, ukazuje da su ispitanici osjetljivi na loše poslovne prakse banke, te da su spremni podržati

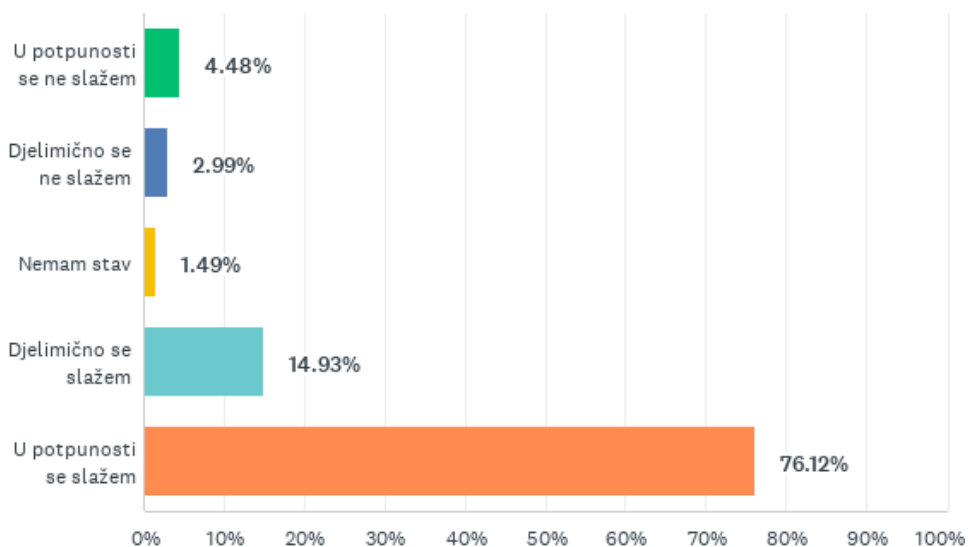
banku u budućnosti ako dođe do manjih propusta, samo do određenog nivoa.

Slika 4 pokazuje preferencije zaposlenih u slučaju da banke nude iste radne beneficije. Jasno se uočava da bi u toj situaciji izabrali banku koja ima razvijenije CSR programe i koja provodi društveno odgovorno poslovanje. Procent potvrdnih odgovora je čak 91,05%. Ovim se uočava da banka koja ima razvijene CSR programe može privući kvalitetnije zaposlene, te posljedično tome, unapređivati kvalitet svog poslovanja baziran na ljudskom kapitalu. Obzirom da su ljudi osnovni izvor konkurentne prednosti, posebno u uslužnom sektoru kakav je bankarski, time se zaključuje da CSR ima značajan potencijal za unapređenje konkurentne pozicije na tržištu.



Slika 3. Slaganje/neslaganje sa tvrdnjom „Prije sam spreman oprostiti manje propuste banke koja je CSR odgovorna nego one koja nije“

Figure 3. Agreeing/disagreeing with statement “I am rather to forgive smaller omissions to a bank which is CSR responsible vs bank which is not”

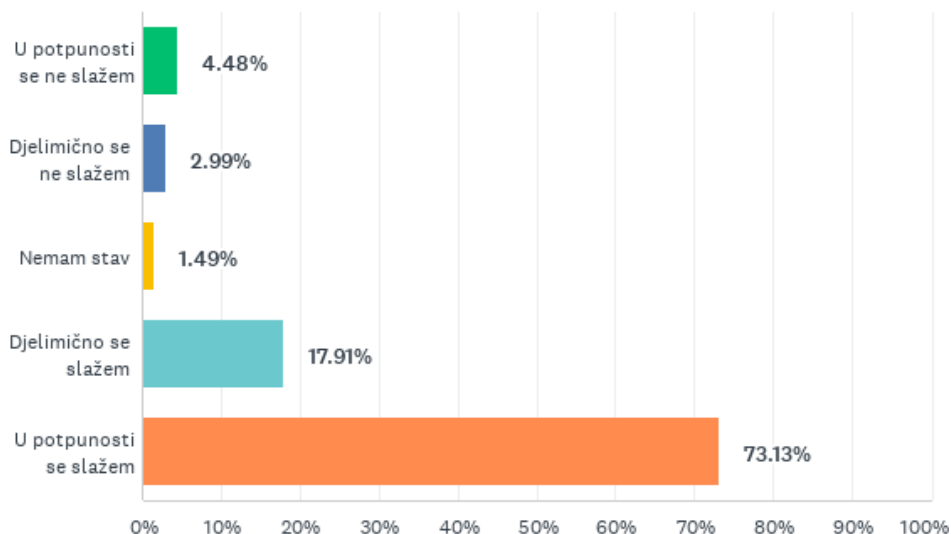


Slika 4. Slaganje/neslaganje sa tvrdnjom „Kada bi mi dvije banke nudile iste radne beneficije, uvijek bi se odlučio raditi za onu koja ima razvijenije CSR programe“

Figure 4. Agreeing/disagreeing with statement “If two banks would offer me the same working benefits, I would always decide to work for the one with more developed CSR programs”

Slika 5 je značajno vezana za prethodno pitanje i odnosi se na stavove zaposlenih. Ona ukazuje da bi značajan procenat zaposlenih, i to 91,04% njih bio ponosan ako bi mogao raditi u banci koja ima razvijene CSR programe u okviru zajednice u kojoj živi. Ovo se direktno povezuje sa motivacijom zaposlenih na

radnom mjestu. A opšte poznato je da motivisani zaposleni značajno više i bolje obavljaju radne zadatke od onih koji to nisu. U konačnici, ovo dokazano rezultira u kvalitetnijoj usluzi banke i povećanoj profitabilnosti, koja se očitava i kroz povećanje prihoda, ali i kroz smanjenje troškova.

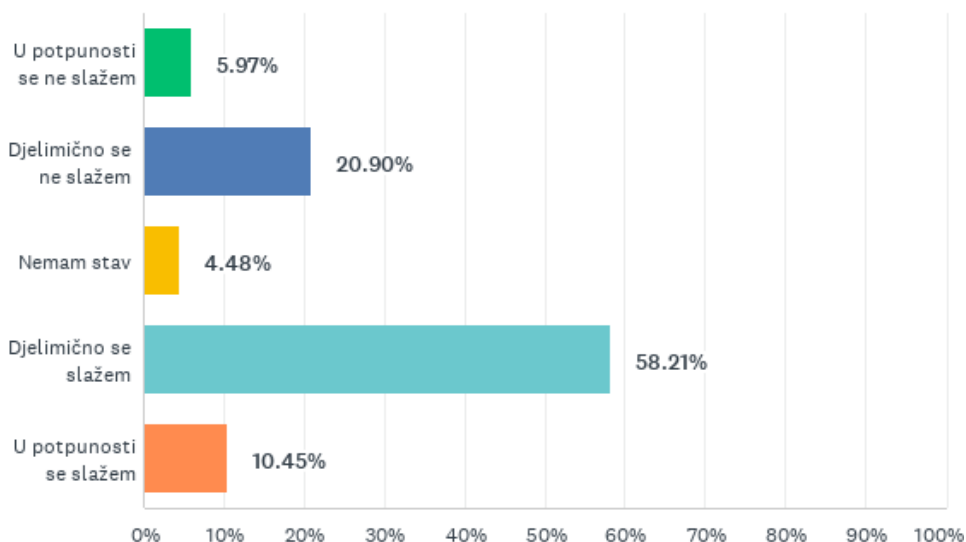


Slika 5. Slaganje/neslaganje sa tvrdnjom „Bio bi ponosan ako bi radio u banci koja kroz CSR aktivnosti aktivno brine o zajednici u kojoj živim“

Figure 5. Agreeing/disagreeing with statement “I would be proud if I would work in a bank which proactively take care of community in which I live though CSR programs”

Slika 6 ukazuje na spremnost klijenata da plate veću cijenu za istu uslugu banci koja ima razvijene CSR programe društvene odgovornosti. Na ovu tvrdnju je dobijeno 68,66% potvrdnih odgovora, što predstavlja najmanji procenat od svih potvrdnih odgovora dobijenih u prethodnim pitanjima. Pri tome treba imati u vidu da je 26,87% negativnih odgovora. Dodatno na ovo treba imati u vidu i distribuciju potvrdnih

odgovora. Od navedenih 68,66% samo je 10,45% u kategoriji potpuno se slažem, dok je 58,21% u kategoriji djelimično se slažem. Ovo ukazuje da su ispitanici spremni platiti nešto veću cijenu, ali da ona definitivno ne smije biti značajno veća. Ovim se zaključuje da razvijeni CSR programi mogu biti opravdanje za nešto veću cijenu, ali da ta razlika mora biti minimalna.



Slika 6. Slaganje/neslaganje sa tvrdnjom „Spreman sam platiti nešto veću cijenu iste usluge kod banke koja je društveno odgovorna kroz CSR aktivnosti“

Figure 6. Agreeing/disagreeing with statement “I am ready to pay slightly higher price of the same service at bank which is socially responsible through CSR activities”

ZAKLJUČCI

Cilj ovog istraživanja bio je utvrditi da li postoji pozitivna korelacija uspješnosti poslovanja banke i uspješnosti provođenja programa društvene odgovornosti u zajednici u kojoj posluje.

Postavljena hipoteza da banke sa razvijenom CSR praksom unapređuju svoju konkurentsku prednost i imaju bolje pretpostavke za profitabilnije poslovanje je u potpunosti potvrđena.

Iz predstavljenih rezultata istraživanja je jasno da banke putem društveno odgovornog poslovanja unapređuju svoje poslovanje na nekoliko polja: zadovoljavaju očekivanja sredine u kojoj posluju, imaju sposobnost da privuku veći broj klijenata, stvaraju preduslove za unapređenje lojalnosti klijenata (čak i u slučaju manjih propusta u poslovanju), imaju sposobnost da privuku kvalitetnije zaposlene, koji su motivisaniji za obavljanje radnih zadataka, te da u konačnici mogu zaračunati nešto veću cijenu za istu uslugu. Ipak, kod zaračunavanja veće cijene treba biti jako oprezan, obzirom na predstavljenu distribuciju odgovora. Bilo bi jako zanimljivo vidjeti kolika je elastičnost

cijene pri različitim nivoima izvrsnosti CSR aktivnosti, što može biti tema jednog od narednih istraživanja.

Kroz ove parametre kristalno je jasno da CSR aktivnosti imaju značajan potencijal za unapređenje konkurentске pozicije i profitabilnosti banaka. Ipak, značajno je naglasiti da su svi ispitivani parametri, osim veće cijene, dugoročnog karaktera. Ovo znači da jedino cijena ima potencijal za unapređenje profitabilnosti u kratkom roku, ali kao što je već predstavljeno, potencijal ovog parametra je ograničen. Ostali parametri koji pokazuju izrazit potencijal su dužeg karaktera, tako da se nameće zaključak da pozitivan potencijal CSR programa može biti značajnije iskorišten samo u dužem vremenskom periodu. Shodno ovome nameće se zaključak da i CSR programi moraju biti dugoročnog karaktera kako bi dali predstavljene rezultate.

Iskustvo autora govori da se upravo ovdje krije značajan razlog neuspješnosti CSR programa na Balkanu. Kompanije koje pokrenu određenu vrstu ovih programa odustanu od istih nakon kraćeg vremena i (često) pokreću neke nove. Time se ne

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postiče prepoznatljivost ovih aktivnosti kod šire zajednice, a samim tim se i ne postižu pozitivni rezultati opisani u rezultatima istraživanja. Time ovo postaje i jedan od glavnih faktora za unapređenje trenutno prisutne CSR prakse.

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CORPORATE SOCIAL RESPONSIBILITY IN BANKING INDUSTRY

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ABSTRACT

Capitalism has brought increase of competition pressure year on year. This competitive situation has influenced a need of corporation flexibility on the markets where exists and consequently development of soft skills in doing business as well.

All this has influenced emerging of Ethical code in doing business of corporations, where is defined what is acceptable and what is not acceptable in business conduct. One of the fields of ethic code is society responsible business conduct represented in Corporate Social Responsibility (CSR) policies.

CSR activities, if implemented properly, positively influence corporate business. In the first place this is in area of client relationships represented in easier access to a clients and retention of the clients. Except this positive effect of CSR polices there is also positive effect in the area of employment represented in easier access to better quality of employees, in longer retention of those employees and in improved motivation of the employees. All this positively influence business of corporations which implement CSR activities which also has positive effect in their profitability and in their competitive status on a market.

With this is also set aim of this paper which is to investigate if there is positive correlation between a bank`s business success and success of implementation of Corporate Social Responsibility programs in society where it does a business.

Keywords: Ethic business conduct, Ethic code, Corporate Social Responsibility.

THE ASSESSMENT OF THE FILAMENT EXTRUDER EQUIPMENT FOR 3D PRINTING METHOD

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ABSTRACT

The objective of this study is to allow a better understanding of the role of industry 4.0 technologies, especially filament extrusion technology in the reduction of costs, environmental impact, energy consumption, and the possibility to expand the range of printable materials. The study focuses on the desktop Filament Extruders available in the market now, where these machines are assessed and future possible modifications for these apparatuses are presented. The research leading to the publication of this study consists of a review of the existing

literature, in addition, information from different extruders manufacturers' websites has been used. The study has demonstrated that the extrusion of material at home is still not an exact science, and the process ends up costing the user large sums of money over time. However, there are still limitations to the use of this technology such as the lack of standardized extrusion settings, the necessity of pre-drying the pellets, and the complexity of the extruder cleaning process after each use.

Keywords: Filament extruder, fused deposition modeling, industry 4.0, additive manufacturing.

JEL Code: L10

INTRODUCTION

New business models centered on customers and product customization are introduced by Industry 4.0. As a result, both the quantity of the service offered and the added value have risen. Industry 4.0 mainly focuses on automation, interoperability, and precision of the information, combined with underlying ethics conscious of the need for processes with low environmental impact (Haleem & Javaid, 2019).

Additive manufacturing (AM) has a major role in the industry 4.0 scenario (Xiong, 2020), which allows the fabrication of a three-dimensional item beginning from a computer-aided design (CAD) model.

Besides, AM permits considerable savings in terms of waste and logistic costs in comparison with conventional subtractive and formative manufacturing (Advanced Manufacturing Office, 2012), allowing printing 3D objects once the printing file has been acquired, wherever the 3D printer (3DP) is located.

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AM is the process of joining materials to make objects from 3D model data generates, usually layer-upon-layer (ASTM International), which satisfies the increasing demand for product customization and enables the development of functional, flexible, and efficient parts and assemblies. Nonetheless, the most common additive manufacturing process for home and office environments is fused deposition modeling (FDM), which is characterized by a multitude of limitations (Pricci, de Tullio, & Percoco, 2021).

However, the evolution of these technologies is progressing at a rapid pace. 3D printers continue to get smaller and more accessible to consumers of all types, and since 3D printing at home is still not an exact science, waste becomes a large by-product of the process and ends up costing the user large sums of money over time. This problem can be solved through the process of material extrusion, as plastics are recyclable, this cycle could become the most sustainable way of making innovative items. For example, on the International Space Station (ISS) where the resources are limited, which also applies to the earth, an astronaut would be able to print a screwdriver on Wednesday, and then convert it into a box on Thursday.

There are currently products for sale that allow the extrusion of 3D filament in a home environment from 3D printed waste, but few support the whole manufacturing process of 3D filament and those that do are often expensive. Selling a machine that can reclaim 3D printed material, extrude it into reusable filament, and collect it through spooling at a cost-effective price point would benefit the user significantly and save them money over time, and would limit the amount of plastic waste being thrown out (Ertekin, et al., 2018).

Therefore, this study will focus on assessing the commercially available Filament Extruders and recommending useful solutions that will make the process of filament extrusion in an in-house environment more efficient, enabling the use of a wider range of materials and more accessible for the average consumer.

LITERATURE REVIEW AND HYPOTHESIS DEVELOPMENT

The Fused Deposition Modelling was invented and patented in 1989 by Scott Crimp who had created the company Stratasys a little after, which commercialized the first 3D FDM printers (Minnesota, United States of America Brevet n° 5,121,329, 1992). The concept of the FDM manufacturing process consists of melting raw material and forming it to create the desired shape. **See Figure 1. (b)**

The filament is the main material utilized in the FDM-based 3D printing method. Polymer filament is divided into two types corresponding to its composition, pure polymer filament and composite filament (Wang, Jiang, Zhou, Gou, & Hui, 2017). Generally, the filament is made of pure polymers with a low melting point. Sometimes, the strength of pure polymer needs to be boosted by additive materials such as glass fibers, carbon nanotubes, microcrystalline cellulose, and others. Therefore, polymer composites have been developed by numerous researchers and industries as 3D printing filament material through the combination of the matrix and improving the components to attain systems with structural properties and practical advantages which cannot be accomplished by just any constituent (Kristiawan, Imaduddin, Ariawan, Ubaidillah, & Arifin, 2021).

Usually, the commercial filament is made in large facilities with machines known as filament extruders, where granulated material pellets are melted and then fed through a nozzle forming 3D printable filaments. Many kits are used during the extrusion process to ensure the filament comes out properly. Professional filament extruders used in the mass production of spools that companies use are expensive and take up a lot of space. However, in recent years an increasing number of consumers have turned to new manufacturers looking to recycle waste material and save money by making their filament. There are currently products for sale as kits and pre-assembled machines

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that allow the extrusion of 3D filament in a home environment from 3D printed waste. FFF (fused filament fabrication) 3D printing' pure polymer filament can be made through the process of extruding pellets or raw materials from polymers (like PLA, ABS, PP, and others). This procedure

is carried out using extruders that shove or force the material through holes in the die to get the product as an extrudate (Rauwendaal, *Polymer Extrusion* 5th Edition, 2014). See Figure 1. (a)

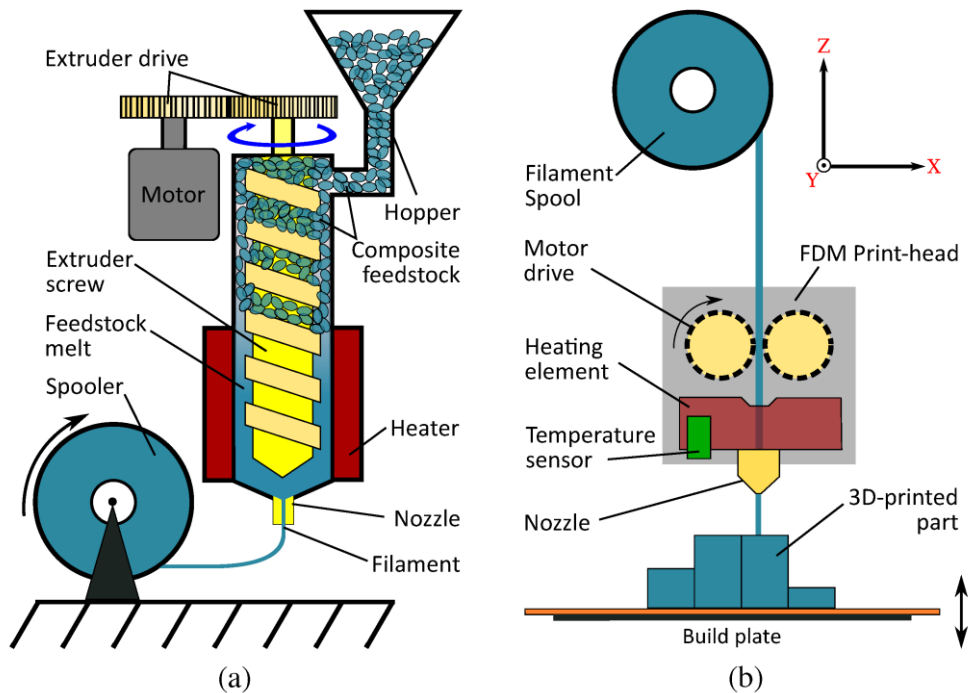


Figure 1. (a) A schematic depiction of the filament extrusion process. (b) The FDM printing process (Khatri, et al., 2018).

Tables 1, 2, and 3 compare the major desktop extrusion players in the market (O'Connell & Obudho, 2021). The assessment is based on key characteristics necessary for a proper extrusion, such as

extrusion rate, supporting materials, extruder's maximum temperature, and so on. This is proposed as a technical comparison tool, which will include a feature overview of each brand.

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Table 6. Comparison of commercially available extruders (Filastruder, 2021) (Felfil, 2021) (KICKSTARTER, 2021)

	Filastruder	Felfil Evo Assembled	OmniDynamics
Maximum extruder's temperature (° C)	260	250	250
Extrusion rate (kg/h)	0.2	0.2	0.27
Filament size (mm)	1.75 – 3.00	1.75 – 2.85	1.75 – 2.85 – 3.00
Extrusion accuracy (mm)	+/- 0.05	+/- 0.07	+/- 0.1
Filament diameter control	None	None	None
Filament cooling	Build-in	Not available	Not available
Type of filament cooling	Air	None	None
Hopper capacity (cm ³)	1000	1000	1000
Heat zone(s)	1	1	1
Heat zone control	No/Does not apply	No/Does not apply	No/Does not apply
Mixing zone	No	No	No
Winding system	Separate	Not available	Separate
Operating voltage	110-240V, 50/60Hz	110V – 230V	115-220V
Power consumption (Watts)	60	80	Not available
Dimensions w x d x h (cm)	53.34×15.24×15.24	47×38×12	16.5×28.5×16.5
Cost (\$)	300.00	840.13	1484.05

Table 7. Comparison of commercially available extruders (Filabot, 2021) (ReDeTec, 2021) (Filafab, 2021)

	Protocycler+	Filabot EX 2	Filafab PRO 100 EX
Maximum extruder's temperature (°C)	250	350	250
Extrusion rate (kg/h)	0.5	0.91	0.25
Filament size (mm)	3.00	1.75 - 2.85	1.75 – 2.85
Extrusion accuracy (mm)	+/- 0.05	+/- 0.05	+/- 0.02
Filament diameter control	Automatic	Manual	Temperature control available
Filament cooling	Build it	Included in setup	Separate
Type of filament cooling	Air	Air	Air
Hopper capacity (ml)	Expandable	426.1	350
Heat zone(s)	4	1	1
Heat zone control	No/Does not apply	Yes	No/Does not apply
Mixing zone	No	Yes	No
Winding system	Build-in	Included in setup	Separate
Operating voltage	120 V	110 V, 220 V - 50 to 60Hz	120 – 220 V
Power consumption (Watts)	90-120	500	350
Dimensions w x d x h (cm)	15 x 14 x 9	45.75 x 17.78 x 22.86	16.4 x 49 x 24
Cost (\$)	3,499.99	2,812.00	1,607.27

Table 8. Comparison of commercially available extruders (Noztek, 2021) (Wellzoom, 2021) (3devo, 2021)

	Noztek	Wellzoom B2	3devo 350 Precision
Maximum extruder's temperature (° C)	400+ (600, 750 on request)	300	350
Extrusion rate (kg/h)	0.5	0.1	0.7
Filament size (mm)	1.75 – 3.00	1.75 - 3.00	0.50 – 3.00
Extrusion accuracy (mm)	+/- 0.04	+/- 0.05	+/- 0.043
Filament diameter control	Manual	None	Automatic
Filament cooling	Included in setup	Separate	Built-in dual fan system
Type of filament cooling	Water	None	Air
Hopper capacity (ml)	1000	400	2000
Heat zone(s)	3	1	4
Heat zone control	Yes	No / Does not apply	Yes
Mixing zone	No	No	No
Winding system	Included in setup	None	Built-in
Operating voltage	110V, 220V	220V, 50Hz or 110V 50Hz	110 - 230 V, 50 - 60 Hz
Power consumption (Watts)	464	120	Not available
Dimensions w x d x h (cm)	135 × 40 × 40	20 x 5.52 x 10	50.6 × 21.7 × 61.5
Cost (\$)	18,584.04	588.00	6008.95

From the tables above we can remark that the available extruders present various limitations such as the limited extruder's maximum temperature, the extrusion rate, the filament's diameter accuracy, and so on. All these problems will be discussed in detail in the part Results and discussions.

RESEARCH METHODOLOGY

The research leading to the publication of this study consists of a review of some literature about industry 4.0, additive manufacturing, fused deposition modeling, and filament extrusion. In addition, information from different extruders manufacturers' websites has been used. Besides, research databases such as Google Scholar, Research Gate, and Science Direct have been used to get journal articles and book sections related to the current work.

RESULTS AND DISCUSSION

Overall, the tables show that the existing extruders have numerous

weaknesses that make them inefficient. First off, these setups require the operator to have a piece of prior knowledge about materials characteristics (e.g., melting points) to set the right configuration for each material. Secondly, the maximum temperature reached by the extruder determines the materials that the device can accommodate. More the temperature is high more materials can be extruded (O'Connell & Obudho, 2021). So, here we can see that the maximum extruder's temperature is 400°C in the best case, which is not sufficient for extruding all polymers, for example, polysulfone and vespel. Most extruders accessible to the public now can only use a limited number of materials, for instance, Polyethylene Terephthalate (PET), Acrylonitrile Butadiene Styrene (ABS), Polylactic Acid (PLA), and Nylon. Thirdly, as we can see from the table only the Filabot EX2 extruder has a mixing zone. The existence of the last is crucial to make composite filament (polymer reinforced with additive materials). In addition, the extrusion rate is quite slow for most of the

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apparatuses, especially Wellzoom B2, which has the lowest extrusion speed of 0.1kg per hour. The latter can be related to the power consumption of these devices which is on average 280 watts, which means that the user ends up spending a lot on electricity. Likewise, some extruders do not provide filament diameter control and a cooling system that will lead to a nonuniform filament thickness. A problem like this will decrease the quality of the filament and make it unsuitable for printing high-quality pieces. Furthermore, apart from the Do-It-Yourself (DIY) apparatuses such as Filastruder, the cost of these devices is extremely high for the average user. Finally, the volume of the hopper is fairly small, which makes it obligatory for the user to refill the hopper with pellets regularly till the end of the extrusion.

CONCLUSIONS

The study has demonstrated that the extrusion of material at home is still not an exact science, and the process ends up costing the user large sums of money over time. Whilst, as it has been stated that Industry 4.0 principles look for low environmental impact and effective manufacturing processes. Therefore, more research must be done in this scope to upgrade the Filament Extruder Equipment, so that it meets the consumer's current needs. Three essential solutions that must be accomplished to make these devices more efficient are: Increasing the extruder's maximum temperature, and the number of heating zones; Enlarging the hopper volume; Incorporating more mixing zones in the extruder.

The accomplishment of these attributes will lead to a Filament Extruder Equipment, with a high extrusion rate and a longer list of material that can be processed, as well as a higher autonomy. The findings of this study can be useful in the field of mechanical engineering, aerospace engineering, art and jewelry, and medicine.

LIMITATION AND STUDY FORWARD

This study did not cover some other weaknesses such as selecting the starting point temperature for the extrusion, which can be very detrimental and time-consuming. On one hand, if the chosen temperature is lower than the melting point of the used polymer, there might be unmelted particles at the outputs, which in the worst case will cause the nozzle to pop or block the machine completely. On the other hand, if the temperature is too high, then the resulting filament will be too soft and cannot be used.

Another problem is that many polymers are hygroscopic, which means they can absorb moisture inside their structure, this can cause problems during the filament extrusion by disrupting the flow and possibly causing bubbles. That is why polymers should often be pre-dried (Rauwendaal, Polymer Extrusion 5th Edition, 2014). Furthermore, all the polymers must be purged from the extruder before turning it off, since the screw might be completely stuck, and the machine might not be able to switch on anymore.

All in all, standardized extrusion settings and extruder cleaning process must be made in order to achieve a highly efficient and simple-to-use extruder.

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COMPARATIVE ANALYTICAL DATA OF AIR QUALITY IN BANJA LUKA CITY

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ABSTRACT

In order to efficiently manage air quality at the location of Banja Luka city, a functional system for monitoring and controlling the degree of air pollution, that is to say air quality monitoring, has been established. Air quality monitoring is performed by the Mobile Ecological Laboratory (MEL) at three locations in the settlements of Paprikovac, Borik and the City Centre. The objectives of air quality monitoring can be divided into two groups: the first group consists of the objectives of the monitoring program for a medium-

industrialised city with an existing or potential problem of air pollution. The second group consists of special air quality monitoring objectives, whose nature is such that their implementation is a matter of free choice, and usually more complex solutions are required. The basic air quality monitoring program should provide the essential data needed to develop air quality standards and enable the development of an acceptable air quality protection program. The goal of the basic air quality monitoring program is: to monitor long-term trends in air pollution in order to determine the degree of improvement or deterioration of air quality in urban and industrial environments. Measurements are usually performed at multiple measurement sites by collecting and analysing a 24-hour sample. Measurement data for at least five consecutive years are required to determine air pollution trends. Air quality is assessed based on the obtained data and on the basis of comparison with standards. In accordance with the above, this paper presents the air quality through the values of the following pollutants: SO₂, O₃, CO, NO₂, PM₁₀ and Soot. The air quality of Banja Luka (from the aspect of the presence of sulphur dioxide and soot) was analysed, before and after the war, based on the available literature.

Key words: air pollution, air quality, pollutants.

INTRODUCTION

Certain, suitable conditions on the earth - temperature, an air layer (especially ozone) that protects its surface from cosmic and other radiation and provides sufficient

oxygen, water, fertile soil and abundant solar radiation

n - have provided a varied life on earth. For millennia, normal natural conditions have enabled a comfortable human life, and the biosphere has been powerful enough to counteract the negative effects of all human activities. However, due to offensive, unilateral and uncontrolled technological development, extensive depletion of natural resources, uncontrolled population growth, as well as insufficient knowledge and environmental ethics, huge quantities of waste are emitted into the environment in the present century, degrading it. Intense pollution in recent decades seems to be approaching a critical point. This can lead to disturbances in the biosphere with unprecedented consequences (Cukut, et al., 2011).

The vast mass of air, with the great power of self-purification, waters of the earth, with a great capacity of receiving waste, the vast expanses of land, have until recently appeared to be limitless recipients of man-made waste materials. However, the capacities of these recipients are limited, which is beginning to be understood, and so humanity, in its own interest, has begun to protect and sustain the environment. Polluted air means air containing substances harmful to the human organism, flora, fauna, natural and man-made goods in quantities and concentrations above those contained in the pure, and above the limits prescribed by the Law on Air Quality and regulations adopted based on the Law (Ilić, 2015).

The provision of the required air quality is achieved by bringing in limits, in accordance with the valid rulebooks, the quantities of hazardous substances discharged from the sources of pollution, by regulating the method and place of their discharge (emission), the choice of fuels, the use of specific additives, the installation of purifiers, the ban on work, and for new plants with the choice of appropriate technology and location, with the installation of air pollution control devices in accordance with the planned air quality and the total existing air pollution

(emissions). In Republic of Srpska, pioneering air quality monitoring first began in Banja Luka in the 1980s, with the interruption of monitoring from 1992 to 1998, and it became the leader and initiator of the development of the monitoring network in Republic of Srpska. The analyses of sulphur dioxide (SO₂) and soot (black smoke) were done. Over time, the number of analysed parameters expanded to nitrogen oxides (NO_x) and carbon monoxide (CO) (Ilić, & Preradović, 2009).

Based on literature data, the pre-war period is mainly characterised by air quality of the fourth class - the zone of critical pollution, while the post-war period varies between the first and second class of air quality - from the clean air zone to the endangered area. This difference is a consequence of the cessation of work of numerous industrial capacities in the territory of Banja Luka in the post-war period (Knežević, Cukut, Dunović, Komlenić, & Lazić, 2009).

Analysis of Banja Luka air quality, in the period before and after the war (1992-1995) from the aspect of the presence of soot and sulphur dioxide

In the 1970s, Banja Luka was a city with insignificant air pollution. It was not until the early 1980s that air pollution became more prominent, and since 1985 the concentrations of basic indicators of atmospheric pollution (sulphur dioxide, soot, dust) have exceeded the upper limit of permissible values. This can be clearly seen if the concentration of SO₂ µg/m³ in Banja Luka is compared with some world capitals and industrial centres - in 1983, all cities (except Banja Luka and Rome) recorded a decrease in the concentration of SO₂ µg/m³ compared to 1975 (Figure 1).

This trend of increasing atmospheric pollution is related to the development of industry in that period. The then Institute of Occupational Safety kept a register of sources of air pollution in the Banja Luka area, and among the largest sources of air pollution were: Incel-Energana, Incel-Celuloza, Gradska toplana, Incel-Poliester, Banjalučka pivara, Valjaonica HVT-Unis,

Knežević, N., & Milunović, I. (2022). Comparative analytical data of air quality in Banja Luka city. *STED Journal*, 4(1), 39-54.

Vitaminka, R.Čajavec-Novaković, Blik, KBC Paprikovac, Žitoprodukt, R.Čajavec-Palos (Lolić,1989). However, the war and post-war period decimated the industrial

capacities of Banja Luka and the Republic of Srpska, which affected the improvement of air quality (Figures 2 and 3).

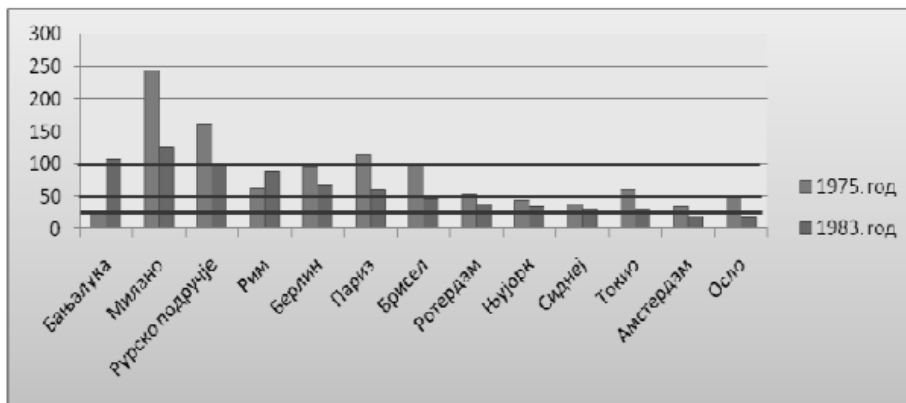


Figure 1. Comparison of average annual SO₂ µg/m³ concentrations in Banja Luka and some world capitals for 1975-1983 (Lolić,1989).

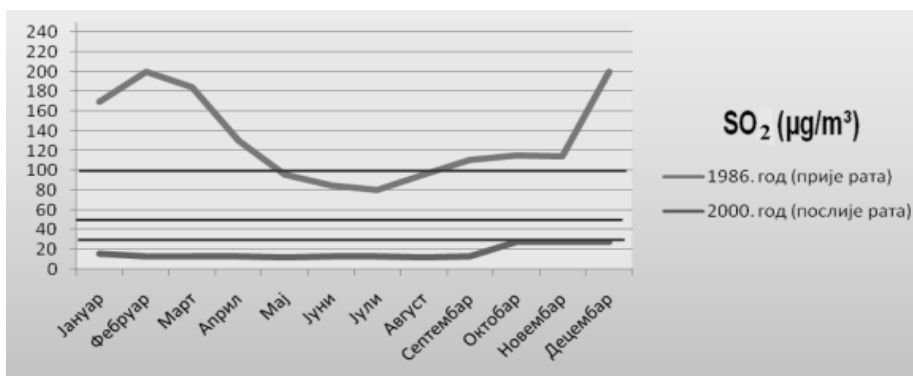


Figure 2. Comparison of the average monthly concentration of SO₂ (µg/m³) for 1986 and 2000 in Banja Luka

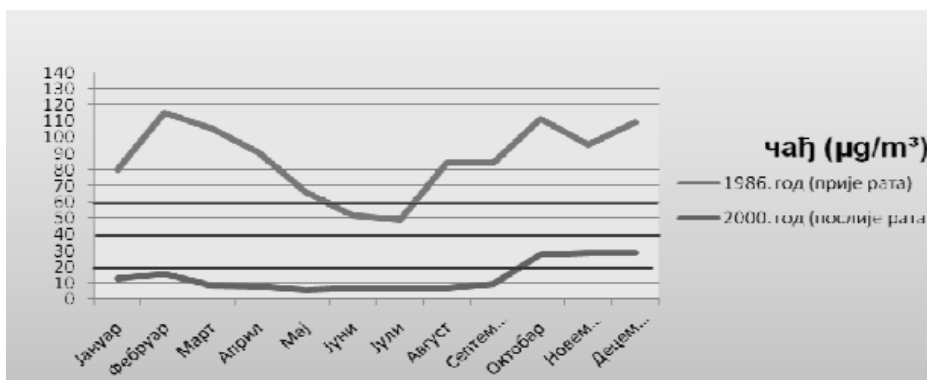


Figure 3. Comparison of the average monthly concentration of soot (µg/m³) for 1986 and 2000 in Banja Luka

The difference in air quality in the pre-war and post-war period can best be seen through an analysis of the above figures and graphs. Observing Figures 2 and 3, the following can be noticed: air quality, from the aspect of the presence of SO₂ and soot, in the pre-war period, was in the fourth class (critical pollution zone), except in the summer months, when it was in the third zone, while the post-war period is characterised by a favourable situation from the aspect of the concentration of CO₂ and soot in the city - variation between the first and second class of air, with a tendency to increase during the winter months. All the above leads to a conclusion that in the post-war period air pollution was significantly reduced (due to the cessation of industrial capacity, which led to a kind of pauperization of the city, but also to improving environmental conditions), and that the presence of sulphur dioxide is satisfactory, but shows an increase in the value of concentration in the winter. Also, a significant part of the pollution comes from motor vehicles (constant pollution throughout the year), and a smaller part of the pollution is released by industrial plants. This is also the case with the concentration of soot, so in the post-war period its concentration is significantly reduced, but the highest concentrations of soot occur during the heating season as a result of insufficient combustion of fossil fuels (Kuzmanović, 2012).

Impact of airborne particles on solar radiation, climate and vegetation

Airborne particles have a significant effect on the weather near the ground. They affect the intensity of solar radiation reaching the ground. The particles scatter solar rays into different wavelengths, depending on the size of the particles, their concentration, their nature, etc., and they frequently absorb some of the sun's radiation (Silibello, Allura, Finardi, Bolignano & Sozzi, 2015).

Atmospheric haze as a result of air pollution can be so large that the sun appears red, although there are no clouds,

which is a special case of sunrise and sunset (Bai, Wang, Ma, & Lu, 2018).

In terms of total sun radiation, urban areas are estimated to receive less sun's rays than suburban areas by 20%. The reason for this is the action of airborne particles, which scatter, thereby reduce solar radiation, especially reduce the intensity of ultraviolet radiation reaching the ground. Visibility is globally diminished due to the presence of airborne particles.

Reducing the light intensity of radiation passing through the air to the ground causes two optical effects related to the air molecules and airborne particles:

- sorption of light energy and
- scattering of light.

Solids can also act as phytotoxicants because they precipitate on green leaves, flowers or branches. Sulphuric acid aerosols can deposit on the leaves of plants and thus have a very detrimental effect. The solids together with the components (molecules) present in the air create larger particles, that is, solids, which serve as nuclei around which either crystals or droplets are formed (e.g. mist formation due to water vapour saturation in the presence of solids in the air). The air in which pure water vapour is present, without particulate matter, should be saturated to form a condensed phase. A reason for this is a large energy barrier that separates molecules that are in the vapour state. It is necessary to overcome this barrier to produce larger aggregates, in this case water droplets (Scott, & Diab, 2000).

However, if particles are present, a thin layer of adsorbed molecules is formed on their surface, so that other present molecules are bound to this layer. This is the phenomenon of nucleation. This is especially prominent in urban areas, where the frequent occurrence of fog is a direct consequence of this effect. Areas with a higher content of airborne particles are also subject to higher rainfall (Hong, & Hu, 1999).

Impact of airborne particles on human respiratory tract, toxicity

In urban areas, human exposure to airborne particles can damage health. Particles enter the human body through the respiratory organs (respiratory system). This can directly damage the respiratory organ or indirectly damage other organs. Deposition of particulate matter in the respiratory system occurs due to inertial collisions of the particles with the tissue, due to adhesion, gravitational deposition and as a result of diffusion. Particles of larger diameter and mass are easier to deposit and retain in the respiratory system (Chahine, et al., 2007).

Impact on sulphur dioxide in the atmosphere on humans and vegetation

Sulphur compounds, as pollutants, are emitted into the atmosphere in natural processes, mainly in the form of sulphur-hydrogen and various industrial and energy processes (anthropogenic origin). Sulphur

compounds of anthropogenic origin are largely produced by the combustion of fossil fuels and from certain industrial processes. Sulphur oxides such as sulphur dioxide (SO₂), sulphur trioxide (SO₃), sulphuric acid (H₂SO₄) and salts of these acids are common pollutants found in the air. Other sulphur oxides have not been detected in the air, although the presence of S₂O₇ can theoretically be expected as a result of the sulphur dioxide and ozone reaction (Catalano, Galatioto, Bell, Namdeo, & Bergantino, 2016).

Sulphur dioxide is colourless, does not burn nor creates explosive mixtures. Its odour is pungent (most people can smell it already at its 1ppm air concentrations). It dissolves well in the water (11.3 g/100 ml water at room temperature). The most important physical characteristics of this pollutant are given in the following table. (Akhra, Fahad, Saiqa, Noshila, & Saba, 2016).

Table 1. Physical properties of sulphur dioxide

Density g/l	2,927 at 0 °C and 101325 Pa
Melting point °C	-75.46
Boiling point °C	-10.02
Critical temperature °C	157.2
Critical pressure MPa	7.9
Evaporation heat kJ/mol	24.9

From the aspect of air pollution, the reactions of sulphur dioxide in the atmosphere that produce SO₃, H₂SO₄ or sulphuric acid salts are important. These reactions can be photochemical or catalytic. Sulphur dioxide at room temperature can also react as an oxidizing agent. Sulphur dioxide in contact with vegetation can cause two types of leaf damage: acute and chronic damage (Desonie, 2007).

Acute damage, caused by a relatively short effect of higher concentrations of sulphur dioxide, is manifested in the damage to the cells being dried. The disease is manifested by a change in colour, which

becomes similar to ivory, and sometimes changes to burgundy (Knežević, et al., 2009).

Epidemiological studies have shown that the effect of sulphur dioxide on the human respiratory system depends on its concentration in the air. Some studies, although insufficiently systematic, show an association between increased mortality and increased concentrations of sulphur dioxide in the air. This is especially the case in certain urban areas where air pollution is high. Studies have shown that certain concentrations of sulphur dioxide led to the following toxic effects on humans:

- at an average sulphur dioxide daily concentration of 0.52 ppm, in the presence of higher concentrations of particulate matter, an increased mortality of the population occurs;
- at a sulphur dioxide concentration of 0.25 ppm, in the presence of smoke (soot) of about 0.30 ppm, mortality of the population increases;
- sulphur dioxide concentrations ranging from 0.11 to 0.19 ppm (daily average) and the presence of particulate matter increase the respiratory problems of the elderly and sick;
- when sulphur dioxide concentrations are 0.21 ppm and of soot about 0.10 ppm, people with chronic lung disease have deteriorating symptoms.

Nitrogen oxides and their effects

Nitrogen oxides are considered to be a mixture of nitrogen oxides, among which the highest biological activity is manifested by nitrogen monoxide (NO), nitrogen dioxide (NO₂) and nitrogen tetroxide (N₂O₄). In nature, these gases are formed in volcanoes, they follow thunderstorms and the action of bacteria with organic compounds. In urban areas they are found in high concentrations. They occur in significant quantities when burning coal, paper, wood, especially in cases of fire (Đurić, Božić, Babić, Stojanović, & Vidaković, 2015).

Their important source is traffic, especially when burning diesel fuel in vehicle engines. Motor vehicles emit nitrogen dioxide and nitrogen monoxide at the same time. Nitrogen oxide oxidizes to nitrogen dioxide very quickly in air, slowly in reactions with oxygen, and much faster in reactions with ozone as an oxidant. Due to that, there are low concentrations of ozone near the sources of nitrogen oxides. Under production conditions, nitrogen oxides are formed during fermentation in silos, where nitrogen dioxide is most present in the gas mixture. They also occur as a result of production conditions in the

production of nitric acid, explosives, nitrates, fertilizers, in the industry of aniline dyes, celluloids, photographic films, in electric welding, mine explosion, in the action of nitric acid on organic matter (Yang, & Wang, 2017).

Nitrous gases penetrate the body through the respiratory system where they build nitric and nitrous acid on the moist mucosa. Due to their poor solubility in water, this process takes place more in the lower than in the upper respiratory tract. Even small amounts of inhaled nitrogen oxides, due to the secretion of histamine, can increase airway resistance and reduce the diffusion capacity of the lungs. The reaction of nitrous gases with alkaline components of the mucous membrane produces nitrates and nitrites, so a certain amount of methaemoglobin is formed, which interferes with the transfer of oxygen to erythrocytes, and nitrates and nitrites can lead to vasodilation and drop in blood pressure. Manifestations that occur when inhaling higher concentrations of nitrogen oxides depend on the proportion of individual oxides in the inhaled mixture. The most common are nitrogen monoxide and nitrogen dioxide (Sharma, Agarwal, Eastwood, Gupta, & Singh, 2018).

Irritation of the upper respiratory tract and conjunctiva of the eyes mainly causes: scratching, tearing and burning in the eyes; scratching, burning in the nose and throat and irritating cough. Occasionally there is pain behind the sternum, headache and vomiting with difficult breathing due to inability to breathe. This is followed by a latent period usually from 6 to 12 hours and the development of pulmonary oedema. Up to 30 µg/m³ of nitrogen oxides in the air classify the air into slightly polluted air, and more than 60 µg/m³ represents a zone of critical pollution (Tang, 1979).

Carbon oxides and their effects

Carbon monoxide is a slightly lighter gas than air and is the product of incomplete combustion of organic matter. In nature, it is generated from the primary oxidation of methane in the air and emissions from the ocean. In industry, it

occurs in all processes where incomplete oxidation of carbon-containing substances takes place (metallurgy, gas plants, distillation of coal, wood, oil, coal mines, paper production, etc.). It is part of lighting gas (6-13%), generator gas (22-34%) and water gas (41-50%). The explosion of gunpowder produces 3-9% of carbon monoxide, and the exhaust gases from internal combustion engines contain up to 9%. Carbon monoxide is the most widespread environmental pollution in industrial regions and in urban areas. It enters the body by inhalation, quickly passes through the alveolar-capillary membrane in the lungs and binds to haemoglobin in the erythrocyte, expelling oxygen. Such carboxy-haemoglobin is not able to carry oxygen, nor to give oxygen to tissues (Zhang, Bocquet, Mallet, Seigneur, & Baklanov, 2012).

In addition, carbon monoxide makes it difficult to release the remaining oxygen bound to haemoglobin, so even that amount of oxygen cannot be efficiently used in the tissue. With an increased partial pressure of carbon monoxide, there may be a decrease in the partial pressure of carbon dioxide, which causes an increase in blood pH, and this increase makes it even more difficult to release oxygen from the blood into the tissues. Carbon monoxide has no direct effect on the respiratory system, but acts indirectly by interfering with the transfer of oxygen and its release to tissues.

Exposure to low concentrations of carbon monoxide causes general symptoms: weakness, exhaustion, dizziness, headache accompanied by tightness and pulsation in the temples, dyspnoea, palpitations, nausea, vomiting, intoxication, weakness in the legs and apathy. Up to 1000 $\mu\text{g}/\text{m}^3$ of carbon monoxide in the external environment makes the air slightly polluted, and over 4000 $\mu\text{g}/\text{m}^3$ is a zone of critical pollution (Law on Air Protection [LAP], 2017).

Ozone and its effects

Ozone is a gas composed of three oxygen atoms formed by the action of ultraviolet light on molecular oxygen. It is found in the stratosphere (in the amount of

about 10 ppm-parts per million) and in the troposphere (1 ppm) as a natural ingredient.

It comes to the atmosphere from various processes in such a way that it is created from volatile organic components and nitrogen oxides: when heated by electric arc, from exhaust gases of internal combustion engines, created by using high voltage electrical equipment, electric discharge, using mercury lamps, printing on plastic surfaces in the graphic industry, in water purification, in bleaching processes in the textile and other industries, in photocopying, etc. Ozone is a highly reactive agent. It exhibits the properties of free radicals because it contains two unpaired electrons. In contact with the fluid in the respiratory and other systems, it forms the free hydroxyl radical (OH), which is one of the most active chemical oxidants. As a free radical, ozone causes lipid peroxidation and oxidation of thiol, amino and protein groups of cells. It has a strong irritating effect on the mucous membranes of the eyes and upper respiratory tract.

At lower concentrations it acts on enzyme activity. In high concentrations, it causes disorders of primary oxidative reactions, interferes with primary and secondary defence mechanisms. Mild exposure to lower concentrations of ozone causes irritation of the mucous membranes of the eyes and upper respiratory tract in the form of narrowing, burning in the eyes, scratching in the throat, tightness of the sternum and pain in the form of burning or tearing in the chest, which increases with inspiration and decreases with expiration, and leads to unproductive cough. Exposure to higher concentrations causes dyspnoea, cyanosis and pulmonary oedema. Prolonged exposure to ozone reduces lung function. It affects the development of chronic obstructive pulmonary disease.

The Regulation on air limit values does not set a limit value for ozone in the external environment, but gives a limit of 150 $\mu\text{g}/\text{m}^3$ that must not be exceeded more than 21 times in a calendar year for a sampling period of 8 hours.

Impact of airborne particles on humans and materials

The intake of these compounds into the respiratory system by inhalation depends on the size of the carrier particles. These compounds cannot elute rapidly with small diameter soot particles. Particles with an average diameter of less than $0.04 \mu\text{m}$, due to their high adsorption capacity, can completely adsorb polynuclear aromatic hydrocarbons. However, with particles larger than $0.04 \mu\text{m}$ in diameter, these

compounds are released by the solvent. The rate of release of the compounds increases with increasing particle size. Therefore, the introduction of larger-diameter solid particles with polynuclear aromatic hydrocarbons into the human respiratory system can lead to lung or other organ cancers. The scheme on figure 4 shows the deposition of particulate matter in the respiratory tract (according to the Task Group Lung Dynamics model), (Radić, Knežević, Lazić, & Arsenović, 2006).

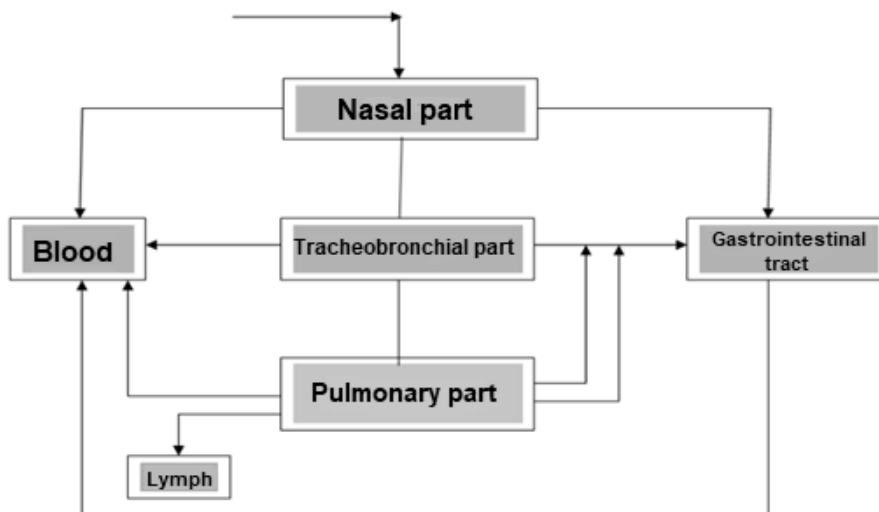


Figure 4. Scheme showing the deposition of particulate matter in the respiratory tract (according to the Task Group Lung Dynamics model)

The model in the previous figure shows how, in addition to directly affecting the respiratory system, airborne particles can much more seriously affect other vital organs through the blood. Causes of diseases and other organs from cancer, other than the lungs, can therefore be sought among the pollutants that appear in the air. Airborne particles can mechanically and chemically affect materials as well. The nature and methods of these effects depend on the chemical activity of the particles and the nature of the material. They chemically dissolve materials in a way that they bind the nuclei to gases or strong acids, which

they carry, or simply by their corrosive activity. Particles in the atmosphere also negatively affect buildings. They and soot particularly, form a layer on the wall, brick, marble, stone, glass, which is hard to wash off by rain, so that in addition to its negative effect, it also has an effect on the aesthetic appearance (Stern, 1977).

MATERIAL AND METHODS

The concentrations of SO_2 , O_3 , CO , NO_2 , PM_{10} and soot were monitored by the equipment listed in the table 2 and figures 5, 6, 7 and 8.

Table 2. Air pollutant monitoring equipment

No.	Name of the measuring /testing equipment	Manufacturer	Tip	Measuring scope	Measurement method	Calibration certificate no.
1	Analyser SO ₂	HORIBA, JAPAN	APSA-370	0-1000 µg/m ³	BAS EN 14212:2013 Ultraviolet fluorescence	211/2019
2	Analyser NO/NO ₂ /NO _x	HORIBA, JAPAN	APNA-370	NO: 0-1200 µg/m ³ (0-960 ppb) NO ₂ : 0-500 µg/m ³ (0-260 ppb)	BAS EN 14211:2013 chemiluminescence	212/2019
3	Analyser CO	HORIBA, JAPAN	APMA-370	0- 100 mg/m ³	BAS EN 14626:2013 non-dispersive infrared spectroscopy	210/2019
4	Analyser O ₃	HORIBA, JAPAN	APOA-370	0- 500 µg/m ³	BAS EN 14625:2013 ultraviolet photometry	213/2019
6	Metrology set	-	-	0-30 m/s	optoelectronic	
7	NETZ “ALCYON“ Three-component anemometer for wind speed and direction	-	-	0-30 m/s	optoelectronic	
8	THOMMEN M-105.04 Barometer	-	-	900 - 1100 hPa	electro-mechanical	
9	Gravimetric sampler of solid particles TSP, PM ₁₀ and PM _{2.5}	Digitel AG Hegnau, Switzerland	DPA14	-	standard gravimetric method	II-20/264
10	Electronic scales METTLER TOLEDO	Mettler Toledo GmbH, Switzerland	XPR206DR/M	0.01mg/ 0.005mg – 220gr	-	220-B73-20-1



Figure 5. Gravimetric sampler of solid particles TSP, PM10 and PM2.5



Figure 6. Electronic scales METTLER TOLEDO



Figure 7. Analysers HORIBA JAPAN



Figure 8. Movable ecological laboratory (MEL)

LOCATIONS OF MEASURING POINTS

For the assessment of air quality in the Banja Luka city region, continuous measurements of immission concentrations were performed by mobile ecological laboratory (MEL) in the period from 2017 to 2021, in accordance with the Regulation on air quality values (Regulation on air quality values [RAQV], 2012).

Coordinates of measuring points (Figure 9):

MM1 - 44°46'50"N
- 17°10'37"E

MM2 - 44°46'14"N
- 17°12'55"E
MM3 - 44°46'18"N
- 17°11'21"E

Air quality measurement included the following parameters:

- Carbon monoxide - CO,
- Sulphur dioxide - SO₂,
- Nitrogen oxides- NO₂,
- Suspended particles - PM₁₀,
- Ozon - O₃.



Figure 9. Satellite image of the location (Google Earth)

LIMIT VALUES OF AIR QUALITY

The Regulation on air quality values (RAQV, 2012) establishes the limit and tolerance values of air quality with the aim of protecting human health, vegetation and natural eco-systems, as well as maximum permissible concentrations of pollutants in the air in case of measurements for specific purpose. According to the mentioned regulation, the air quality values represent the numerical values of limit values for air pollutants levels, namely the lower and upper limits for assessing air quality, critical levels, tolerance limit and tolerance values, target values and long-term targets of air pollutants, concentrations hazardous for human health and concentrations reported to the public (Zhang, et al., 2012).

Air pollutants are monitored by measuring concentrations for sulphur dioxide, nitrogen dioxide and nitrogen oxides, suspended particles (PM10, PM2.5), carbon monoxide, ground-level ozone and soot in the air, with automatic measuring instruments and/or sampling by analysis (Regulation on air quality values, 2012).

Limit and tolerance values and tolerance limits for sulphur dioxide,

nitrogen dioxide and carbon monoxide are given in the table 3 and 4.

In the zone and agglomerations where the level of subject polluting substances is below limit values established by the above tables, it is necessary to keep the concentrations of polluting substances at a level below limit values. For polluting substances for which no tolerance limit was prescribed, as a tolerance value is taken their limit value.

Limit and tolerance values are a basis for:

- Air quality assessment,
- Division of zones and agglomerations in the category based on the air pollution level and
- Air quality management.

Limit values of air polluting substance levels, which are prescribed by this Regulation must not be exceeded once they are reached. Concentrations of sulphur dioxide, nitrogen dioxide and ground-level ozone, which are hazardous for human health are given in the tables 5, 6 and 7.

Table 3. Limit, tolerance values and tolerance limits for human health protection

Sampling period	Limit value	Tolerance limit	Tolerance value*
Sulphur dioxide			
One hour	350 µg/m ³	21.4 µg/m ³	371.4 µg/m ³
One day	125 µg/m ³	-	125 µg/m ³
Calendar year	50 µg/m ³	-	50 µg/m ³
Nitrogen dioxide			
One hour	150 µg/m ³	10.7 µg/m ³	160.7 µg/m ³
One day	85 µg/m ³	5.7 µg/m ³	90.7 µg/m ³
Calendar year	40 µg/m ³	2.9 µg/m ³	42.9 µg/m ³
Carbon monoxide			
Maximum daily 8-hour value	10 mg/m ³ (10000 µg/m ³)	0.9 mg/m ³ (900 µg/m ³)	10.9 mg/m ³ (10900 µg/m ³)
One day	5 mg/m ³ (5000 µg/m ³)	0.7 mg/m ³ (700 µg/m ³)	5.7 mg/m ³ (5700 µg/m ³)
Calendar year	3 mg/m ³ (3000 µg/m ³)	-	3 mg/m ³ (3000 µg/m ³)
Suspended particles PM ₁₀			
One day	50 µg/m ³	3.6 µg/m ³	53.6 µg/m ³
Calendar year	40 µg/m ³	1.1 µg/m ³	41.1 µg/m ³

*The tolerance limit is shown for 2020 (from 1 January 2015 and every 12 months thereafter reduced to equal annual percentages to reach 0% by 1 January 2021)

Table 4. Target value for ground-level ozone

Target value for ground-level ozone		
Target	Period of calculating average value	Target value
Human health protection	Maximum daily 8-hour mean value	120 µg/m ³

Table 5. Concentrations of sulphur dioxide and nitrogen dioxide, hazardous for human health

Pollutant	Concentration hazardous for human health
Sulphur dioxide	500 µg/m ³
Nitrogen dioxide	400 µg/m ³

Table 6. Concentrations of ground-level O₃, which are hazardous for human health and concentrations of which the public is notified

Purpose	Period of averaging	Limit
Notification threshold (µg/m ³)	1 hour	180 µg/m ³
Warning value (µg/m ^{3*})	1 hour*	240 µg/m ³

*In a zone or agglomeration, exceedances of the limit are established or foreseen for three consecutive hours, with the aim of adopting short-term action plans to protect human health or the environment as needed.

Table 7. Maximum permissible values for the purpose of dedicated measurements for TSS

Period of taking the mean value of measurements for total suspended solids	Maximum permissible value
One day - 24h	250 $\mu\text{g}/\text{m}^3$
Calendar year - 365 days	90 $\mu\text{g}/\text{m}^3$

Concentrations hazardous for human health are measured during three consecutive hours at locations that are representative for the air quality in the territory whose area is not smaller than 100 km^2 , or in the zone or agglomerations, if their area is smaller.

PAPER RESULTS AND DISCUSSION

Table 8 and Figures 10 and 11 shows the values of average annual concentrations of SO_2 , O_3 , CO , NO_2 , PM_{10} and soot in Banja Luka City for the period 2017 to 2021. The results of measuring the concentrations of SO_2 , O_3 , CO , NO_2 , PM_{10} and soot in the air of the city of Banja Luka show that the measured annual value average was the highest during 2017.

Table 8. Values of average annual concentrations of SO_2 , O_3 , CO , NO_2 , PM_{10} and soot

Pollutant	Banja Luka				
	2017	2018	2019	2020	2021*
$\text{CO}(\text{mg}/\text{m}^3)$	1.13	0.60	0.62	0.61	0.65
$\text{SO}_2 (\mu\text{g}/\text{m}^3)$	23.87	8.70	8.23	8.02	8.24
Soot ($\mu\text{g}/\text{m}^3$)	13.20	13.74	14.30	20.07	16.29
$\text{PM}_{10} (\mu\text{g}/\text{m}^3)$	38.67	27.19	28.71	40.64	32.78
$\text{O}_3 (\mu\text{g}/\text{m}^3)$	45.03	33.72	35.87	33.83	39.21
$\text{NO}_2 (\mu\text{g}/\text{m}^3)$	30.20	23.64	27.22	19.86	19.17

*Note: December is not included in the calculation of the average for 2021

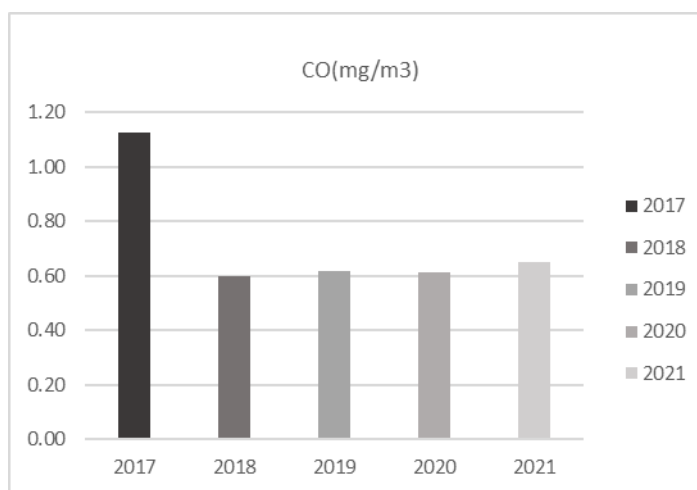


Figure 10. Average annual values of CO in Banja Luka for the period 2017- 2021

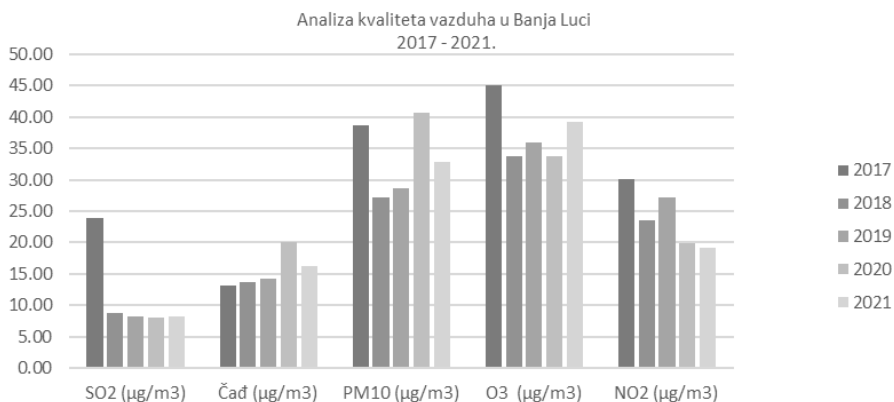


Figure 11. Analysis of air quality in Banja Luka

CO The analysis of data on the concentrations of carbon monoxide in the period from 2017 to 2021 shows a great difference in the average at the annual level in 2017 in comparison to the others. The year 2017 recorded the annual concentration average of CO of 1.13 mg/m³, while the following four years recorded an annual average of 0.60 – 0.65 mg/m³. The calculated annual concentration average of carbon monoxide leads to a conclusion that in the observed period the quantity of CO was significantly below average. The limit annual value of CO amounts to 3 mg/m³, according to the Regulation on air quality values (RAQV, 2012)

SO₂ The analysis of data on the concentrations of sulphur-dioxide in the period from 2017 to 2021 shows a great difference in the average at the annual level in 2017 in comparison to the others, as well as when it comes to CO. The year 2017 recorded the annual concentration average of SO₂ of 23.87 µg/m³, while the following four years recorded an annual average of 8.02 – 8.70 µg/m³. The calculated annual concentration average of sulphur-dioxide leads to a conclusion that in the observed period the quantity of SO₂ was significantly below average. The limit annual value of SO₂ amounts to 50 mg/m³, according to the Regulation on air quality values (RAQV, 2012).

SOOT According to the Regulation on air quality values (RAQV, 2012) the maximum permissible concentration of soot at the level of calendar year amounts to 50

µg/m³. The concentrations measured in the observed period were significantly lower. The highest annual mean value was measured in 2020 and amounted to 20.07 µg/m³, and the lowest in 2017 and amounted to 13.20 µg/m³.

PM₁₀ The state of air quality depending on the presence of the atmospheric pollutant suspended solids (PM₁₀), in relation to the recorded concentrations did not change significantly in the observed period. The values of PM₁₀ at the level of calendar year ranged between 27.19 µg/m³ (2018) and 40.64 µg/m³ (2020). According to the Regulation on air quality values (RAQV, 2012) the limit value at the level of calendar year amounts to 40 µg/m³. The above stated leads to a conclusion that in the territory of Banja Luka City the most important pollutant in determining air quality is PM₁₀.

NO₂ The analysis of data on the concentrations of nitrogen dioxide in the period from 2017 to 2021, shows that the mean annual values have linearly declined since 2017. The year 2017 recorded the annual concentration average of NO₂ of 30.20 µg/m³ while it dropped to 19.17 µg/m³ by 2021. According to the Regulation on air quality values (RAQV, 2012) the maximum permissible concentration of nitrogen dioxide at the level of calendar year amounts to 40 µg/m³.

CONCLUSIONS

The analysis of data on the concentrations of pollutants in the period from 2017 to 2021 shows a significant decrease in the concentration of most pollutants compared to 2017. The greatest deviation is observed in the concentration of sulphur dioxide, which is more than three times higher in 2017 compared to others. Sulphur dioxide is present here as a pollutant from anthropogenic sources, i.e., it occurs as a result of direct combustion of fossil fuels, it is prominent where energy sources such as coal and fuel oil are mostly used.

The Regulation on air quality values (RAQV, 2012) prescribes limit values at the level of calendar year. When we compare the values measured in the period 2017-2021, we can notice that the PM₁₀ pollutant in 2020 (40.46 µg/m³) exceeded the limit value which amounts to 40 µg/m³. This leads to a conclusion that that in the territory of Banja Luka City the most important pollutant in determining air quality is PM₁₀.

Significant differences in the air quality of pre-war and post-war Banja Luka can also be noticed, from the aspect of the presence of sulphur dioxide and soot. The main reason for the improved environmental picture is the shutdown of industrial facilities, which were significant polluters of the environment. It is important to mention that the pre-war and post-war period should serve as a basis for understanding some future ecological and economic development of the city. We should not improve the ecological picture by stopping economic development, but we should progress economically in accordance with environmental laws. The main goals of future development programs should be in line with sustainable development. This setting is important because Banja Luka is today a city, which, when it comes to the environment, faces numerous challenges and major interventions in space.

All the above leads to a conclusion that in the post-war period air pollution is

significantly reduced¹, and that the presence of sulphur dioxide is at a satisfactory level, showing that the concentration value increases in winter. Also, a significant part of the pollution comes from motor vehicles (constant pollution throughout the year), and a smaller part of the pollution is released by industrial plants. This is also the case with the concentration of soot, so in the post-war period its concentration is significantly reduced, but the highest concentrations of soot occur during the heating season as a result of insufficient combustion of fossil fuels.

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¹ Due to the termination of work of industrial capacities, which led to a kind of pauperisation of the city, but also to the improvement of environmental conditions.

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ПОЛОЖАЈ НАЦИОНАЛНИХ МАЊИНА У ДРЖАВАМА ЗАПАДНОГ БАЛКАНА

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АПСТРАКТ

У раду се анализира положај националних мањина у региону Западног Балкана, са фокусом на државе настале распадом бивше СФРЈ које се означавају као нове националне државе. Указано је на специфичности овог облика националне државе, прије свега на национализам као основу свим сферама функционисања што је и основни разлог негативног односа према мањинама. Приступање Европској унији је главни мотивациони фактор да се рјешавају мањинска питања у овом региону. Посебно је компликована ситуација у

Босни и Херцеговина јер је специфично рјешење статуса националних мањина један од узрока стагнације ове земље у процесу европских интеграција.

Кључне ријечи: нова национална држава, националне мањине, СФРЈ

УВОД

Завршетком Хладног рата на Балкану је дошло до ескалације национализма, грађанског рата и настанка неколико нових националних држава. Све ово обликовало је положај националних мањина у овом региону, а статус националних мањина једно је од спорних питања у односима међу државама насталим на тлу бивше СФРЈ и најчешћи узрок међусобних конфликта. С обзиром да све државе региона теже ка чланству у Европској унији, то захтијева фокусирање на унапређење положаја националних мањина јер је то један од предуслова у процесу приступања. У Босни и Херцеговини је управо неријешено питање права националних мањина успорило, а неколико година и потпуно зауставило ову земљу на путу ка Европској унији.

ПОЈАМ НАЦИОНАЛНЕ МАЊИНЕ

Разликују се два концепта мањина: етнички и национални. Појам „етнички“ је грчког поријекла (ethnikos - народни, од ethnos – племе, народ) и кроз историју је имао више значења, од којих су племе, народ у смислу етнос постали преовлађујући. Појам „нација“ потиче од латинске ријечи „nasci“ што значи бити рођен, а у облику „natio“ односи се на групу људи који су повезани рођењем

или мјестом рођења (Хејвуд, 2005, стр. 162). У почетку овај појам није имао политичко значење, поприма га тек крајем 18. вијека када су појединци и групе почели да се класификују као националисти. У Француској револуцији трећи сталеж постаје нација односно проглашава себе позваним за њено вођство (Тадић, 1986). У политичкој теорији се истиче да је стварање нација био суштински садржај еволуције у 19. вијеку, који је и назван вијеком националности управо због размаха и значаја који је у том периоду добио процес формирања нација (Матић, 1993, стр. 706).

Специфичност нације у односу на друге колективитете је у томе што она себе види и као политичку заједницу. По томе се разликује од етничке заједнице, која обавезно посједује заједнички идентитет и осјећање културног поноса, али нема колективне политичке тежње. Те тежње се обично јављају у виду захтјева за политичком независношћу односно националном државом. Национална заједница, за разлику од етничке заједнице, има сопствену државу у којој та одређена нација представља већински народ. Према Велеру, нација се разликује од етнице (етничке заједнице) „тима што као највиша инстанца и врхунац вриједносне хијерархије претендује на апсолутни приоритет“ (Велер, 2002, стр. 49).

На Балкану нација се јавља као интегришућа категорија чији је циљ стварање идентитета за бројно расцјепкано становништво (религијом, границама великих царстава) и формирање државе - матице. „Своје вечно потврђивање нација најпре испољава у тешко остваривом, а толико једноставном, националном програму - тежњи да има своју националну државу. Природни циљ сваког националног покрета јесте држава заснована на принципу суверенитета народа. Нема нације без њеног права да има своју природну државу (Екмечић, 1989).

Искуства развоја модерних нација показују да упоредо са њеним

политичким и културним организовањем у националну државу, тј. Институционализацијом свог националног идентитета, нација настоји да постигне и јединство у држави - јединство већинске нације. Овај концепт изградње националне државе рађа проблем „неприлагођеног“, „страног“ дијела становништва које, сасвим природно, настоји да сачува своје (националне, вјерске, језичке) особине, другим ријечима рађа проблем мањина. Националне мањине су историјска и друштвена категорија чији је настанак и развој везан за нацију и њено конституисање у државу. Самим тим, појам „националне мањине“ је ужи по свом значењу и обухвата само оне мањине које припадају етничким групама код којих је дошло до конституисања нације и образовања националне државе. Појам „етничка мањина“ је шири по свом садржају од појма национална мањина. Он укључује припаднике других мањинских колективитета који посједују одређене посебности које су обиљежја појединих врста мањина. Он обухвата и мањине које припадају етничким групама које су успјеле да се конституишу као нација и имају своју државу, као и оне које то нису успјеле (немају своју националну државу), али су при томе очувале одређена обиљежја. Тачније, друге мањине су укључене у етничке, а етничке у друге само једним дијелом (Обрадовић, 2002, стр. 26). Појмови националне и етничке мањине могу бити коришћени као синоними. Ипак, у политичкој теорији доминира став по којем је свака национална мањина уједно и етничка, док свака етничка мањина није истовремено и национална. Полазећи од тога, могу се користити оба термина, уз напомену да су термином етничке мањине обухваћене све мањинске заједнице које су предмет посебне заштите у међународном праву.

У међународном праву заштита мањина се помиње још у одредбама Вестфалског мира из 1648. године кроз обавезе заштите вјерских мањина.

Тенденција заштите мањина наставила се и касније у 19. вијеку на Бечком (1815) и Берлинском конгресу (1878) кроз обавезе држава за поштовањем права припадника других нација, вјерских мањина и обезбјеђењем равноправности грађана без обзира на њихову религијску припадност. У чл. 27 Међународног пакта о грађанским и политичким правима из 1966. године, који је једина општа међународноправна норма која предвиђа заштиту мањина, наводи се да: „У државама где постоје етничке, верске или језичке мањине, лица која припадају тим мањинама не могу бити лишена права да имају, заједно са другим члановима своје групе, свој посебни културни живот, да испољавају и упражњавају своју сопствену веру или да се служе својим језиком“ (Етински, 2010, стр. 143).

НОВА НАЦИОНАЛНА ДРЖАВА

Крај хладног рата донио је оживљавање идеје националне државе у Европи, посебно концепта тзв. нове националне државе. Од почетка деведесетих година прошлог вијека у политичкој теорији се разликују двије врсте националне државе: националне државе затечене у савремености и свјеже формиране односно новонастајуће националне државе (Симеуновић, 2002, стр. 112).

Националне државе затечене у савременом добу су земље попут Енглеске, Француске, Шпаније и др. То су старе националне државе које су настајале постепено, сопственом вољом, без притисака споља, „за собом имају време највећих искушења, укључујући и тоталитарност, а убрајање у круг савремених националних држава највише дугују свом традиционалистичком приступу питањима државности и нације“ (Симеуновић, 2002, стр. 112). Термином „нове националне државе“ називају се државе које су настале или стекле независност након 1989. године тј. све оне чији је настанак последица распада Источног

блока и краха комунизма (нпр. државе настале распадом СССР-а, државе Источне Европе). Типичан примјер ове врсте држава су и државе настале распадом СФРЈ. Међутим, концепт нове националне државе на подручју бивше СФРЈ је специфичан по томе што су оне производ нација које су у далекој прошлости (неке од њих) већ имале своје државе, те се не може баш прихватити теза да Срби или Хрвати заостају за Французима или Нијемцима у смислу државности. Успостављањем сопствене националне државе неки југословенски народи су умјесто „хетерогене бивше СФРЈ, коју је сачињавало аристотеловско случајно мноштво“ поново створили отаџбину, као правни израз легитимне друштвене заједнице“ (Голубовић, 2003, стр. 227).

Међу факторима који су довели до настанка нових националних држава су: сукоб интереса великих сила (САД и Совјетског Савеза), пад комунизма, криза федерализма, међунационалне противурјечности у социјалистичким федерацијама, криза социјалистичког економског и политичког система. Основне карактеристике нове националне државе су: национализам као доминантна идеологија, насиље и сакралност, стална политичка и економска нестабилност, непостојање политичке културе и цивилног друштва (Лакић, 2010, стр. 121). Национализам као доминантна идеологија у свим сегментима функционисања нове националне државе може у погледу положаја националних мањина имати у пракси веома негативне последице. Национализам, негативно схваћен и употребљен, повлачи за собом мржњу, сукобе, нарушава људска права и слободе. Грађански рат у бившој СФРЈ је примјер шта може учинити негативно политички интрепретирана улога национализма (Лакић, 2020, стр. 85).

Нове националне државе су државе које у настале као директна последица слома комунизма у Источној Европи на концу 20. вијека. Привидно ријешено национално питање у некадашњим

социјалистичким федерацијама основа је настанка ове врсте националне државе, а њихово формирање је у већини случајева праћено употребом насиља и тежњама да постану моноетничке и монорелигијске државе. Тако су након завршетка хладног рата и распада вишеетничких социјалистичких федерација потиснути етнички проблеми избили у први план. Према Р. Вукадиновићу, неријешена етничка питања су битан проблем демократизације земаља у транзицији. Етничка окупљања и стварање нових идентитета, вјероватно ће тражити путеве свог ширег изражавања: било на темељу почетних аутономија културног или политичког карактера или, пак, каснијег захтјева за самоодређењем народа (Вукадиновић, 1998, стр. 254).

Нова национална држава се конституише на етничком принципу. То би значило да се границе њене власти поклапају са границама народа, то јест да сви припадници једне нације живе у једној држави. У реалности тај принцип тешко да је остварив. Нема етнички чисте државе, па је због тога национална држава матична држава свим припадницима те нације, укључујући и оне који живе ван њених граница. Припадници других нација имају у њој статус мањина. Ниједна држава данас није без националних мањина. Један од кључних елемената који чине темељ сваке демократске заједнице, па и националне државе, је поштовање начела „владавина већине и права мањина“. Демократија је по својој дефиницији владавина народа, али то је заправо владавина већине. Она при томе подразумева и обавезу већине да води рачуна о правима и потребама мањинских група. Мјера у којој се та обавеза испуњава показатељ је унапређења демократских вриједности у тој заједници (Гађиновић, 2010, стр. 159).

Према Д. Симеуновићу „у новонасталим, етнички још увек недовољно чистим државама“, главни извор конфликта између владајуће

нације и мањина је дефинисање државне територије као националне. Са друге стране, најмање нетрпељивости се у овим државама исказује према религијски сродним етничким групацијама (Симеуновић, 1995, стр. 89 - 90). Најсигурнији начин и гарант нормалног живота било које мањине у новој националној држави је споразумијевање њене домовине (те националне државе) и државе матице јер само тада оне могу да рачунају и на једну и на другу и да их обје, сваку на свој начин, осјећају и сматрају својом. Али ако то није случај, ако су мањине предмет било какве манипулације или чак шовинста већинске нације, тада и таква држава тешко налази рјечник са матицом мањина (Марјановић, 1999, стр. 133).

СПЕЦИФИЧНОСТИ ПОЛОЖАЈА НАЦИОНАЛНИХ МАЊИНА НА ЗАПАДНОМ БАЛКАНУ

Познавање историјата настанка и основних карактеристика нових националних држава основа је за разумијевање и анализу положаја мањина у нашем региону. Фактори који су одредили и обликовали данашњи положај националних мањина у региону Западног Балкана, како се у терминологији Европске уније називају државе настале распадом СФРЈ, су: утицај Европске уније, грађански рат у бившој Југославији и историја балканских народа. У бившој СФРЈ се умјесто појма етничке или националне мањине користио термин „народности“ који је требао указати на афирмативан однос према мањинским заједницама.

Према подацима из посљедњег пописа који је у СФРЈ извршен 1991. године, од држава које ће настати њеним распадом, СР Југославија (Србија и Црна Гора) је имала најхетерогенији етнички састав становништа. Од 10,4 милиона становника у СР Југославији, већински народ су били Срби са 62,6% и Црногораци 5%, а од националних мањина најбројнији су били Албанци

16,5%, па Мађари са 3,3%, Муслимани 3,2%, Роми 1,4%, Словаци 0,6% и други. Мањине су чиниле 9,6% укупног становништва према подацима из овог пописа. У том периоду у укупној мањинској популацији Балкана готово 30% су чинили Албанци који живе ван своје матичне државе, што је и указивало да ће албанско питање постати једно од главних мањинских питања у XXI вијеку (Радушки, 2001, стр. 77-78) Србија је, од република у саставу бивше СФРЈ, имала највећи број националних мањина, а тако је и данас, када ове републике анализирамо као нове националне државе које су самостални међународноправни субјекти већ три деценије. Србија се једина од земаља региона Западног Балкана суочила са губитком дијела своје територије услед сецесионизма албанске националне мањине, те војном интервенцијом НАТО савеза тим поводом што нам указује на сложеност и негативне импликације које може имати мањинско питање као политички феномен.

Једно од основних начела међународног права, према Повељи УН, је право народа на самоопредјељење које обухвата и овлашћење народа да слободно одреди свој политички статус. Посебно је важно објаснити да ли националне мањине које чине већинско становништво на неком дијелу територије одређене државе, имају право на независност (случај Косово - Србија). Међународна пракса не даје потпун одговор који народи на основу овог права имају овлашћење да успоставе своју државу. Када се ради о правима етничких заједница у етнички хетерогеним државама примјењује се начело тзв. унутрашњег самоопредјељења, што значи да све различите етничке заједнице имају право на унутрашње самоопредјељење односно на извјесну аутономију која служи очувању њихове етничке посебности, социјалном и економском развоју, као и право на представљеност у централној власти. Дакле, право на самоопредјељење не може да буде основ за легализацију

сецесионистичких циљева народа или група које живе у вишеетничкој држави (Етински, 2010, стр. 145). Међутим, позивајући се на право народа на самоопредјељење право албанска мањина је у фебруару 2008. године прогласила независност Косова, саставног дијела Србије. Европска унија је дан након што су косовски Албанци прогласили независност заузела став да је косовски проблем *sui generis* случај међународног права, што је значило да за Европску унију сецесионистички акт косовских Албанаца није представљао кршење начела међународног права, па ни кршење Резолуције СБ УН 1244 која је гарантовала очување суверенитета и територијалног интегритета Републике Србије.

Иако је на међународном нивоу крај хладног рата донио смањење броја међудржавних сукоба, регион Балкана се наводи као један од дијелова свијета у којима је ова геополитичка промјена довела до низа сукоба (Џуверовић, 2021, стр. 101), нпр. Хрватска 1991-1995, Босна и Херцеговина 1992-1995, СР Југославија (Србија) 1999. и Македонија 2001. У ствари, дошло до пораста броја конфликта (сукоба) унутар држава, тј. сукоба око идентитета или територије који представљају сукоб између централних власти и мањинских група у држави (етничке, културне) које су незадовољне својим степеном представљености у централној и локалној власти (Џуверовић, 2021, стр. 90). Уколико се проблем нпр. недовољне заступљености или степена права не ријеши договором, мирним путем националне мањине обично започињу борбу за права оружаним путем која може нпр. резултирати сецесијом као у случају Косова. Са друге стране, Сјеверна Македонија је позитиван примјер рјешавања проблема са мањинском групом гдје је кроз давање већег учешћа у власти албанској заједници заустављена даља ескалација сукоба након 2001. године.

Положај мањина у државама Западног Балкана последица је и

специфичних историјских околности овог поднебља и њиховог потпуно различитог тумачења након краха заједничке државне заједнице. У процесима формирања нових националних и политичких идентитета у државама насталим на простору бивше Југославије, очигледни су опречни погледи на заједничку историју. У Словенији, Хрватској и Србији доминирају културе памћења које показују велике разлике у тумачењу истих догађаја. Проблем је још сложенији у земљама као што су Босна и Херцеговина и Црна Гора, гдје живи више вјерских и етничких заједница, чији се историјски наративи дубоко разликују. Култура народа Западног Балкана резултат је међусобног утицаја кроз историју. Елементи културе једног народа присутни су и у култури других (Vuković, 2021, стр. 67).

Све нове националне државе на Балкану одредиле су приступање Европској унији као циљ своје спољне политике и укључене су у Процес стабилизације и придруживања, посебан политичко-правни оквир политике проширења Европске уније према Западном Балкану (Хрватска, Босну и Херцеговина, Србија, Црну Гору, Сјеверна Македонија и Албанија). Након четворогодишњих етничких сукоба и крвопролића у средишту Европе у периоду од 1991-95. године јасно је било да без регулисања етничких односа и рјешавања питања положаја мањина на Балкану нема мира и дугорочне стабилности овог региона, те је Европска унија као један од предуслова за само укључивање ових земаља у процес европских интеграција, а касније и за даљи напредак одредила заштиту права мањина. Савјет ЕУ је још 29. априла 1997. године условио отпочивање преговора за заснивање уговорних односа за земаљама Западног Балкана и „вјеродостојним дјеловањем у ангажовању у демократским реформама и усаглашавању са опште признатим стандардима људских права и мањина“

(Conclusions of the General Affairs Council of 26 February 1996).

Двије и по деценије откако су земље Западног Балкана укључене у процес европских интеграција можемо констатовати да је развој мањинских права прошао кроз три фазе у државама овог региона. Прва фаза је сама постратна реконструкција друштва у државама Западног Балкана, у којој су саниране посљедице рата и стваране претпоставке за дефинисање мањинских политика, а заштита мањина постала је мјерило успјешности демократизације новонасталих држава. Друга фаза, која је започела 2000. године када су ове земље укључене у Процес стабилизације и придруживања (покренут 1999), је период ратификовања међународних аката о заштити права националних мањина и доношење одговарајућег националног законодавства. Овај корак све државе су успјешно реализовале, али уз снажан притисак међународне заједнице у складу са ставом да без регулисања права и положаја националних мањина није могуће започети процес демократске транзиције. Трећа фаза остваривања права националних мањина на Западном Балкану је обиљежена процесом интеграције ових држава у ЕУ и НАТО, тачније морале су задовољити одређене критеријуме ових организација, првенствено имплементацију усвојених нормативних оквира у пракси. Показало се да су нека рјешења потпуно непримјенива у реалности, нпр. у случају Хрватске вођене су расправе о пренормираности уставног закона о правима националних мањина и немогућности институција да његове одредбе спроведу у пракси (Таталовић, 2013, стр. 20-21). Мањине на Западном Балкану најлакше остварују права из подручја културне аутономије, а велики проблем је учешће националних мањина у тијелима државне власти. Све земље региона оствариле су видљив напредак по питању положаја мањина, али мотив за то је тежња да се задовоље критеријуми за чланство у ЕУ (дакле,

утицај страног притиска), а не аутохтона унутрашња воља да се међуетнички односи регулишу на трајној основи што указује на упитност дубине демократизације друштва Западног Балкана (Таталовић, 2013, стр. 22).

СТАТУС НАЦИОНАЛНИХ МАЊИНА У БОСНИ И ХЕРЦЕГОВИНИ

Од држава Западног Балкана, Босна и Херцеговина има најсложенију политичко-правну и етничку структуру, те специфично рјешење питања националних мањина што је један од узрока њеног спорог напретка процесу европских интеграција. Према попису из 1991. године, Босна и Херцеговина је имала 4.377.033 становника, од чега је Бошњака (муслимана) било 43,5%, Срба 31,2%, Хрвата 17,4%, Југословена 5,5% и осталих 2,4%. Категорију осталих чинили су припадници 17 националних мањина (Федерални завод за статистику [ФЗС], 1991).

Босна и Херцеговина и њени ентитети у свом уставу немају појам националне мањине, већ се користи термин „остали“ под којим се подразумевају припадници мањинских група односно сви они грађани који нису из реда три конститутивна народа (Срби, Хрвати и Бошњаци. Ти „остали“ немају право учешћа у највишим органима власти што представља дискриминацију јер је њима ускраћено пасивно бирачко право да учествују у вршењу власти по основу своје етничке припадности. „За разлику од конститутивних народа, „остали“ никад нису формирали свој подсистем, сплет институција и организација, поготово не своје политичке организације и политичку елиту. Стога нису могли наметнути своју вољу и интересе за равноправним, уставноправним и политичким положајем“ (Марковић, 2012, стр. 357).

Парламентарна скупштина Босне и Херцеговине усвојила је 2003. године Закон о заштити права припадника националних мањина у коме се наводи

да ће Босна и Херцеговина штитити положај, равноправност и права 17 националних мањина присутних у земљи: Албанаца, Црногораца, Чеха, Италијана, Јевреја, Мађара, Македонаца, Нијемаца, Пољака, Рома, Румуна, Руса, Русина, Словака, Словенаца, Турака и Украјинаца (Закон о заштити права припадника националних мањина [ЗЗНМ], 2003). Према чл. 3 овог закона, национална мањина је дио становништва - држављана БиХ који не припадају ниједном од три конститутивна народа, а сачињавају је људи истог или сличног етничког поријекла, исте или сличне традиције, обичаја, вјеровања, језика, културе и духовности и блиске или сродне повијеси и других обиљежја. Роми су најбројнија и најмаргинализованија национална мањинска група у БиХ.

Сложена етничко-религиозна структура, која је била и један од узрока крвопролића деведесетих година прошлог вијека, била је проблем у уставноправном обликовању уређења будуће државе приликом закључивања Дејтонског мировног споразума, којим је завршен четворогодишњи грађански рат. Устав данашње Босне и Херцеговине донијет је као анекс IV Дејтонског споразума, 14. децембра 1995. године. Њиме је регулисано да је Босна и Херцеговина држава са сложеним обликом државног уређења и владавине, у којима су изражени елементи федерализма и конфедерализма, а уставноправна рјешења садрже доста недоречености, правних празнина и института који су непознати у теорији и пракси сложених држава (Марковић, 2012). С обзиром да је Босна и Херцеговина „дубоко подијељено друштво“ (Касаповић, 2005, стр. 25), чији су „друштвени, вјерски и етнички принципи дубоко укоријењени у њезиној повијести, а припадници трију главних вјерских и етничких заједница никада нису трајно, заједно и масовно имали исту оријентацију и визију државе“ (Касаповић, 2005, стр. 195), Дејтонским споразумом је за њен политички систем

примијењен модел консоцијацијске демократије (Лајпхарт, 1992), који је представљао најефикасније рјешење за дугорочну одрживост.

Да би консоцијацијски механизми могли функционисати и испунити своју сврху, политичке елите морају бити спремне и способне да постигну компромис, међутим у Босни и Херцеговини нема компромиса о суштинским питањима (Марковић, 2012, 223-234).

Консоцијацијски модел демократије одржава систем „кочнице и равнотеже“ између главних конститутивних група и ту се мањинска права редукују. Разлог је што су таква подијељена друштва увијек у неизвјесности сукоба и због тога се тзв. вишак демократије мијења са стабилним владама великих коалиција.

Европска унија је споразум о стабилизацији и придруживању са Босном и Херцеговином закључила 16. јуна 2008. године (Stabilisation and Association Agreement between the European Communities and their member states and Bosnia and Herzegovina [SAA], 2015). Иако су све државе чланице ЕУ ратификовале споразум о придруживању Босне и Херцеговине до краја 2010. године, он је ступио је на снагу тек 1. јуна 2015. године јер Босна и Херцеговина није испунила све услове на које се обавезала приликом потписивања споразума, посебно: као прво, спровођење пресуде Европског суда за људска права у случају Сејдић-Финци од 22. децембра 2009. године, која захтијева измене Устава и Изборног закона Босне и Херцеговине; као друго, успостављање механизма координације за питања о ЕУ, тзв. „један глас из БиХ“. Стагнација на европском путу трајала је до децембра 2014. године када је, што је један од многих преседана у односу ЕУ - БиХ, Европска унија заузела нови, блажи приступ према Босни и Херцеговини којим се мијења редослијед услова које она мора испунити да би наставила свој пут у евроинтеграцијама, а фокус је стављен на социоекономске реформе. Након што су власти БиХ у јулу 2015.

године усвојиле *Реформску агенду за БиХ за раздобље 2015-2018* (Реформска агенда за БиХ за раздобље 2015-2018 [РАБиХ], 2015), Европска унија је дозволила ступање на снагу њеног споразума о стабилизацији и придруживању уз обавезу да накнадно испуни први услов, док је механизам координације усвојен у августу 2016. године. Босна и Херцеговина је поднијела апликацију за чланство у Европској унији 15. фебруара 2016. године, али Европска комисија још увијек није дала позитивно мишљење о отварању преговора о приступању. „Сејдић-Финци услов“ до данас није испуњен.

Дерво Сејдић и Јакоб Финци, држављани Босне и Херцеговине, обратили су се 2006. године Европском суду за људска права због немогућности да се као припадници ромске и јеврејске вјерске националне мањине кандидују за чланове Дома народа Парламентарне скупштине и Предсједништва БиХ на основу Устава БиХ који предвиђа да се у ове државне органе могу кандидовати само припадници конститутивних народа тј. српског, хрватског и бошњачког народа.

У пресуди је утврђена дискриминација особа које се не изјашњавају као припадници конститутивних народа, те се обавезују власти у БиХ да, у циљу отклањања утврђене повреде права у односу на апликанте, а уједно и у односу на све особе у сличној ситуацији, изврше измене одредаба Устава и Изборног закона БиХ на начин да се појединцима који се не изјашњавају као припадници конститутивних народа омогући да се кандидују за члана Предсједништва БиХ и за делегате у Дом народа Парламентарне скупштине БиХ. Суд је утврдио да су спорне уставне одредбе које искључују могућност „осталих“ да се кандидују, у то вријеме када су усвојене биле прихватљиве и слиједиле су циљ који је уопштено био у складу са Европском конвенцијом о људским правима, а то је успостављање мира.

Разматрајући период од када је БиХ ратификовала ову Конвенцију (12. јул 2002. године), суд је на основу постигнутог напретка у БиХ у периоду од потписивања Дејтонског мировног споразума, те на основу мишљења Венецијанске комисије која сматра да постоје механизми подјеле власти између конститутивних народа који аутоматски не значе потпуно искључивање представника осталих заједница, закључио да дуготрајна немогућност апликаната да се кандидују за наведене институције нема прихватљиво оправдање, те представља кршење опште забране дискриминације (односно Протокола бр.12 Европске конвенције о људским правима).²

Пресуду може спровести Парламентарна скупштина БиХ у којој је за измјене Устава БиХ потребна двотрећинска већина која би подржала неки од приједлога, а које досад није било. Република Српска је изразила спремност да се поступи по одлуци Европског суда за људска права и прихвата измјену Устава БиХ у вези са избором члана Предсједништва, односно чл. 5 тако што би се избацила етничка одредница. У овом ентитету постоји заједнички став страначких лидера да се члан предсједништва из Српске, као и до сада, бира директним путем (Република Српска је једна изборна јединица у том случају). У другом ентитету, Федерацији Босне и Херцеговине, не постоји сагласност о овом питању, представници хрватских и бошњачких странака се слажу да представницима „осталих“

народа треба омогућити да буду бирани у највише институције власти у БиХ, али не и око начина избора (нпр. странке с хрватским предзнаком траже рјешење којим би се гарантовало да ће један од изабраних чланова Предсједништва БиХ бити изабран гласовима Хрвата).

Спровођење пресуде Сејдић-Финци отвара и питање реформе Дома народа Парламентарне скупштине БиХ (првенствено питање броја његових чланова и надлежности) који је по својој уставној дефиницији дом конститутивних народа. Дејтонским мировним споразумом је конститутивност три етничке нације дефинисана као примарна, а конститутивност два ентитета као изведена и секундарна. Темелј опстанка Босне и Херцеговине као државе не почива на међусобној усаглашености ентитета, већ на заједничкој усаглашености три народа што за последицу има федеративно уређење као оптималан модел њеног одржања. Када народи имају заједничку сувереност она је недјелива, конститутивност је једнака, зато и нема доминације једне етничке заједнице над другом, а заједнички суживот и консociјативна демократија постају нужни облик одржања државе и функционисања друштва. Зато Босна и Херцеговина према уставу нема дом ентитета већ дом народа (Нешковић, 2013, стр. 204).

Садашња структура и организација Босне и Херцеговине заснована на задржавању уставне категорије три конститутивна народа, која је успостављена и вољом међународне заједнице, дакле и европских сила, без обзира на све несугласице међу Србима, Бошњацима и Хрватима показала се прилично добром за осигурање мира и стабилности, уз свјесно дјелимично ускраћивање права националним мањинама. Имплементација пресуде Сејдић-Финци би довела до тога да се промијени институционална архитектура Босне и Херцеговине која је консociјацијски обликована, те отвара

² Осим овога, Босна и Херцеговина је 2002. године постала чланица Савјета Европе чиме је преузела обавезу да измјени изборни закон који дискриминише припаднике националних мањина (приликом приступања обавезала се да ће то учинити у року од једне године уз помоћ савјетодавног тијела Савјета Европе „Европске комисије за демократију путем права“ тзв. Венецијанске комисије). На усклађивање спорних одредби је обавезна и према споразуму о придруживању са ЕУ којим је предвиђен рок од једне до двије године за ове измјене како би се осигурала пуна усклађеност са Европском конвенцијом о људским правима и обавезама према Савјету Европе.

доста компликованије питање - да ли је ова земаља на то спремна, с обзиром да то значи и могућност нових конфликта. Тзв. Сејдић-Финци услов активира расправе о одрживости садашњег уређења Босне и Херцеговине, посебно ентитета Федерације БиХ. Иако Европска унија истиче да специфично уређење БиХ није препрека за успешно учешће у евроинтеграцијама, њен садашњи статус у том процесу показује нам супротно.

ЗАКЉУЧАК

У раду је прво указано на разлику између етничког и националног концепта мањина, са фокусом на овај други, чије је основно обиљежје да има своју матичну, националну државу. Завршетак Хладног рата најтеже посљедице оставио је на Балкану, гдје је због његове сложене етничке и религиозне структуре становништа, пораст национализма узроковао настанак нових националних држава и сукобе, што је и питање положаја националних мањина учинило једним од кључних фактора стабилности региона. Неријешена мањинска питања су битан проблем демократизације земаља Западног Балкана.

Основни фактори који одређују положај мањина у овом региону су, поред грађанског рата у бившој СФРЈ, сама историја балканских народа и утицај Европске уније. Унапређење статуса и права националних мањина у региону највећим дијелом је резултат чињенице да је Европска унија само укључивање и кретање ових земаља на европском путу условила побољшањем права мањина. Посебан осврт дат је на Босну и Херцеговину која има специфично рјешење положаја националних мањина, а готово деценију и по не проналази рјешење како да имплементирата пресуду Европског суда за људска права у случају Сејдић-Финци, која се односи на права мањина, јер то захтијева и промјену институционалне архитектуре ове земље. Са друге стране,

став Европске уније је да без примјене ове пресуде за Босну и Херцеговину нема потпуног учешћа у процесу европских интеграција.

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THE POSITION OF NATIONAL MINORITIES IN THE WESTERN BALKAN COUNTRIES

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ABSTRACT

The paper analyzes the position of national minorities in the Western Balkans region, with an emphasis on the countries created through former SFR Yugoslavia's dissolution, which are characterized as new national states. It has been pointed to the specificities of this form of national state, primarily nationalism as the basis in all the domains of functionality, which is the main reason for the negative relation toward minorities. The accession to the European Union is the main motivation factor toward solving the issues of the minorities in this region. The situation in Bosnia and Herzegovina is especially complicated considering that the specific solution of national minorities' status is one of the causes of stagnation of this country in European integration process.

Keywords: new national state, national minorities, SFR Yugoslavia.

AUSTRIJA I BOSNA I HERCEGOVINA U KONSOCIJACIJSKOJ TEORIJI I PRAKSI

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APSTRAKT

Predmet istraživanja ovog rada su modeli konsocijacijske demokratije u Austriji i Bosni i Hercegovini. Cilj je da se u komparativnoj analizi definišu sličnosti i razlike između konsocijacijski oblikovanih sistema vladavine u ove dvije zemlje, njihova praksa i dometi. Na bazi tih zaključaka izvodimo nova saznanja u oblasti djelovanja i mogućnosti konsocijacijskih aranžmana u podijeljenim društvima savremene Evrope. Naučna opravdanost ovog rada je u tome da se kroz analizu različitih konsocijacijskih demokratija i njihova paktična iskustva,

ocjene dometi ovog oblika demokratske vladavine, a zaključci teorijski dodaju postojećem fundusu naučnog znanja o ovom fenomenu. Društveni doprinos rada je u činjenici da je konsocijacijska demokratija sve češće riješenje za brojna podijeljena društva i zbog toga je analiza postojećih konsocijacijskih demokratija društveno opravdana tema.

Ključne riječi: Austrija, Bosna i Hercegovina, podijeljena društva, konsocijacijska demokratija.

UVOD

Iako na prvi pogled različite i teorijski nespojive, Austrija i Bosna i Hercegovina imaju minimalno tri razloga da budu predmet komparativne analize u okviru izučavanja konsocijacijskih modela u podijeljenim društvima savremenog svijeta. Prvi je istorijski, jer je Austrougarska monarhija, čije je nasljeđe baštini savremena Austrija, uspostavila prvi savremeni Ustav (Statut) Bosne i Hercegovine 1910. godine. Ovaj je dokument definisao kurijalno biračko pravo (pravoslavnu, muslimansku i katoličku izbornu kuriju) što je omogućilo prevlast nacionalno i vjerski definisanih partija u Saboru i političkom životu tadašnje Bosne i Hercegovine. Izborna rješenja iz 1910. godine, nametnuta voljom austrougarskih vlasti, bila su prvi institucionalizovani mehanizmi u procesu konsocijacijskog oblikovanja Bosne i Hercegovine. Drugi razlog komparativnog izučavanja ove dvije zemlje je u pokazivanju različite geneze nastanka konsocijacijskih demokratija u Austriji i Bosni i Hercegovini. Upravo je taj različit „metodološki“ postupak doveo do dva suprotna rezultata – uspjeha austrijske i neuspjeha konsocijacijske demokratije u Bosni i Hercegovini. Treći razlog

komparativnog izučavanja ove dvije zemlje je u odnosu njihove neformalne i institucionalizovane konsocijacije. Austrija je poslije Drugog svjetskog rata, od početnih institucionalno zagarantovanih formi konsocijacijske logike ponašanja, vremenom sve više ulazila u fazu unutrašnje homogenizacije i dogovora bez usmjeravanja koja nameću institucionalizovani konsocijacijski okvir. Bosna i Hercegovina je imala obrnut put. Ona je poslije Drugog svjetskog rata u uslovima ideološko i partijski oblikovanog totalitarnog jednostranačja poštovala logiku konsocijalizma kroz proklamovanu ideju „duha bratstva i jedinstva bh naroda“. Odumiranjem totalitarnog režima Saveza komunista i globalnom „trećetalasnom demokratizacijom“ obnovljeno je višestranačje u Bosni i Hercegovini. Njime su otvoreni nacionalni problemi koji su Bosnu i Hercegovinu, bez institucionalizovanih mehanizama konsocijacijske zaštite podijeljenih segmenata, a uz izgublenu ideju „bratstva i jedinstva“ uveli u rat. Njena savremena institucionalizovana konsocijacija je proizvod „nametnutog rješenja odozgo“ (putem međunarodnog mirovnog sporazuma iz Dejtona, kreiranog i popisanog vojnom i političkom intervencijom Sjedinjenih Američkih Država i njihovih partnera), a ne „bazičnog konsenzusa odozdo“ (što bi podrazumijevalo dogovor oko državnosti i državnog uređenja elita segmenata podijeljenog društva Bosne i Hercegovine – bošnjačke, srpske i hrvatske).

Osnovnu tezu ovog rada crpimo iz radova brojnih teoretičara i pobornika konsocijacijske demokratije koji smatraju da su konsocijacijski aranžmani najbolji oblik prevencije i zaustavljanja sukoba u podijeljenim društvima. Međutim, njima suprotstavljeni teoretičari navode argumente koji idu u prilog tezi da konsocijacijski mehanizmi nerijetko znaju da budu činjenica koja opstuiše dalji demokratski razvoj. Naša teza prihvata tačnost obje argumentacije i ne postavlja ih u relaciju međusobnog isključivanja. U radu polazimo od pretpostavke da je

institucionalizovana konsocijacija najbolji model za održavanje mira i „realno ostvarivog nivoa demokratije“ u podijeljenim društvima. Nju smatramo političko-sistemskom platformom kojom se demokratski razvoj može da „zamrzne“, ali i da se otvori i dalje razvija pod uslovom da za to budu stvoreni odgovarajući kulturno-politički preduslovi. Takođe prihvatamo ograničenja institucionalizovane konsocijacijske demokratije u vidu onog dijela kritika koji se odnose na složenost procesa odlučivanja, izraženu partokratizaciju i političko-sistemsku centrifugalnost. Uspjeh konsocijacijske demokratije u određenom društvu zavisi od načina njenog institucionalnog uspostavljanja, sposobnosti izgradnje vlastitih modela pregovaranja i kompromisnosti elita podijeljenog društva, spremnosti suverenog naroda i njihovih elita na prihvatanje „logike konsocijalizma“, izgradnje društvenih centara moći koji će da budu odgovarajući korektiv partokratskim politikama i partikularnim interesima političkih elita, te međunarodnog konteksta u kojem se određena zemlja nalazi (pitanje geopolitičke pozicije i inostranog intervencionizma).

Istražujući gore navedene uslovnosti kompariramo konsocijacijske demokratije u Austriji i Bosni i Hercegovini. Na primjeru ove dvije zemlje pojašnjavamo kakve rezultate daje ovaj model demokratije u uslovima različitih kulturno-istorijskih nasljeđa, odnosa između segmenata podijeljenog društva, sposobnosti društveno-političkog redefinisavanja, međunarodnog konteksta i različitih metodoloških pristupa ostvarivanju konsocijacijskog aranžmana. Takođe otvaramo pitanja stabilnosti i funkcionalnosti političkog sistema, balansa između kolektivnih i pojedinačnih prava i međunarodnih integracija koje su postale neminovnost modernog doba. Navedene teze dovoljan su istraživački motiv za pisanje ovog rada u čijim zaključnim dijelovima želimo da izvedemo nova teorijska zapažanja, te da redefinišemo stara u okviru teorije o podijeljenim društvima i njihovim političko-sistemskim uređenjima.

KARAKTER KONSOCIJACIJSKE DEMOKRATIJE U AUSTRIJI

Pojedini teoretičari kažu da bi se razumjela realnost sadašnjeg vremena moramo imati osjećaj za prošlost (Fladerer, 2010, p 95). Zbog toga je veoma važno razumjeti istorijski aspekt i nastanak podijeljenog društva u Austriji kao i nastanak, po mnogo čemu, jedinstvene konsocijacijske demokratije kao jednog od oblika demokratske vladavine (Seeleib-Kaiser, Van Dyk, & Roggenkamp, 2008, pp 1-2).

Konsocijacijska demokratija u Austriji kao podijeljenom društvu nastala je odmah nakon Drugog svjetskog rata i stvaranja Druge austrijske republike kao nužna alternativa prijetećem raspadu države jer, kao što piše čuveni američki politikolog holandskog porekla Arend Lajphart (Arend Lijphart), suprotnost konsocijaciji je isključivo raspad države ili nasilno pretvaranje podijeljenog društva u nepodijeljeno to jeste asimilacija stanovništva što podrazumijeva promjenu identiteta (Kasapović, 2005, p 192). Pluralno društvo u Austriji nastaje stvaranjem tzv. Prve austrijske države, nastale nakon raspada Austrougarske monarhije 1918. godine, a ogledala se u „nametnutom austrijskom identitetu“ (Lauber, 1996, pp 126-127) koji niko nije želio jer se većina stanovnika smatrala Njemcima, izuzev elite u Katoličkoj crkvi koja je sanjala povratak „multinacionalne“ (Kramer, 1996, pp 8-9) Austrougarske monarhije (Sully, 1981, pp 2-3). Bilo je to vrijeme ideološkog fanatizma i isključivosti na ideološkoj osnovi između dva neprijateljski suprotstavljena tabora socijaldemokrata i pan-njemačkih nacionalista i liberala koji su čak formirali i „svoje paravojsne formacije“ (Lauber, 1996, pp 265-266). U takvoj ideološko-političkoj atmosferi i u uslovima siromaštva stanovništva usljed plaćanja reparacija silama pobjednicama Prvog svjetskog rata, te opšteg beznađa društva novonastale države (Sully, 1981, p 9), započet je „građanski rat 1934. godine“ (Lauber, 1996, pp 265-266) poslije kojeg je Prva austrijska država anektirana 1938. godine

od strane nacističke Njemačke, a njeni su gradovi Salzburg i Grac postali najveći nacistički centri (Sully, 1981, pp 100-101).

U Prvoj austrijskoj državi postojala su tzv. „tri Lagera“ (Heinisch, 2002, p 19). Riječ o Socijaldemokratskom lageru, Pan-njemačkom lageru i Katoličko-konzervativnom lageru, koji iako ideološki suprotstavljeni nisu željeli Prvu austrijsku državu (Kramer, 1996, p 151). U uslovima takve ideološke podijeljenosti između liberala Pan-nemačkog lagera i marksista Socijaldemokratskog lagera, treći Katoličko-konzervativni lager odustaje od početnog neprijateljskog stava protiv liberala „Pan-nemačkog lagera“³ i za glavnog neprijatelja proglašavaju marksiste Socijaldemokratskog lagera (Berger, 2010, pp 74-75). Pogotovo im je zasmetao uspon popularnosti u tzv. „crvenom Beču“ (Berger, 2010, 72-73) gdje su socijaldemokrate putem progresivnog oporezivanja izgradile mnoštvo savremenih škola, vrtića, bolnica i stambenih zgrada (Sully, 1981, pp 122-123). Zbog toga je Katolička crkva pokrenula stvaranje svojih katoličkih udruženja i aktivnosti pa je svaki pripadnik Katoličko-konzervativnog lagera morao čitati katoličke novine, ići kod katoličkog frizera, voditi dijete u katolički vrtić ili katoličku školu, i konačno na parlamentarnim izborima glasati za isključivo katoličku partiju tj. Hrišćansko-socijalnu partiju (Christlichsoziale Partei – HSP) predhodnicu današnje Austrijske narodne partije (Österreichische Volkspartei – ÖVP) (Evans, 1999, pp 8-9). Ovakvo svoje djelovanje Katolička crkva je nazvala „korporativizmom“ (Evans, 1999, pp 4-5) dok su drugi posmatrači ovaj proces imenovali „političkim katolicizmom“ (Evans, 1999, 8-9). Katolički

³Pan-njemački lager su, zbog jasnijeg razumjevanja, pretežno činili njemački protestanti „luteranci i reformisti“ (Bunker 2005: 140-143) koji su bili nastanjeni u pokrajinama (Länder) Burgenland, Gornja Austrija, Štajerska i Koruška, kao i konzervativci protivnici Katoličke crkve, koji su svi zajedno bili veoma nepoverljivi prema Katoličkoj crkvi naročito zbog njihove politike pokatoličavanja Njemaca protestanata (Heinisch, 2002, p 50).

korporativizam” to jeste „politički katolicizam“ je bio prva matrica koja je iskorištena u stvaranju konsocijacijske demokratije Druge austrijske republike (Talos, 1996, pp 103-104).

Svojevremeno je Arend Lajphart napisao da je u konsocijacijskom inženjeringu važno poštovati redosljed poteza (Lijphart, 1992, p 50). U slučaju Druge austrijske republike konsocijacijska demokratija je bila prinudna jer je njeno konstituisanje počelo 1945. godine odmah nakon završetka Drugog svjetskog rata, u uslovima okupacije savezničkih snaga,⁴ a njen prvi potez je bio, pored „prividne denacifikacije“⁵ i „odustajanja socijalista od marksizma“, ugradnja političkog katolicizma u tzv. „socijalno partnerstvo“ i pretvaranje Katoličke crkve u kohezionog faktora konsocijacijske demokratije u Drugoj austrijskoj republici (Müller, & Steininger, 1994, pp 87-94).

U ostvarivanju politike prema kojoj je Katolička crkva postala kohezioni faktor u okviru tzv. „socijalnog partnerstva“, koje je usput neustavna kategorija i koje je nastalo isključivo kao koalicioni dogovor poslijeratne i prinudne „velike koalicije“ socijalista i „narodnjaka katolika“ (Conway, 2001, pp 306-307), a u uslovima okupacije (Pelinka, 1983, pp 234-235), sva tri Lagera su morala međusobno približiti stavove. Katolička crkva je prihvatila liberalizam i demokratiju „protiv kojih je bila u Prvoj

austrijskoj republici” pa je u tom smislu „odustala od formalnog tutorstva” nad vodećom Austrijskom narodnom partijom (ÖVP) pristajući na naziv „narodne partije“ (Horner, 2001, p 745) umesto hrišćanske koji maskira katoličke vrijednosti to jeste „katoličku socijalnu doktrinu” (Müller, & Steininger, 1994, pp 94-95). Sa druge strane Socijalistička partija Austrije (Sozialistische Partei Österreichs – SPÖ) morala je da se odrekne svojih radikalnih i revolucionarnih članova pa je čak, što je veoma interesantno, u uslovima okupacije to jeste „prećutne saglasnosti” okupacionih snaga pozvala ogroman broj svojih članova izbeglih Jevreja da se ne vraćaju u Austriju s obrazloženjem da to može ugroziti stabilnost mlade austrijske države (Sully, 1981, pp 40-41). Dodatno, trećem Pan-nemačkom lageru, koga su činili nacisti, je donešenim Zakonom o denacifikaciji zabranjeno „formalno političko delovanje” ali i izbornim sistemom u kojem su dvije vodeće partije Socijalisti (SPÖ) i Narodnjaci (ÖVP) forsirane kroz duplo postavljeni cenzus i već etablirano i neustavno „socijalno partnerstvo“ koje je popunila „velika koalicija“ (SPÖ i ÖVP) sastavljena isključivo od Socijalista i Narodnjaka (Pelinka, 1983, pp 234-235). Očigledno je da okupacione snage koje su tada stvarale konsocijacijsku demokratiju u Austriji nisu mogle da spriječe, pa čak i Zakonom o denacifikaciji, političko delovanje „ogromnog broja nacista” (Sully, 1981, pp 158-159). Zanimljivo je da je Austrija „bila proglašena za žrtvu od strane nacizma“ (Heinisch, 2002, pp 13-16) iako su mnogi vodeći nacisti bili porijeklom iz Austrije. Tako se dogodilo da je 1949. godine na parlamentarnim izborima „nacistička partija” pod nazivom Liga nezavisnih (Verband der Unabhängigen – VdU), predhodnica današnje Slobodarske partije Austrije (Freiheitliche Partei Österreichs – FPÖ), osvojila čak 12% glasova dok je Slobodarska partija Austrije (FPÖ) 1956. godine odmah nakon proglašenja nezavisnosti 1955. godine postala treća politička partija po snazi u Austriji.

⁴Austrija je od 1945. do 1955. godine, kada je stekla nezavisnost, bila okupirana od strane savezničkih sila i bila je podijeljena na okupacione zone: sovjetsku, američku, britansku i francusku (Berger, 2010, p 86).

⁵Iako je Austrija, u uslovima okupacije od strane savezničkih trupa, donijela Zakon o denacifikaciji kojim je zabranjeno političko djelovanje bivših nacista, to nije bio njihov stvarni pad i totalno odstranjivanje iz političkog života. Bivši nacisti (dva novinara i nekoliko demobilisanih vojnika nacističke Njemačke) su 1949. godine osnovali pronacističku partiju Ligu nezavisnih (Verband der Unabhängigen – VdU) koja je na parlamentarnim izborima, te iste godine, osvojila 12% glasova. Ona je prethodnica današnje Slobodarske partije Austrije (Freiheitliche Partei Österreichs – FPÖ) (Sully, 1981, pp 100-101).

Sa druge strane, uporedo sa izgradnjom konsocijacijskih institucija na nedemokratski način jer se sav proces odigravao u uslovima okupacije to jeste nametnute „velike koalicije“ u okviru „nametnutog dvopartijskog izbornog sistema“ (Müller, 1996, pp 92-93) i „nametnutog socijalnog partnerstva“ (Pelinka, 1983, pp 234-235) sa „političkim katolicizmom kao kohezionim faktorom“ (Irving, 1979, pp 1-2) krenulo se i sa jačanjem austrijskog identiteta. To je najprije učinjeno „stvaranjem straha“ (Heinisch, 2002, pp 12-16) od nacističke prošlosti koja je oprostena Austriji time što je proglašena žrtvom, a ne nacističkim prostorom, da bi se nedugo poslije toga stvorio „mit o postojanju nečega naročito austrijskog“ (Sully, 1981, pp 4-5) to jeste „mit o izuzetnosti“ (Gerlich, 1996, p 213) zbog čega je „mala alpska nacija“ (Heinisch, 2002, p 13) osnažena međunarodnim „neutralnim statusom“ (Kramer, 1996, pp 4-5). Austrija je uz ostvareni postratni ekonomski napredak 1971. godine od Pape Pavla VI (Pope Paul VI) dobila epitet graditelja mira, kao i epitet „ostrva blagoslovenih ljudi“ (Heinisch, 2002, pp 13-15). U ovakvoj situaciji prihvatanje austrijskog identiteta raste i kreće se od totalnog nipođaštavanja 1945. godine do 47% prihvaćenosti 1956. godine (Lijphart, 1992, p 87), zatim 66% 1964. godine, pa do današnjeg skoro totalnog prihvatanja austrijskog identiteta (Sully, 1981, pp 4-5).

Dakle, dok je s jedne strane politička stabilnost postignuta izgradnjom konsocijacijskih institucija i političke kulture pogotovo preko popularizacije zajedničkog austrijskog identiteta, dotle je višestruka raspodjela moći postignuta stvaranjem tzv. „socijalnog partnerstva“ koje je sačinjeno od četiri Komore (Komora sindikata – ÖGB, Komora rada – AK, Komora privrede – BWK i Komora poljoprivrede – LWK) koje na osnovu „zakonski obaveznog članstva“ (Talos, 1996, pp 104), osim Komore sindikata (ÖGB), gotovo svih zaposlenih u Austriji i mrežne povezanosti sa vodećim političkim partijama (ÖVP i SPÖ), koje su bile

koalicioni stvaraoci ovakvog sistema (Seeleib-Kaiser, et al., 2008, pp 2-3), postaju najjači konsocijacijski instrument dogovaranja (Sully, 1981, pp 23-25). On je snažniji i od partijskog sistema i pregovaračkih mehanizama parlamentarizma (Sully, 1981, pp 22-23). Usljed toga austrijsko društvo postaje klijentelističko i više zainteresovano za članstvo u Komorama socijalnog partnerstva nego u političkim partijama (Talos, 1996, pp 103-104). Rezultat tog „preplitanja“ (Seeleib-Kaiser, et al., 2008, pp 2-3) je neprestano „preliminarno dogovaranje“ (Gerlich, 1996, p 220) u Komorama socijalnog partnerstva zbog čega su vodeće političke partije (ÖVP i SPÖ) postale zapravo „delegati Komora socijalnog partnerstva“ sa relativno mladim liderima i ležernim političkim stavovima jer u suštini nisu zadužene za donošenje važnih odluka koje su već donesene (Talos, 1996, pp 106). Naravno, ovakva partijska ležernost je pripisana austrijskoj političkoj kulturi kao još jednom dijelu već stvorenog „mita o izuzetnosti“ (Talos, 1996, pp 106).

Konačno, treba još i dodati da je socijalno partnerstvo (četiri Komore) postalo osnovni temelj konsocijacijske demokratije u Austriji to jeste „temelj stabilnosti i višestruke raspodjele moći“ (Talos, 1996, pp 103-104). Sve to na način što su s jedne strane dvije vodeće političke partije (ÖVP i SPÖ) u poslijeratnoj „velikoj koaliciji“ kao tvorci prenijele na ovaj neustavni konsocijacijski mehanizam svoju „decentralizovanu strukturu to jeste proporcionalnost“ (Sully, 1981, pp 54-55) kao i „na bazi pariteta“ (Talos, 1996, pp 110) stalno učešće u „Komisijama kancelarske Vlade“ (Seeleib-Kaiser, et al., 2008, pp 2-3), dok su sa druge strane omogućile Komorama socijalnog partnerstva kroz „obavezno članstvo“ (Talos, 1996, pp 104) gotovo svih zaposlenih u državi (sem Komore sindikata – ÖGB) ogromnu finansijsku moć usljed čega su Komore socijalnog partnerstva sa partijskim liderstvom postale „tutori celokupnog partijskog sistema“ (Talos, 1996, pp 6-7). U njemu se lideri političkih partija „međusobno druže“ (Sully, 1981, pp

20-21) jer su istovremeno i funkcioneri u Komorama socijalnog partnerstva u kojima se svakodnevno dogovaraju zbog čega u Austriji „nema štrajkova” (Talos, 1996, pp 113-114) niti nekakvih žestokih partijskih rasprava u Parlamentu (Talos, 1996, pp 106-108). Konsocijacijska demokratija u Austriji posjeduje „brizljivo dogovoreni sistem saradnje“ (Lijphart, 1992, p 106), uspostavljen uz pomoć socijalno-ekonomskih interesnih grupa (Seeleib-Kaiser, et al., 2008, pp 1-2) koje su pomirile sve duboko nepomirljive razlike iz predhodnih vremena.

KARAKTER KONSOCIJACIJSKE DEMOKRATIJE U BOSNI I HERCEGOVINI

Bosnu i Hercegovinu je moguće uporediti sa tradicionalnim jelom koje se pravi na njenom prostoru nazvanim sarma. Sarma se najčešće pravi od riže i mljevenog mesa umotanog u nekoliko listova kupusa te skuvanog u loncu. Riječ je o jednostavnom, ali nepredvidivom jelu. Pored osnovna tri sastojka: mljevenog mesa, riže i kupusa brojni kuvari u nju dodaju različite začine i dodatke, od slanine, preko gljiva, do raznog drugog povrća. I to zavisi od mjesta do mjesta, pa čak i od vjerske ili nacionalne skupine. Koliko god sarmi vremenom da probate svaka naredna može da vas pozitivno, ali i neprijatno iznenadi. Tako je i sa Bosnom i Hercegovinom, koliko god da je izučavamo uvijek nas nečim političkim iznenadi, a to po pravilu vodi ka redefinisaju određenih naučnih zaključaka. To je posljedica njene pluralnosti građene u dugom istorijskom trajanju i političko-sistemskih rješenja koja nisu njen autohtoni i konsenzualni proizvod.

Pluralno društvo u Bosni i Hercegovini stvarano je vijekovima, a primarno su ga oblikovali geografija i religija. Bosna i Hercegovina je planinska zemlja koju presjecaju jake rijeke spuštajući se ka širokom prostoru Panonske nizije na Sjeveru i Jadranskom moru na Jugu. Dolinama rijeka prolazili su karavanski putevi između Sjevera i Juga, a posebno

između Istoka i Zapada. Oni su osim rijekama išli kroz planinske visoravni i vrleti, često neprohodne i hladne. Na ovom se prostoru još od neolita razvijaju različite manje kulture (Butmirska, Glasinačka i druge), čije je stanovništvo ustupali mjesto novim narodima (umnoome se asimilujući sa potentnijim entitetima) koji su se ovdje naseljavali. Brojni ratovi i seobe, a posebno postojanje različitih imperijalnih osvajača, njihovih carstava, religijskih, društveno-ekonomskih i političko-sistemskih obrazaca, učinile su prostor današnje Bosne i Hercegovine pluralnim. Njena pluralnost se ogleda u snažno prisutnim socijalnim razlikama, izraženim regionalizmima, različitim i nepomirljivim istorijskim interpretacijama, sukobom između tradicionalnog i modernog, autoriteta i slobodarstva, obrazovanja i neukosti. Međutim, nijedna podjela nije toliko učinila prostor Bosne i Hercegovine pluralnim kao što je to religijska. Prva velika podjela nastaje kada se poslije 1054. godine hrišćanstvo dijeli na katolički i pravoslavni dio. Prostor Bosne i Hercegovine se našao na granaci, pa je nerijetko bio predmet međuvjerskih sukoba. Sve je dodatno usložio prodor islamske religije u Evropu i pad Bosne, a kasnije i Hercegovine pod Osmansko carstvo.

O složenosti ovog problema koji je Bosnu i Hercegovinu učinio pluralnim prostorom pisali su brojni autori. Među njima je i Ivo Andrić koji u „doktorskoj disertaciji Razvoj duhovnog života u Bosni pod uticajem turske vladavine (1923) u drugom poglavlju naslovljenom kao „Širenje islama kao neposredan uticaj turske vladavine“ kaže: "Od odlučujućeg značaja je to da je Bosnu, u najkritičnijem trenutku njenog duhovnog razvoja, u doba kada je previranje duhovnih snaga dostiglo vrhunac, osvojio jedan azijski ratnički narod čije su društvene institucije i običaji značili negaciju svake hrišćanske kulture i čija je vera – nastala pod drugim klimatskim i društvenim uslovima i nepodesna za svako prilagođavanje – prekinula duhovni život zemlje, izobličila ga i od tog života načinila nešto sasvim osobeno". Ovim je autor za račun

hrišćanske Evrope marginalizovao islam na šta je odmah reagovao jedan od njegovih recezenata prof. dr Hajnrih Feliks Šmit izražavajući bojazan da "jedna od autorovih teza, njegovo poricanje svakog za kulturu posticajnog uticaja islama i Turaka, neće ostati bez prigovora..." (СИМОВИЋ, 2008). I zaista, Ivo Andrić je izazvao polemiku, posebno njegovi kasniji literarni radovi u kojima pokazuje svu složenost međureligijskih odnosa i života u Bosni i Hercegovini. Svu njenu pluralnost i „tamnovilajetnost“ zbog koje je i danas zatvorenik svojih podjela i lak plijen inostranih osvajača. Decenijama kasnije Ivo Andrić dobio je surov i neargumentovan prigovor, za šta je bojazan izrazio ranije pomenuti Hajnrih Feliks Šmit. Najveću kritiku Andrićevog literarnog i naučnog rada dao je Muhamed Filipovića koji u eseju pod nazivom „Bosanski duh u književnosti – šta je to?“ kaže da je književnost Ive Andrića „Bosnu više dijelila, negoli mnoge vojske koje su preko nje marširale i u njoj krv proljevale“ (Život, 1967, str. 6).

Upravo ovakva formulacija Muhameda Filipovića pokazuje svo licemjerstvo politike negacije religijski duboko podijeljenog društva Bosne i Hercegovine o čemu je Ivo Andrić briljantno pisao. On je ovo činio daleko prije Sejmuela Hantingtona koji je za Bosnu i Hercegovinu konstatovao da se nalazi na „krvavoj liniji sukoba civilizacija“ (ХАНТИНГТОН, 2000, стр. 230). Muhamed Filipović pripada onoj idejnoj preteči savremenih bošnjačkih intelektaualaca koji žele da umanje religiozni pluralizam i konfliktnost Bosne i Hercegovine, čime se umnogome minimalizuje islamska uloga u izgradnji podjela i konflikata na ovom prostoru, a otvara se mogućnost za izgradnju kvazi-građanskog modela u kojem, u situaciji klasične predstavničke demokratije, postoji brojčana „nadmoć“ muslimansko-bošnjačkog elementa. Elitu koja zastupa ovu političko-teorijsku logiku nazivamo antikonsocijalistima i o njihovim kritikama konsocijacijske demokratije u Bosni i Hercegovini smo pisali obimnije u

ranijim radovima (СИМОВИЋ, 2019, стр. 177-181).

Koliko je religija bila i ostala bitna kategorija u pluralizaciji stanovništva u Bosni i Hercegovini piše Milorad Ekmečić navodeći religiju glavnom vododjelnicom nacije: „Religija kao vododjelnica nacije se nije mogla suzbiti u uslovima opšteg zaostajanja razvoja Balkana u socijalnom i kulturnom pogledu. I u vremenima dominacije jugoslovenske ideologije, religija za južnoslovenske narode ostaje uvek dominantni 'ancien depot'. To je osnova od koje se uvek polazi od početka. Ne samo programi političkih stranaka, velike deklaracije prelomnih istorijskih vremena, nego način ponašanja vernika raznih religija je uvek dioba na račun drugih religija i verovanja. Ne samo programi političkih grupacija, socijalnih slojeva i vlada, nego način mišljenja na večernim sedeljama da se ubije dugo zimsko vreme, opterećeno je ambisom religiozne podele“ (ЕКМЕЧИЋ, 2007, стр. 201).

Religijske podjele iz predosmanskog doba, koje dobijaju svoju novu pluralnost u vrijeme Osmanske vladavine, kulminirale su u vrijeme vladavine Austrougarske monarhije, koja je krenula sa identitetskim eksperimentisanjem u vidu bosanstva, da bi kasnije, sa nastankom Jugoslavije, došla ideja jugoslovenstva. Sve ovo učinilo je pluralnost Bosne i Hercegovine snažnom i opterećujućom. Sve zemlje svijeta su heterogene. Međutim, ne na isti način i sa istim političkim posljedicama. U tom kontekstu Mirjana Kasapović piše da su „sva moderna društva pluralistička, ali su samo neka od njih pluralna. U oba tipa društava postoje značajne kulturne, to jeste vjerske i etničke podjele, ali samo u pluralnim one imaju istaknuto političko značenje“ (Kasapović, 2011, str. 68). Zbog tog istaknutog političkog značenja koje ima religija u Bosni i Hercegovini, a koja je primarno oblikovala njene današnje konstitutivne nacije (bošnjačku, srpsku i hrvatsku) Mirjana Kasapović ocjenjuje: „Raspadom autokratskoga komunističkoga poretka u Bosni i Hercegovini gotovo su odmah izbile na vidjelo stare vjerske i

nacionalne podjele“ (Kasapović, 2005, str. 133).

One su dobile potvrdu, početkom devedesetih godina dvadesetog vijeka, u formiranju stranaka sa nacionalnim predznakom koje su kasnije otvorile sukob koji je bez institucionalnih konsocijacijskih mehanizama veta i međunacionalnih ograničenja završio u tragičnom ratu (1992-1995). O nastanku političkih partija u Bosni Hercegovini i uticaju religije na njihovo političko samooblikovanje detaljnije smo pisali u našim ranijim radovima (Simović, 2011; Симовић, 2012; Симовић, 2014). Proces koji je doveo do rata u Bosni i Hercegovini bio je kombinacija slabe političke kulture koja je posljedica autoritarnog nasljeđa, odstupanja od logike konsocijalizma koja je decenijama postojala kao neformalna i svakodnevna praksa u komunikaciji ljudi unutar Bosne i Hercegovine, zatim procesa sukoba putem jednostranog donošenja niza konstitucionalnih odluka najvažnijih nacionalnih partija i nezaobilaznog međunarodnog intervencionizma.

Godine autoritarne političke kulture i nedemokratsko iskustvo bili su ključni razlog nesposobnosti pregovaranja najvećeg dijela nacionalno-političkih elita oko dva ključna pitanja u Bosni i Hercegovini. Prvo je bilo pitanje nezavisnosti Bosne i Hercegovine, a drugo pitanje njenog uređenja. Stranka demokratske akcije koja je bila vodeća muslimanska (kasnije će Muslimani promijeniti naziv u Bošnjaci (1993)) partija zastupala je stav o nezavisnoj i centralizovanoj Bosni i Hercegovini. Srpska demokratska stranka kao najveća srpska partija tražila je ostanak Bosne i Hercegovine u Jugoslaviji i stvaranje decentralizovanog sistema unutar Bosne i Hercegovine. Hrvatska demokratska zajednica podržavala je nezavisnost Bosne i Hercegovine, ali i njeno buduće decentralizovano uređenje.

Krhka demokratska svijest i odsustvo demokratske prakse pregovaranja dovelo je do procesa jednostranog donošenja niza konstitucionalnih odluka najvažnijih nacionalnih partija, što je suprotno logici konsocijalizma, a u slučaju Bosne i

Hercegovine to je značilo i otvaranje vojnog sukoba. Sumirajući istraživanja koja je na ovu temu provodio Radimir Nešković prenosimo najvažnije i često preglasavanjem („tiranijom većine“) usvojene akte u periodu od 1990. do 1992. godine (Nešković, 2013, str. 128-154). Sve je počelo sa donšenjem amandmana LX na Ustav Bosne i Hercegovine (ovaj je amandman izglasan voljom Saveza komunista Bosne i Hercegovine pred kraj njihove jednopartijske vladavine) kojim je pomjeren balans sa etničkog ka građanskom. Poslije ovog dokumenta usljedila je inicijativa za konstituisanjem Vijeća naroda koju je pokrenula Srpska demokratska stranka i koji bi kao političko-sistemska institucija imao mogućnost ostvarivanja nacionalnog veta čime bi se spriječila majorizacija bilo koje od konstitutivnih nacija. Ova konsocijacijski determinisana inicijativa je odbijena poslije čega je usljedila odluka o osnivanju Srpskog nacionalnog vijeća, a zatim odluke o osnivanju srpskih autonomnih oblasti i regije. Po formiranju prve demokratski izabrane skupštine 1990. godine većina sastavljena od SDA, SDS i HDZ je bila međusobno netrpeljiva i sklona konstitucionalnom preglasavanju partnera što se vidi u nizu donesenih akata. Među prvima je bio podnošenje Memoranduma – pisma o namjerama Stranke demokratske akcije, a zatim i definisanje Platforme o položaju BiH u jugoslovenskoj državnoj zajednici. Ove su odluke nastale kao proizvod okupljanja antijugoslovenske koalicije oko Stranke demokratske akcije i Hrvatske demokratske zajednice. Reakcija njihovog koalicionog partnera Srpske demokratske stranke bila je u donošenju odluke o osnivanju Skupštine srpskog naroda u Bosni i Hercegovini (kojoj se priključio poslanik Srpskog pokreta obnove te kasnije i deset poslanika iz tzv. „lijevog bloka“ partija). Ovo je tijelo donijelo niz odluka među kojima su najvažnije: Odluka o ostajanju srpskog naroda Bosne i Hercegovine u zajedničkoj državi Jugoslaviji, Odluka o organizaciji i provođenju plebiscita srpskog naroda u Bosni i Hercegovini o ostajanju u

Jugoslaviji, Deklaraciju o proglašenju Republike srpskog naroda Bosne i Hercegovine, Ustav Srpske Republike Bosne i Hercegovine i Odluku o povlačenju predstavnika predstavnika SR Bosne i Hercegovine iz saveznih državnih organa i organizacija. Uskoro je i Hrvatska demokratska zajednica donijela Odluku o uspostavljanju hrvatske zajednice Hercegovine. Presudan događaj u savremenoj historiji Bosne i Hercegovine bio je donošenje Odluke o referendumu za suverenu i nezavisnu. Za ovu su odluku uglavnom glasali muslimanski i hrvatski poslanici, primarno okupljeni u Stranci demokratske akcije i Hrvatskoj demokratskoj zajednici.

Tadašnji Ustav Bosne i Hercegovine definisao je postojanje tri konstitutivne nacije – srpske, muslimanske i hrvatske. Decenijama je neformalno primjenjivan model paritetnosti i međunacionalnog „balansiranja“. Ovo nije apsolutno tačna ocjena jer su postojali brojni primjeri nacionalne neparitetnosti, pa čak i diskriminacije. Ovo se posebno ogledalo u neravnomjernom razvoju pojedinih krajeva Bosne i Hercegovine koji nije imao samo ekonomske već i političke motive. Međutim, mir i koegzistencija su ipak održavani kroz „logiku konsocijalizma“, kako je to uvijek u Bosni i Hercegovini historijski bilo. Svaki put u historiji kada bi se narušila „logika konsocijalizma“ pluralno društvo u Bosni i Hercegovini bi završilo u sukobu. To se desilo i 1992. godine. Preglasavanje i konstitucionalna jednostranost nacionalno-političkih elita odvela je Bosnu i Hercegovinu u rat. Međutim, uz obilatu pomoć dijela inostranih aktera (Voren Cimerman) koji su „sugerisali“ odbijanje (Alija Izetbegović) propale su i posljednje šanse za mir i uspostavljanje institucionalizovane konsocijacijske demokratije u Bosni i Hercegovini definisane u okviru „Kutiljerova plana“ (1992) (o motivima odbijanja „Kutiljerova plana“ od strane Alije Izetbegovića pogledati detaljnije u knjigama Čedomira Antića i Nenada Kečmanovića (Антић и Кеџмановић, 2016) i Vlade Simovića (Симовић, 2019)).

Dešavanja tokom 1990., 1991. i 1992. godine pokazala su sve manjkavosti klasične predstavničke demokratije i potrebu za uspostavljanjem konsocijacijske demokratije sa nizom mehanizama „kočnice i ravnoteže“ kojima će se mogućnosti za rat svesti na minimum, a izgraditi osnova za održivost demokratije. I kao što je navedeni period pokazao sve manjkavosti klasične predstavničke demokratije unutar pluralnog društva, tako je period kongresnog stvaranja, pod posredstvom i primjenom sile inostranih aktera, institucionalizovane konsocijacijske demokratije konačno oblikovane u Dejtonu, pokazao kako ona ne treba da se uspostavlja. U procesu od početka rata 1992. do njegovog završetka 1995. godine međunarodni akteri, u početku primarno Evropska unija, a kasnije Sjedinjene Američke Države, organizovale su niz arbitražnih kongresa na kojima su nudili političko-sistemska rješenja koja su podrazumijevala uspostavljanje konsocijacijskih mehanizama. Međutim, nacionalno-političke elite u Bosni i Hercegovini su stvorile tri entiteta koja su funkcionisala. Imali su svoje teritorije, stanovništvo, vojsku i faktičku vlast. Svaki od ovih entiteta je imao drugačiju viziju Bosne i Hercegovine. Republika Bosna i Hercegovina je htjela ostvarivanje vlasti nad cjelokupnom teritorijom i centralizovanu, nezavisnu državu. Republika Srpska i Herceg-Bosna nezavisnost. Dejtonskim mirovnim sporazumom, kojem je prethodio bošnjačko-hrvatski sporazum iz Vašingtona, niko nije ostvario sve zacrtane ciljeve. Konsocijalisti bi sa pravom rekli da je upravo to konsocijacija, sistem sompromisau kojem svi „nešto dobiju, a zauzvrat nešto daju“ i gdje se uspostavljaju održivi mehanizmi „kočnice i ravnoteže“. Međutim, Ustav Bosne i Hercegovine, nastao Sporazumom iz Dejtona, nije proizvod „bazičnog konzenzusa“ nacionalno-partijskih aktera, njihovog dogovora i pristanka suverenih naroda koje predstavljaju. Ovaj je Ustav oktroisan. A svaki takav ustav piše Goran Marković „nije izraz narodne volje“ (Марковић, 2021, стр. 45-46). Ovaj autor dodaje i to da

Simović, V., & Ilić, I. (2022). Austria and Bosnia and Herzegovina in consociational theory and practice. *Sted Journal*, 4(1), 67-82.

je Ustav Bosne i Hercegovine „oktroisan, jer narod nije učestvovao u njegovom donošenju ni neposredno ni posredno. Niti ga je narod prihvatio na referendumu, niti ga je usvojila skupština. On je rezultat mirovnih pregovora i „unesen“ je u Bosnu i Hercegovinu spolja“ (Марковић, 2021, стр. 46). Upravo „uvezena“, a ne „bazična“ ustavnost postaće umnogome uzrok nestabilnosti konsocijacijske demokratije u Bosni i Hercegovini.

Na pitanje, da li je Bosna i Hercegovina, barem formalno konsocijacijska demokratija prva je dala odgovor Mirjana Kasapović. Ova je autorka ne samo opojmila Bosnu i Hercegovinu kao konsocijacijsku demokratiju, već je ponovo aktuelizovala pitanje ideje konsocijalizma, što je prihvatio ne mali broj teoretičara na ovom prostoru. U svojoj studiji Mirjana Kasapović navodi da su nakon rata u Bosni i Hercegovini „prilagođeni normativni institucionalnopolitički aranžmani, pa je temeljnim zakonima uspostavljena konsocijacijska demokratija“ (Kasapović, 2005, p 151) Ona navodi da u Bosni i Hercegovini postoje institucionalizovani elementi konsocijacijske demokratije poput „teritorijalne autonomije nacionalnih segmenata u vidu entiteta i kantona“, „razmjernost i paritetnost kao načela ustrojstva glavnih političkih institucija“, te „konsenzus, kvalificirane većine i veto kao pravila odlučivanja“ (Kasapović, 2005, pp 151-157).

Međutim, i pored činjenice da ima sve nabrojane mehanizme ugrađene u svoj Ustav i zakone, Bosna i Hercegovina ima brojne nedostatke koje je čine nestabilnom i često nefunkcionalnom konsocijacijskom demokratijom. I na tom polju Mirjana Kasapović prva daje teorijsko tumačenje zašto je to tako. Ona navodi da, iako Bosna i Hercegovina ima niz političko-sistemskih rješenja, koja teorijski pogoduju uspostavljanju konsocijacijske demokratije, u praksi to nije slučaj. Razlog je u tome, naglašava Mirjana Kasapović, što Bosni i Hercegovini nedostaju „temeljne političke pretpostavke“ da bi se ostvarila konsocijacijska demokratija. U tom kontekstu ona kaže: „Vidim tri glavna

uzroka nedjelotvornosti modela konsocijacijske demokratije i konsocijacijske države na razini Bosne i Hercegovine kao državne cjeline te još jedan, dodatni uzrok na razini Federacije kao državne podcjeline: nepostojanje konsenzusa o državnoj zajednici, nepostojanje konsenzusa o političkom sustavu, nedosljednu strategiju međunarodnih aktera u konstrukciji demokratske države, te nepovoljnu dvosegmentarnu strukturu Federacije sa izrazitom brojčanom premoći jednog segmenta“ (Kasapović, 2005, str. 161-162).

Bošnjačku intelektualnu i političku elitu označavamo glavnim protagonistima neuspjeha logike konsocijalizma u Bosni i Hercegovini, kao jedinog prihvatljivog mehanizma održavanja mira i demokratije u uslovima njene nacionalno-religijske pluralnosti. Ovo je prilično paradoksalna situacija, jer zahvaljujući Dejtonskom mirovnom sporazumu i njegovom Ustavu, koji ima ugrađene konsocijacijske mehanizme, Bosna i Hercegovina opstaje kao država, sa svim svojim problemima, od političke nestabilnosti do upitnog suvereniteta. Ovo je politički paradoks jer je bošnjačkoj eliti najviše stalo do očuvanja Bosne i Hercegovine kao cjeline.

O paradoksalnosti politike bošnjačke elite pišu Nenad Kecmanović, Aleksandar Vranješ i Željko Budimir navodeći da „postoji izvjesna kontradiktornost, da najveći zagovornici državnosti BiH politički rade na urušavanju same državne zajednice i njenih dejtonskih temelja, dok druga dva najmanje zadovoljna konstitutivna naroda u suštini brane dejtonsko ustrojstvo. Ovu kontradiktornost nastalu dejtonskim djelovanjem bošnjačke političke elite identifikovali smo kao „bosanski paradoks“, posebno jer potencijalno rušenje dejtonske BiH nije nikakva garancija da bi na njenim temeljima nastala neka nova Republika BiH (ili bar ne u postojećim dejtonskim granicama), pa se ovaj politički avanturizam može posmatrati kao „kockanje“ sa budućnošću BiH koje dolazi od strane upravo bošnjačke političke elite“

Simović, V., & Ilić, I. (2022). Austria and Bosnia and Herzegovina in consociational theory and practice. *Sted Journal*, 4(1), 67-82.

(Кецмановић, Врањеш и Будимир, 2021, стр 335).

Na tragu Mirjane Kasapović i brojnih drugih teoretičara koji su se bavili konsocijacijskom demokratijom u Bosni i Hercegovini dali smo u ranijim radovima svoja zapažanja o problematičnosti bh konsocijacijske demokratije. Osnovni problem neuspjeha konsocijacijske demokratije u Bosni i Hercegovini jeste u tome što je u procesu njenog nastanka došlo do „metodološke pogreške teorijske proceduralnosti uspostavljanja konsocijacijske demokratije u podijeljenom i postkonfliktnom društvu“ kakva je Bosna i Hercegovina. U tom kontekstu pišemo sljedeće: „Bez obzira na činjenicu da je riječ o modelu demokratije prikladnom za podijeljena društva, čemu je Belgija primjer za uzor, način njenog uspostavljanja u Bosni i Hercegovini bio je i uzrok njenog neuspjeha. Put do ostvarivanja institucionalizovanog konsocijalizma u Bosni i Hercegovini išao je inostranim „nametanjem odozgo“ (kroz dejtonski ustavni aranžman), a ne „konsenzusom odozdo“ (kreiranjem i prihvatanjem ustavnosti od strane suverenih naroda u Bosni i Hercegovini i njihovih partijskih elita). Ovakav način uspostavljanja institucionalizovane konsocijacije u Bosni i Hercegovini definišemo pojmom „konstitucionalni radikalizam odozgo“ i postavljamo ga nasuprot pojmu „konstitucionalni reformizam odozdo“ koji je ostvaren u procesu nastanka belgijske konsocijacije“ (Симовић, 2019, стр. 12). U nastavku navodimo na navedenu „,metodološku pogrešku“ nastalu u procesu ostvarivanja konsocijacijske demokratije u Bosni i Hercegovini smatramo uzrokom sukoba između centrifugalnih tendencija partijskog i centripetalnih tendencija političkog sistema, koje u uslovima uspješne konsocijacijske demokratije ne bi trebalo da postoje. Zahvaljujući sukobu centrifugalnog u partijskom i centripetalnog u političkom sistemu Bosne i Hercegovine dolazi do niza političkih i društvenih pojava koje onemogućavaju stvaranje stabilnijeg i funkcionalnijeg sistema“ (Симовић, 2019, стр. 12).

Koliko je Bosna i Hercegovina zanimljiva istraživačima podijeljenih društava i konsocijacijske demokratije govori činjenica da su o ovoj temi pisani brojni radovi, a postojale su i velike naučne rasprave, kao što je to svojevremeno bilo u mostarskom časopisu „Status“ (vidjeti brojeve časopisa „Status, magazina za političku kulturu i društvena pitanja“ iz 2006. i 2007. godine). Sve ovo čini Bosnu i Hercegovinu odgovarajućom studijom slučaja koju je potrebno porediti sa drugim pluralnim društvima i njihovim političkim sistemima (Симовић, 2017; Симовић, 2018) kako bi se dobila nova saznanja i zaključci vezani za teoriju o podijeljenim društvima i teoriju o demokratiji.

ZAKLJUČCI KOMPATIVNE ANALIZE: ŠTA KONSOCIJALISTI MOGU DA NAUČE OD AUSTRIJE I BOSNE I HERCEGOVINE

Svojevremeno su politikolozi konsocijacijski sistem demokratije uspostavljen u Švajcarskoj opojmili kao „sistem saglasnosti“ (Linder, 1994, pp 124-126). Da bi takav sistem mogao da bude izgrađen i funkcionalan potrebno je umanjiti radikalne stavove različitih interesnih grupa do nivoa gdje će oni postati „podjednaki pobjednici“ (Linder, 1994, p 124). Sa druge strane „sistem saglasnosti“ (Ilić, 2018, str. 62) nije samo konsenzus demokratskih političkih institucija i njihovih različitih elita već i konsenzus različitih demokratskih političkih kultura suprotstavljenih masa (Лажпарт, 2003, стр. 52). Imajući ovo u vidu, Arend Lajphart je precizirao dva potrebna pravca u cilju stvaranja konsocijacijske demokratije. To su: pravac stvaranja političke stabilnosti i pravac stvaranja višestruke raspodjele moći (Lijphart, 1992, p 20, 55, 100). Upravo ova dva pravca su osnovni pokazatelji sličnosti i razlika konsocijacijske demokratije koji nam pomažu u komparaciji konsocijacijskih modela Austrije i Bosne i Hercegovine.

Sličnosti između društava u Austriji i Bosni i Hercegovini su primarno na nivou „istorijskog tereta prošlosti“ zbog kojeg

obje države imaju karakter pluralnih društava. Njihova pluralnost ogleda se u istorijskim sukobima koji su imali vjerske, nacionalne i ideološke karakteristike. Radikalnost sukoba unutar oba pluralna društva ogleda se u činjenici da su obje zemlje imale građanske ratove (Austrija 1934. godine, a Bosna i Hercegovina od 1992. do 1995. godine). Sukob u Bosni i Hercegovini od 1992. do 1995. godine imao je nacionalni i vjerski karakter. Sa druge strane Austrija je kao katolička država između dva svjetska rata „progonila ili pokatoličavala njemačke protestante“ (Evans, 1999, pp 8-9) i to je dimenzija njene vjerske pluralnosti, dok je sa druge strane imala i ideološke sukobe između nacionalno-liberalnih centara moći i socijaldemokrata. Navedeni sukobi su snažili karakter austrijske pluralnosti koji je kulminirao u građanskom ratu 1934. godine poslije kojeg je Austrija anektirana u nacističku Njemačku (Heinisch, 2002, p 11).

Institucionalno - politički intervencionizam inostranih aktera u lokalne političke procese, političko-sistemska arhitekturu i međunarodni poredak je sljedeća sličnost između Austrije i Bosne i Hercegovine. Međutim, na ovoj konstataciji se završava „sličnost“ ove dvije države. Analiza uticaja inostranih aktera pokazuje različit tretman dvije države od strane „velikih sila“. Austrija je imala istinsku podršku međunarodnog faktora za intezivan društveno-ekonomski i politički razvoj poslije Drugog svjetskog rata. Ova je država dobila „veliku ekonomsku pomoć putem Maršalovog plana“, zatim procesa „nacionalizacije industrije“ (Müller, & Steininger, 1994, pp 94-95) u cilju „punog zapošljavanja“ (Seeleib-Kaiser, et al., 2008, p 71), dobijanju „neutralnog statusa“ (Kramer, 1996, pp 4-5) ali i uloge „trećeg centra Ujedinjenih Nacija (UN)“ koju je dobio Beč 1979. godine (Heinisch, 2002, p 16). Pored svih navedenih pogodnosti učinjena je i ta da je velikom dijelu bivših austrijskih nacista „oprostena“ nacistička prošlost, pa su oni, zahvaljujući tome, u velikoj mjeri i postepeno, ponovo uvedeni u politički život Austrije (Sully, 1981, pp

102-103). Navedene teze i činjenice su proizvod istraživanja brojnih autora koje navodimo u radu. One govore o aktivnoj politici inostrane podrške stvaranju politički i ekonomski stabilnog konsocijacijskog sistema vladavine u Austriji. On se temelji na socijalnom partnerstvu, putem kojeg se odvija političko i ekonomsko umrežavanje (Seeleib-Kaiser, et al., 2008, pp 1-2), u čijem osnovu se nalazi konsenzus elita podijeljenog društva. Godine izgradnje ovakvog društveno-političkog ambijenta i sistema vladavine dovele su do stvaranja austrijskog zajedništva i identiteta koji nosi epitete kao što su „izuzetnost“ (Gerlich, 1996: 213) i „blagosloven“ (Heinisch, 2002, pp 13-14). Time je austrijsko društvo postiglo nivo unutrašnjeg konsenzusa i stabilnosti koji ovu državu čine jednom od najsnažnijih u savremenoj Evropi. Ovakav scenarij stanovnici Austrije duguju međunarodnom intervencionizmu koji je išao u korist izgradnje državnog suvereniteta i autonomnih politika „bazične konsenzualnosti“ austrijskih elita podijeljenog društva.

Politika inostranih aktera je bila apsolutno suprotna prema Bosni i Hercegovini. Mirjana Kasapović navodi da je upravo jedan od nedostataka konsocijacijskog modela u Bosni i Hercegovini „nedosljedna strategija međunarodnih aktera u izgradnji države i demokracije“, uz navedeno „nepostojanje konsenzusa oko državne zajednice i političkog sustava“ (Kasapović, 2005, str. 158-192). Međutim, na bazi analiza u našim ranijim radovima (Симовић, 2019), kao i u knjigama brojnih drugih autoa poput Milorada Ekmečića (Екмечић, 2007), Čedomira Antića i Nenada Кесмановића (Антић и Кеџмановић, 2016), možemo da zaključimo da je ono što Mirjana Kasapović naziva „nedosljedna strategija međunarodnih aktera“ bilo zapravo itekako dosljedna politika onemogućavanja ostvarivanja suvereniteta i autonomnih politika elita podijeljenog društva u Bosni i Hercegovini koja bi u konačnom dobila „bazični konsenzus“ neophodan za izgradnju konsocijacijske demokratije. Međunarodni akteri nisu željeli stabilnu i

funkcionalnu Bosnu i Hercegovinu. Kao takva ona bi bila suverena i ne bi je bilo lako kontrolisati. A to bi bio geopolitički poraz za tvorce Dejtonskog mirovnog sporazuma i kasnije članove Savjeta za provođenje mira. Njima odgovara nestabilnost i „cezariistička“ politika „zavadi pa vladaj“ u pluralnom društvu Bosne i Hercegovine. To pokazuje, između ostalog, primjena Bonskih ovlašćenja (donesenih 1997. godine) kojima visoki predstavnici za Bosnu i Hercegovinu smjenjuju legitimno izabrane predstavnike i donose zakone umjesto suverenog naroda i njihovih izabranih predstavnika u zvaničnim institucijama. Takođe, ovu politiku možemo da dokažemo i kroz kontinuirano miješanje inostranih ambasada i političara u izborne procese, sankcionisanje legitimno izabranih političara i oblikovanje stavova javnosti svojih zemalja prema akterima iz Bosne i Hercegovine. Osim navedenog, ekonomska zavisnost Bosne i Hercegovine od MMF-a i inostranih centara moći je, takođe, više nego bitna stavka u analizi političkih procesa u Bosni i Hercegovini.

Sa druge strane u Austriji ekonomska osnova, koja ima primarnu ulogu u okviru socijalnog partnerstva (Sully, 1981, pp 23-25), umnogome pomaže utvrđivanju političke stabilnosti i konsocijacijske demokratije u ovoj državi (Pelinka, 1983, pp 234-235). Na ovaj način austrijsko društvo se usmjerava ka ekonomskim temama osnažujući svijest pojedinca o sopstvenoj ulozi u društvu (Talos, 1996, pp 104) istovremeno umrežavajući paritet i podjelu moći između političkih partija (ÖVP i SPÖ) i Komora socijalnog partnerstva. Rezultat toga su zadovoljni Austrijanci, koji, uzgred, nisu zaboravili svoje njemačko porijeklo i koji se ponose sistemom socijalnog partnerstva smatrajući ga dijelom austrijske kulture (Talos, 1996, pp 106).

U Bosni i Hercegovini, ovakav scenarij ne postoji, a teško i da je moguć. Ne samo zbog njene radikalnije pluralnosti (nacionalni i vjerski sukobi), već i zbog kontinuirane politike međunarodnih aktera prema njoj, prije svega onih neoliberalnih struktura koji žele sebi podređen unipolaran

i vesternizovan svijet. Njihov cilj je svjetska hegemonija a nje nema tamo gdje postoje suverene i samostalne države čije političke elite autonomno odlučuju o svojoj sudbini. Odsustvo dogovora elita podijeljenog društva u Bosni i Hercegovini je primarno vezano za, kako manifestni, tako i latentni, uticaj inostranih aktera na dio političke elite u ovoj državi. To su razlozi poluuspješne konsocijacijske demokratije u Bosni i Hercegovini. Njen uspjeh je u tome što se kroz ovaj model vladavine dvije i po decenije održava mir i sistem „dijeljene moći“ između elita podijeljenog društva. Sve ostalo je uvelikoj mjeri ocijenjeno neuspješnim. Zbog toga je na izgradnji konsocijacijske demokratije u Bosni i Hercegovini potrebno raditi kroz ostvarivanje politika međunacionalnog uvažavanja, pregovaranja i autonomnosti. Posebno je bitno kroz konsocijacijske politike i izborni dizajn ukloniti strah od bilo čije nacionalne dominacije uz minimalizovanje mogućnosti međusobnih konflikata kao i uz stalno promovisanje politike kooperacije (Lauber, 1996, p 254). Konsocijacijska demokratija može biti neuspješna u situaciji veoma povoljnih uslova ali isto tako i iznenađujuće uspješna u totalno nepovoljnim uslovima kakvi su bili u Austriji poslije Drugog svjetskog rata (Ilić, 2018, str. 69). Konsocijacijska demokratija je model vladavine koji se pokazao uspješnim u Austriji, Belgiji, Švajcarskoj i sličnim zemljama. Izučavanje ovog modela, posebno u kontekstu komparativnih analiza „uspješnijih primjera“ od Bosne i Hercegovine, kakava je ovdje komparirana Austrija, ima ne samo naučni već i društveno-politički značaj.

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AUSTRIA AND BOSNIA AND HERZEGOVINA IN CONSOCIATIONAL THEORY AND PRACTICE

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ABSTRACT

The subject of this paper is models of consociational democracy in Austria and Bosnia and Herzegovina. The aim is to define in a comparative analysis the similarities and differences between consociational systems of government in these two countries, their practice and scope. Based on these conclusions, we draw new knowledge in the field of activities and possibilities of consociational arrangements in the divided societies of modern Europe. The scientific justification of this paper is that through the analysis of different consociational democracies and their practical experiences, the scope of this form of democratic rule is assessed, and the conclusions are theoretically added to the existing fund of scientific knowledge about this phenomenon. The social contribution of the paper is in the fact that consociational democracy is an increasingly common solution for many divided societies and therefore the analysis of existing consociational democracies is a socially justified topic.

Keywords: Austria, Bosnia and Herzegovina, divided societies, consociational democracy.

COLLABORATION IN DISASTER RISK REDUCTION OF MOUNT MERAPI IN SLEMAN

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ABSTRACT

The main focus of disaster management is currently on disaster risk reduction activities. Mount Merapi in Indonesia is one of the most active volcanoes in the world with a four-year eruption cycle. The local government of the Sleman Regency has made several efforts to reduce the risk of impacts from the eruption of Mount Merapi. These efforts involve various elements in society. The purpose of this research is to identify the efforts made by the Sleman Regency Government in

reducing the risk of the eruption of Mount Merapi and the factors that influence it. This research uses descriptive qualitative research methods with informants coming from the government, volunteers and the community. The findings of this study are the activity of risk reduction of eruption Merapi Mount in Sleman consists of physical and non-physical mitigation. Physical mitigation includes the construction of the Merapi Sabodam, construction of the Early Warning System, determination of evacuation routes and construction of refugee shelters. Non-physical mitigation includes the preparation of a contingency plan for the eruption of Mount Merapi, the formation of Destana (Disaster Resilient Village), the sister village and sister school program, the establishment of a disaster safe education unit, the establishment of the Operational Unit and the Implementing Unit for disaster management. The program is run by the government along with non-state actors to be affected by the starting conditions of each party, ability to combine the resources owned by each party, to shared information and commitment to a common purpose.

Keywords: Disaster Management, Governance Collaboration, Risk Reduction, Mount Merapi, Sleman Regency.

INTRODUCTION

Disasters often occur in Indonesia due to the geographical condition of Indonesia which is located between the confluence of three tectonic plates of the world, namely the Indo-Australian Plate, Eurasian Plate and Pacific Plate. Indonesia is also flanked

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by two continental exposures namely Sahul Exposure and Sundanese Exposure. Besides, Indonesia is traversed by a series of Mediterranean Circumcision mountains and a series of Pacific Circumcision mountains so that it becomes part of the Pacific Ring of Fire. This condition makes most areas of Indonesia a disaster-prone area and becomes a fairly complete disaster laboratory. As a ring of fire pacific crossing country, volcanic eruption disasters belong to the category of disasters that often-hit Indonesia. One of the volcanoes to watch out for is Mount Merapi which is located between the Province of Special Region of

Yogyakarta and Central Java Province. The mountain has a quadrennial eruption cycle with tremendous crushing power (Table 1). In 2010, The Eruption of Mount Merapi became the worst disaster of Merapi eruption since 1870 because as many as 32 villages with a population of more than 70,000 people were required to evacuate because they were in a dangerous zone (Sopha, Achsan, & Asih, 2019). The event required 150,000 people to be displaced with the spread of evacuation points reaching 553 points. The death toll was 346 people and 2,682 families were homeless (Rahman, Nurhasanah, & Nugroho, 2016).

Table 1. Merapi Eruption History Since 1900s (Voight, Constantine, Siswoidjono, & Torley, 2000)

TIME	EVENTS
January 30, 1904	There were 16 casualties, 14 seriously injured and three villages completely damaged.
1906	A major eruption, tens of thousands of people were buried in materials and property.
October 1920	A moderate eruption with 35 fatalities, 1 village completely damaged and 85 km ² of the agricultural area damaged.
December 17, 1930	Recorded as the largest eruption with 1,369 people dying, the hot cloud slid 20 kilometres and hoarded 13 villages.
January 18, 1954	A hot cloud slide left 64 people dead and 57 injured.
May 8, 1961	The eruption was marked by lava flows, hot clouds, ash rain and lava flooding, 6 people were killed and more than 100 homes destroyed.
January 7, 1969	A moderate eruption killed 3 people, 3 villages and 19 houses were damaged.
April 15, 1972	A major eruption left 200 people dead and three villages destroyed.
November 1984	The eruption left 52 people dead, 4 injured and 4000 displaced.
November 22, 1994	Merapi erupted at 10:15 pm with the number of victims 58 people were killed exposed to bursts of clouds hot
August 17, 1997	Merapi erupted at 10.30 am by spouting hot clouds and flowing in Krasak River along 6 kilometres and Boyong River for 4-5 kilometres.
February 10, 2001	Merapi erupted but did not cause any fatalities, as many as 571 people were evacuated.
May 2006	The 2006 Merapi eruption left two volunteers dead trapped by a hot cloud inside the Kaliadem bunker.
October- November 2010	The eruption left 151 people dead, 320,090 displaced, 291 houses damaged and one embankment destroyed in Ngepos Village due to the cold lava overflow.
May 11, 2018	Merapi erupts again at 07.32 with fire Matic type with level 1 or normal status.

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Sleman regency also suffered great damage and losses (Table 2). The impact of the 2010 eruption hit all sectors of human life. All sectors can be mapped into five sectors, namely housing, infrastructure, social, economic and cross-sector. The biggest losses hit across sectors, while the smallest losses were suffered by the social sector. It also shows the paralysis of people's lives at that time and it takes a long time to recover the entire sector at a cost that is not small.

Figure 2: Bumdes Strengthening Scheme Through Collaborative Governance (Regional Disaster Management Board known as BPBD Sleman, 2012)

SECTOR	LOSS VALUE (RUPIAH)
Housing	477,684,984,000
Infrastructure	224,426,945,088
Social	49,639,528,731
Economic	1,261,330,945,178
Cross-Sector	3,392,686,800,897
Total	5,405,681,153,844

The impact of the Mount Merapi eruption event is not only there. Other issues have also arisen, especially related to the problem of disaster survivors. During the evacuation process, many families were separated and it was quite difficult to find their families at the evacuation site (Handayani, Rinawati, Sari, & Rifa'i, 2019). The problems of refugee camps include overloaded shelters, uneven aid and refugee camps where there is no separation between men and women, children, and the elderly, causing psychological and health impacts for refugees (Yudistira, Fadilah, & Setiawan, 2020). There is even a group of people who feel marginalized so that they cannot help or provide assistance during the eruption of Mount Merapi (Balgos, Gaillard, & Sanz, 2012).

Disaster management in Indonesia refers to (Undang-undang tentang Penanggulangan Bencana [UUTPB], 2007) on Disaster Management. The Law confirms that disaster management in Indonesia is conducted through three stages, such as follows:

The pre-disaster stage is a disaster management effort that is carried out when

conditions do not occur but it is predicted that there will be a potential disaster in an area.

The emergency response stage is an effort made in the event of a disaster. Efforts made at this stage are generally in the form of evacuation and relief measures for victims.

The post-disaster stage is the stage of disaster management after the disaster, including rehabilitation and reconstruction activities of public facilities that are destroyed and damaged until the wheel of life can run again.

In the current condition, the pre-disaster stage becomes the main focus of the government in disaster management. Disaster risk reduction efforts become mainstream in various disaster management policies in Indonesia so that impacts can be minimized and countermeasures can run quickly, precisely and efficiently. Sleman Regency Government through Sleman District Regulation according to (Prasetyo, 2019) on Disaster Management has established disaster management efforts in Sleman by focusing on cooperation with non-government parties. This article will discuss disaster risk reduction efforts that have been conducted by the Sleman district government and the factors that affect them.

LITERATURE REVIEW

The Center for Research on the Epidemiology of Disaster (CRED) defines disasters as circumstances or events that weaken local capacity and thus require external assistance from the national and international levels. Each disaster has different characteristics so that the handling efforts will also be different according to their respective characters. (Ho, Shaw, Lin, & Chiu, 2008) identified disaster characteristics into four characters. First, disasters are events that focus on chaos related to the speed of events, estimates and magnitude. Second, disasters relate to the effects or impacts of such events on humans. Third, damage or destruction of infrastructure. Fourth, there is a need for other human assistance (Buchari, Santoso, & Marlina, 2017). Some of the key

elements for designing an effective institution in implementing disaster management include access to information, autonomy, cost affordability, accountability, adaptability, efficiency, equity and sustainability. Furthermore, there are several critical factors to consider in disaster management (Wolfe, & Tubi 2019):

- Government political commitment. Disaster management efforts should be accommodated in policies and regulations and not just as a form of routine activities.
- Institutionalization: building sustainable mechanisms. A disaster-affected community has a variety of urgent needs that can respond quickly and appropriately only through effective coordination of the actions of different organizations.
- Management information system. The problem of lack of important information among stakeholders is often encountered in disaster management.
- Community participation is needed in disaster risk reduction to be effective.
- Mobilization and distribution of resources. Collective efforts from all sectors at all levels contribute to disaster risk reduction tasks.

Volcanic eruption disasters can be seen from the things produced during the eruption, namely:

- Volcanic gases can harm living things such as carbon monoxide (CO), Carbon dioxide (CO₂), Hydrogen Sulfide (H₂S), Sulfur Dioxide (SO₂) and Nitrogen (NO₂).
- Lava accompanied by sand and hot rock which is a very high-temperature magma liquid out to the surface of the earth can be diluted and viscous.
- Lahar is lava that has been mixed with rocks, water and other materials.
- Ash rain in the form of very fine material and can be carried by the

wind up to hundreds of kilometers that can interfere with the respiratory system of living things.

- Hot clouds are the result of eruptions that flow rolling like clouds and contain varicose veins, hot incandescent rocks and volcanic material with a temperature of more than 600°C which causes severe burns.

The development of a way of view on disaster management in the world from conventional to holistic began from the Indian Ocean tsunami event in 2004. After the 2004 tsunami, the Hyogo Framework for Action (HFA) 2005 – 2015 brought about fundamental changes in disaster management. HFA contains five priorities of action, namely 1) disaster risk reduction governance, 2) risk assessment and early warning, 3) knowledge and education, 4) reducing underlying risk factors and 5) disaster preparedness and response (Djalante, Garschagen, Thomalla, & Shaw, 2017). This indicates that there is a shift in perspective towards disaster. Disaster events that were originally seen as unpredictable, erratic and unavoidable natural events turn into natural events that should be predictable and avoided by performing these five actions or in other words focusing on comprehensive efforts through disaster risk reduction. Indonesia has placed an inclusive reduction in disaster risk but has not made a significant impact due to the lack of a shared vision (Srikandini, Hilhorst, & van Voorst, 2018). Disaster reduction reform efforts can be effective if activities are developing a shared vision, adopting multi-level planning, activities to integrate the Law, the existence of a network of collaborative organizations, and establishing a cooperative funding model (Howes et al., 2015). Disaster risk reduction activities involving private parties proved able to reduce the burden of the government (Nguyen, Imamura, & Iuchi, 2017). However, it is not uncommon to find some collaborations that have not been able to optimally result from some obstacles such

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as the emergence of distrust sentiment towards the perception of others, the dominance of technocratic, lack of certain capacities, challenges on how to share risks, and short-term political contestation (Ziervogel, Waddell, Smit, & Taylor, 2016).

Disaster as an event provides complex and complex problems that require the cooperation of various parties. Cooperation involving the government and actors outside the government is said to be collaborative governance. (Ansell, & Gash, 2008) defined collaborative governance as a joint decision-making process involving public bodies with non-governmental stakeholders. The collaboration aims to create or implement public policy as a common consensus. collaborative governance can also be interpreted as a condition whereby the government in fulfilling public objectives is carried out by collaboration between organizations and individuals (Breyer, Donahue, & Zeckhauser, 2011; O'Flynn & Wanna, 2008) defined collaboration as a form of working together or working with others by engaging actors (individuals, groups or organizations) who work together in several efforts. (Emerson, Nabatchi, & Balogh, 2012) defined collaborative governance more broadly as a process and structure in the management and formulation of public policy decisions involving actors who constructively come from various levels to achieve public goals that will not be achieved when implemented by one party only. The implementation of collaborative governance is influenced by several things, including initial conditions, ability to mobilize resources, information disclosure and Commitment to a common purpose (Ansell, & Gash 2008; Emerson, Nabatchi, & Balogh, 2012).

RESEARCH METHOD

This study aims to describe disaster risk reduction activities in the face of the Mount Merapi eruption disaster by the local government of Sleman regency as well as the factors that affect it. As an activity involving cooperation with actors outside

the government, the study used the collaboration model of (Ansell, & Gash, 2008; Emerson, Nabatchi, and Balogh, 2012). Both models are used to identify and analyze factors that influence collaboration in disaster risk reduction of mount Merapi eruption in Sleman.

This study uses descriptive qualitative research methods. (Creswell, 2013) defined qualitative research as research that begins with the assumption and use of an interpretation/theoretical framework that shapes and influences the study of social or human problems. The approach used in this study is a case study approach because Mount Merapi has unique characteristics compared to other volcanoes in Indonesia. Data collection using observations, interviews, documents and triangulation. Then the data is analyzed with three steps, namely condensation of data, presenting data and concluding. Condensation of data related to the data selection process by the research problem for further data summarized and concluded. The research was conducted in Sleman Regency with research informants from Regional Disaster Management Board known as BPBD Sleman and volunteer communities in Sleman Regency.

RESULTS AND DISCUSSION

Disaster risk reduction program

Disaster risk reduction programs are an integral part of disaster management. The implementation of disaster management in Sleman Regency has become a regional development policy implemented in the long, medium and short term. The purpose of disaster management in the region is expected to provide security and protection to the community against disasters and reduce damage and losses resulting from a disaster event. Sleman Regency Government set six main strategies in the implementation of disaster management in Sleman Regency which include:

- Strengthening the rule of law (regulation) and capacity. institutional by accelerating the preparation of regulations related to

disaster management and disaster risk reduction efforts, implementation of risk analysis. Disaster for large-scale development activities, as well as strengthening Disaster Management Operations Control Center to be resilient.

- Integrated Disaster Management Planning through the creation of a Disaster Risk Assessment Document that can be accessed by all stakeholders, development of data composition and information on regional disasters, early warning system, emergency response and the creation of regional disaster contingency plans.
- Disaster risk reduction in a structured manner through the utilization of educational results, training, and research related to disasters.
- Mainstreaming disaster risk reduction with government, community and business partnerships, as well as the development of disaster preparedness culture to increase the capacity and participation of the community and the business world.
- Unification of disaster objectives, programs and activities to protect the community from disaster threats.
- Disaster management.

Physical Disaster Mitigation

- Construction of Merapi lava Sabodam. Sabodam is a lava flow control building that crosses the river flow. Sabodam controls sediment by holding, holding and draining material along with water downstream. During explosive eruptions, Sabodam will be useful in withstanding the rate of cold lava floods and volcanic material carried from the foot of the mountain to community settlements. Sabodam in Mount Merapi amounted to 264 pieces built-in several streams under Mount Merapi with different types. When there is no eruption, Sabodam

is used by the surrounding residents as a means of recreation and tourism. Sabodam development using funds from the State Budget whose work is carried out by the Ministry of Public Works and Public Housing (PUPR).

- Early Warning System (EWS) is an early warning system that involves various parties to reduce the risk of disasters. EWS can be said to be a communication system that starts from detection to decision making. Mount Merapi EWS starts from the heat cloud event detection sensor and cold lava flood that is placed on Mount Merapi area. The sensor will detect the event that will occur, where the results of the sensor will be submitted to various parties for follow-up related to disaster preparedness.
- The evacuation route is a special route that serves to connect hazardous areas to safe areas. The existence of evacuation routes is very important for disaster risk reduction efforts because it is used to evacuate residents from dangerous places to safe areas. A path can be used as an evacuation route if it has direct access to gathering points, open spaces and roads to safe areas. Also, the path should be in good condition and ready for use. Evacuation routes are also possible not to cross bridges or rivers. The condition of the evacuation route of Mount Merapi eruption in the Sleman Regency is currently at some point quite alarming with conditions that are quite difficult to pass through.
- The refugee camp (barracks) is a gathering place for refugees in a safe area. To reduce disaster risk, Regional Disaster Management Board known as BPBD Sleman has established several shelters in safe areas that will be used during the eruption.

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Non-Physical Disaster Mitigation

Physical mitigation that has been done will not run well and efficiently if it is not supported by non-physical mitigation activities. Non-physical mitigation is an effort to prevent and prepare for disasters through programs of educational activities, socialization and training. Some non-physical mitigation activities related to disaster risk reduction of Mount Merapi eruption in Sleman Regency are as follows:

Contingency Plan

According to (UUTPB, 2007) on Disaster Management mandates everyone, institutions and businesses to participate in disaster management. Governance of activities in disaster management has the aim of reducing vulnerability and increasing the capacity of both government agencies, communities and other parties to reduce the impacts and losses caused by disaster events. In the pre-disaster stage, a preparedness plan is prepared to deal with emergencies by looking at the situation of potential disasters in the area. The contingency plan is a plan that involves various groups of people, organizations that work together on an ongoing basis to formulate emergency response guidelines quickly and appropriately.

Merapi eruption contingency plan is a form of efforts to reduce the risk of Merapi eruption disaster based on the Merapi eruption in 2010. The contingency plan contains eruption simulations with several alternative treatments such as evacuation barracks scheme, logistic dropping, sanitation, clean water, health services and evacuation transportation. The handling of Merapi eruption refugees is divided into three evacuation areas, namely 1) the west includes people who live in Turi and Tempel subdistricts, 2) the middle includes the people in the Pakem sub-district, 3) the east includes Cangkringan and Ngeplak communities). The Contingency Plan organizes an emergency response organization consisting of the Commander of the emergency response command, the deputy commander, the head of the evacuation, the secretariat and various areas

related to the needs of refugees, among others, the areas of operations, health, logistics, refugee barracks and information, education, livestock, and regional security.

With the contingency plan, it is expected that the handling during the Merapi eruption will be fast and effective. This document will be used as a guideline for stakeholders in mobilizing their resources following the roles and tasks that have been determined. A contingency plan can be activated after the results of a study from BPPTK Yogyakarta which stated the status of Mount Merapi entered at the level of "SIAGA". Similarly, this contingency plan will never be active if the status of Mount Merapi continues to be at the "GENERAL" level.

In addition to the district government, the village government in disaster-prone area III also has a contingency plan or Disaster Management Plan (RPB) village. RPB's Village is prepared by actively involving the community both in the process of drafting and legislation, to be later passed into Village Regulation (*Perdes*). This is a manifestation of the political commitment of all elements of the village government in protecting its people from the threat of disaster.

Establishment of Disaster Resilient Village (DESTANA)

BPBD Sleman prioritizes villages located in KRB III Merapi to be formed soon DESTANA (Disaster Resilient Village). Regional Disaster Management Board known as BPBD Sleman has a target in 2021 all villages in Sleman Regency have become disaster resilient villages. However, the target will be difficult to achieve due to various obstacles, therefore from 2012 to 2020, there are 62 DESTANA formed from 86 villages in Sleman Regency. The formation of DESTANA refers to Perka. (Widodo, & Hastuti, 2019) on Guidelines, Public, Disaster Resilient Village. DESTANA (Disaster Resilient Village) is a form of village independence to be able to adjust when experiencing disaster threats as well as the ability to restore conditions as soon as possible after

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a disaster. After being formed into DESTANA (Disaster Resilient Village), each village is expected to be able to recognize the threat of disaster in the area. The village is also expected to be able to coordinate and organize its capacity to minimize the risk of vulnerability and improve skills to deal with disaster impacts.

Disaster resilient villagers are actively involved in all activities related to potential disasters in the region starting from the process of assessing potential disasters to the necessary efforts in reducing the risk of disasters that will be faced. DESTANA (Disaster Resilient Village) as a community-based disaster risk reduction effort aims to create a sense of security to disasters to the community, increase community participation in disaster activities, increase the institutional capacity of the community, increase support to the government in the technical capabilities of disaster management, advance the cooperation of various parties related to disaster risk reduction.

Perka BNPB asserts that DESTANA (Disaster Resilient Village) is a place for people to actively participate in disaster management. DESTANA (Disaster Resilient Village) is developed and implemented using the following principles of disaster is a joint business, based on disaster risk reduction, fulfilment of the rights of the community and society as the main actors, participatory by using local resources, inclusive, based on humanity, justice and gender equality. DESTANA (Disaster Resilient Village) also has a side in vulnerable groups, is open (transparency) and has accountability, is partnership or cooperation, benefits multi-threat, is autonomous and sustainable, and is organized across sectors. The principle provides a strong basis that DESTANA (Disaster Resilient Village) is an activity that is "from", "by", and "for" the community. The role of the government in this program is only as a driver and facilitator for the village to form a disaster resilient village. Government intervention and non-governmental actors should be as little as possible and more stimulant.

DESTANA (Disaster Resilient Village) is autonomous and outside the structure of village government, but this does not cover the possibility of involvement of elements of village government to be involved in it. Community involvement is organized in village community-based disaster volunteers or groups. DESTANA development is carried out through village disaster risk assessment activities including the inventory of threats, vulnerabilities, capacity owned by the village. DESTANA (Disaster Resilient Village) also developed a village disaster management plan and a village contingency plan. This document will be used as a guideline in moving the resources owned by the village sourced from various parties in the village.

DESTANA (Disaster Resilient Village) is driven by the Village Disaster Risk Reduction Forum (Village FPRB). FPRB consists of elements of village government, non-government, community and business institutions. The FPRB was formed with attention to the interests of vulnerable groups and its members are representatives of all elements of society so that no party is marginalized or marginalized in the decision-making process. FPRB as a forum that contains many parties need good cooperation, compact, creative and trust each other.

Workshops and training activities conducted in DESTANA (Disaster Resilient Village) work program are expected to increase the capacity of citizens and officials in disaster management. DESTANA with its FPRB can encourage the village government to include the Village Disaster Management Plan (RPB) into Village Medium-Term Development Plan so that it can be legalized through village regulations. With the legalization, the PRB program will get funding from the village government so that the village can provide disaster equipment and equipment.

Sister Village and Sister School

Merapi eruption in 2010 provides valuable lessons for people living around Mount Merapi, especially those in a radius

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of 0-15 km. At that time, there was a tremendous panic that confused the evacuation and evacuation. This resulted in many separated families and difficulties in logging and distributing logistics for refugees. Learning from the experience, Regional Disaster Management Board known as BPBD Sleman initiated the sister village and sister school programs (Elysia, & Wihadanto, 2018).

Sister village or "Paseduluran Desa" is a program that involves cooperation between two adjacent villages to evacuate victims to safe areas. The consideration of this program is the spread of the impact of Mount Merapi eruption, the scheme of evacuation flow of residents with effusion scenarios, the threat of periodic Merapi eruptions with an average of 4 years of eruption cycle and the experience of Merapi eruption in 2010. Villages affected by the Merapi eruption can evacuate their residents to the village that has been designated as a buffer for the village. Thus, this program is expected to be able to realize Merapi eruption disaster management quickly, precisely and coordinated.

The cooperation agreement between the two villages in disaster management of the Mount Merapi eruption was outlined in a memorandum of understanding (MoU) between the two sides signed by the two village heads witnessed by the Chief Executive of BPBD Sleman and the local sub-district. The signing of the cooperation agreement was carried out during the rehearsal and inauguration of the establishment of DESTANA. Currently, all villages in the KRB III area have cooperated with buffer villages. Some cooperation between villages that have been implemented are:

- Kepuharjo Village and Glagaharjo Village in collaboration with Argomulyo Village Cangkringan District.
- Kepuharjo Village Cangkringan District in collaboration with Bimomartani Village Ngemplak District.
- Argomulyo Village Cangkringan District in collaboration with

Tirtomartani Village Kalasan District.

- Wukirsari Village Cangkringan District in collaboration with Bimomartani Village Ngemplak District.
- Girikerto Village Turi Subdistrict in collaboration with Trimulyo Village Sleman District.
- Hargobinangun Village Pakem Subdistrict in collaboration with Harjobinangun Village Pakem District.

The sister village program contains the rights and responsibilities of each village. The cooperation of the two villages regulates the following according to (Elysia, & Wihadanto, 2018):

- Readiness of evacuation routes, facilities and refugee infrastructure.
- Borrowing of building facilities and other supporting facilities.
- Increased community participation in both villages.
- Awareness of the people of both villages to maintain each other's tranquility, security, order and comfort on both sides.
- Establish cooperation, communication, family, economy, society and culture between the two parties.

During the Merapi eruption in 2010, many refugees occupied school buildings as shelters. This certainly has an impact on teaching and learning activities in the school. When evacuating, the children who participated in the evacuation were also unable to participate in teaching and learning activities as usual. This is what underlies the formation of sister school. The sister school program is combined with the sister village program so that there will no longer be disruption of teaching and learning activities for children in both villages. The buffer school will be used by children from villages affected by the Eruption of Mount Merapi.



Figure 3: Sister School (Researcher Documentation, 2020)

Establishment of Disaster Safe Education Unit

The next Merapi eruption disaster risk reduction program is the Disaster Safe Education Unit (SPAB) program. This program is a development of the previous program, namely The Disaster Preparedness School (SSB). SPAB is an educational unit that implements safe facilities and infrastructure and has a safety culture to protect school residents from the threat of disaster. SPAB emphasizes three pillars, namely the condition of safe learning facilities, schools have disaster management and educational curriculum related to disaster risk prevention and reduction efforts in schools. This program is guided by (Peraturan Menteri Pendidikan Dan Kebudayaan Republik Indonesia [PMPDRI], 2019) on the Implementation of the SPAB Program with coverage ranging from PAUD education to high school level. BPBD as the leading sector in the disaster field has a role as a driver and facilitator of the SPAB program implementation.

Related to the PRB eruption of Mount Merapi, BPBD Sleman has encouraged and facilitated the establishment of Disaster

Safe Education Unit in disaster-prone areas of Merapi eruption. Schools are prepared to face the threat of Merapi eruption while events occur during teaching and learning activities. This program includes self-evacuation activities for school residents to go to a predetermined safe zone so that the evacuation of school residents can run as desired.

Establishment of Unit Operational and Unit Implementation of disaster management

To strengthen disaster management institutions, BPBD Sleman established disaster management units at the village and sub-district levels. The unit was located in the Sub-district (Pakanewon) is called the disaster management operational unit (OPS PB unit), while in the village (Kalurahan) is called the disaster management implementation unit (LAKS PB unit). OPS PB unit was formed by the Chief Executive of Regional Disaster Management Board known as BPBD Sleman with domiciled in the Sub-District. This unit coordinates and is responsible to the Chief Executive of BPBD. OPS PB unit was built through deliberations at the sub-district level where

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the results of deliberations will be proposed by the Sub-District to the Chief Executive of BPBD to be confirmed. The ops unit is guided ex-officio by District- Head with elements consisting of the district government, military rayon command, police sector and volunteer community disaster management.

LAKS PB unit is located at the village level and led ex-officio by the village head. LAKS PB unit is located under the coordination of OPS PB unit and is operationally responsible to the Chief Executive of Regional Disaster Management Board known as BPBD. The management was built through the deliberation of the disaster management component in the village which then the results were proposed to the chief executive of Regional Disaster Management Board known as BPBD. The unit consists of the village government component, the military rayon command represented by Military Regional Command, the sector police represented by Community Police Officers, and the community of disaster management volunteers in the village.

Factors that affect

Starting Condition

The starting condition of each actor involved is very decisive in starting a collaboration and each actor has different conditions. This study reveals the starting condition of each organization involved in the collaboration of disaster risk reduction of Mount Merapi eruption in Sleman by looking at the availability of resources and incentives to participate. The results of the study found that in terms of human resources Sleman district was awarded abundant human resources. This can be seen from the thousands of volunteers who are recorded not including undocumented volunteers. Most volunteers are equipped with skills and skills related to disasters. Even many volunteers with special abilities are sent to other disaster areas to help victims there. In terms of budget resources, the local government has given budget allocation to BPBD Sleman to manage the budget related to disaster management in

Sleman Regency. The budget ranges from nine to ten billion annually.

Another field finding related to the starting condition is that volunteers participate voluntarily so as not to want any incentives from the government or other parties. This is certainly a very supportive thing in disaster risk reduction activities. The sincerity of the volunteers in helping the government's work related to disasters deserves thumbs up. Volunteers have a clear attitude regarding incentives that for them it becomes taboo when they receive rewards for what they do in helping people affected by disasters. They don't want to be labelled as paid volunteers. The study also found obstacles related to the initial condition of the existing budget system sometimes complicates the maintenance system of equipment owned. Another finding is that BPBD Sleman sometimes carries out activities by including pocket money for the participants, this can cause social distress among volunteers.

Joint Capacity

Collaboration brings benefits with the exchange and incorporation of knowledge that each actor has collaboration. Transfer of knowledge and distributing to each collaboration participant will improve the capabilities and quality of human resources of collaboration participants. This advantage is obtained in collaborative governance of disaster risk reduction of Mount Merapi eruption in Sleman Regency. Volunteers numbering thousands of people who are members of various communities have different knowledge and skills. This diversity provides its advantages, where volunteers will share their knowledge and skills. These conditions create dynamic collaboration and continue to evolve towards more. The skills and skills of volunteers needed in disaster management reach 26 clusters. This need will certainly be difficult to meet if it relies on only one volunteer community. Therefore, it takes transfer knowledge and skills between volunteers. With the collaboration between disaster volunteers, of course, the 26 clusters can be easily realized. Transfer of

knowledge and knowledge between volunteers will improve the relationship between volunteers.

Joint capacity not only occurs between volunteers but also between villages. The sister village and sister school programs encourage each other to share facilities and infrastructure while the eruption of Mount Merapi hits. The program will mobilize all resources to support disaster survivors to be safe from the threat of the Mount Merapi eruption. This can be realized because of the willingness and ability of each stakeholder in mobilizing the resources owned. Buffer villages feel that they have a responsibility to the affected areas. The buffer village will make maximum efforts in carrying out evacuation and assistance to the affected villages. As long as the area is a refuge site, the buffer village will strive to be a good host by helping disaster survivors according to their abilities.

Information Sharing

Collaboration is an activity that involves many parties so that the delivery of information becomes an important part of a collaboration. Errors in the delivery of information can create failures to the future of collaboration. This study found related information sharing in collaboration with a disaster risk reduction of Mount Merapi eruption that to reduce disaster risk Regional Disaster Management Board known as BPBD Sleman has used technology especially in the delivery of information related to disaster threat early warning system. Researchers also found there is a community of disaster volunteers who still use local knowledge or local wisdom to be used as a source of disaster information.

Today's technological advances contribute to disaster management efforts by utilizing technology for early warning systems. Information delivery can be done through information media that has been widely owned by the public. The technology used to start with the latest technology such as applications on gadgets and old technologies such as topophone. However, this does not make the

community leave local wisdom in monitoring and obtaining warnings of the eruption of Mount Merapi. The knowledge obtained through generations is done by observing natural phenomena that occur around Mount Merapi such as the mobility of wild animals around the slopes of Merapi. Both sources of information are equally trusted by the people on the slopes of Merapi.

Commitment to a common purpose

Collaboration has the purpose of gaining mutual advantage so that it should not favor either party alone. To achieve these goals, commitment is required from all parties involved. Commitment to a common purpose is seen from the vision and mission of Sleman Regent because of the attitude of leaders who can act as facilitators, distributors and drivers of various interests of participants who are crucified in collaboration. Based on the vision and mission of the regional head of Sleman Regency in the period 2016-2021, disaster risk reduction is included in one measure of Sleman cultured community through indicators of increased comfort and order as well as community mitigation capabilities to disasters.

Researchers do not find in the vision and mission of regional leaders that put disaster risk reduction inclusively, but disaster risk reduction is only used as an indicator to measure cultured communities. Sleman regency as one of the regencies whose area is directly related to the most active mountain in Indonesia should inclusively place disaster risk reduction. Nevertheless, the Regent and Deputy Regent of Sleman and their ranks have shown great attitude and attention to disaster risk reduction efforts in Sleman Regency. This is seen in several disaster risk reduction activities of the Mount Merapi eruption which was attended directly by the two officials of Sleman Regency.

In terms of the basic rules of collaboration support, researchers found that the executive and legislative institutions of the Sleman region have

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provided clear rules of play in disaster management in Sleman. This is proven by the Sleman Regional Regulation according to (UUTPB, 2007) on Disaster Management. The regulation provides legal shade for the implementation of disaster management and prioritizes cooperation or collaboration between the government, the community and the business world. Several regent regulations as well as other technical rules have also been issued by the government.

CONCLUSIONS

The local government of the Sleman regency has conducted a series of disaster risk reduction activities of Mount Merapi eruption. The activity has been going well. The activity involves government parties and actors outside the government with the dominant actors still in the government and volunteer community. These activities are influenced by the initial condition of each actor involved, the ability to move resources owned, information disclosure and knowledge sharing and the desire to maintain the commitment of mutual agreement to achieve the desired goals.

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COLLABORATIVE GOVERNANCE IN IMPROVING THE TOURISM SECTOR DURING COVID 19 PANDEMIC IN INDONESIA

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ABSTRACT

The way to clarify the concept of society role in local government affairs by implementing *collaborative governance*. Hartley, et al., had created the term '*collaborative governance*' to highlight multi-stakeholder engagement across organizations as viable alternatives or additions to coordination with market competition and hierarchical solutions (Hartley, Sørensen, & Torfing, 2013). This research aims to analyze and describe *Collaborative Governance* in Increasing Tourism in the New Normal Era during Covid 19 Pandemic in Indonesia. The results show that in response to the Covid-19 Pandemic, the World Tourism

Organization (UNWTO) in 2020 has revised the growth prospects of international tourists negative from 1% to 3%, while in Asia and Pacific will be the worst affected regions, with an expected drop in arrivals of between 9% and 12%. The tourist visits to Indonesia are slowly decreasing. Cumulatively from January to March in 2020, the number of tourists who came only reached 2.61 million people or dropped drastically by 30.62 percent; compared to the same period in the last year, 3.76 million people. When compared to February, the number of tourist arrivals decreased by 45.50 percent; While when compared to the same period last year the decline was recorded even more drastically, which is 64.11 percent. The decrease from the tourism sector is predicted to reach IDR. 60 trillion Rupiah. The Central Government through the Ministry of Tourism and Creative Economy, and supported by the Government at the Provincial/Regency/City level through the Tourism Office and tourism business entrepreneurs in the region is trying to prepare destinations in accordance with the "new normal" conditions post-Covid-19 in accordance with the principles of hygiene and excellent sanitization, as well as creating tourism destinations that are encouraged to continue in improving and increasingly aggressive in applying the principles of sustainable tourism development (*resilience, sustainable, and responsible*).

Keywords: Collaborative Governance, Tourism Improvement, Covid 19, Pandemic, Hierarchical Solutions.

INTRODUCTION

The national tourism industry is one of the sectors affected by the corona virus pandemic. The changing behavior and

technology are key to the tourism industry facing this pandemic. Covid-19 is a global pandemic that adversely affects the human and social dimension. After spreading from China, the pandemic spread rapidly to 210 countries including Indonesia. The Covid-19 pandemic was a major shock to the global economy including Indonesia. The economy declined for at least the first half of the year and may take longer if containment measures for the Covid-19 pandemic are ineffective. The Covid-19 pandemic caused disruptions to global supply chains, domestically, financial market volatility, consumer demand shocks and negative impacts in key sectors such as travel agencies and tourism.

The impact of Covid-19 pandemic will undoubtedly be felt across the tourism value chain. Small and Medium Enterprises (SMEs) are expected to be severely affected. The pressure on the tourism industry is particularly evident in the huge drop in foreign tourist arrivals with massive cancellations and declining bookings. The decline also occurred due to a slowdown in domestic travel, mainly due to the reluctance of Indonesians to travel, worried about the impact of Covid-19. As seen in the tourism ministry data that shows a decrease in the number of tourists when compared to the previous year in the same month period this year (Figure 1).

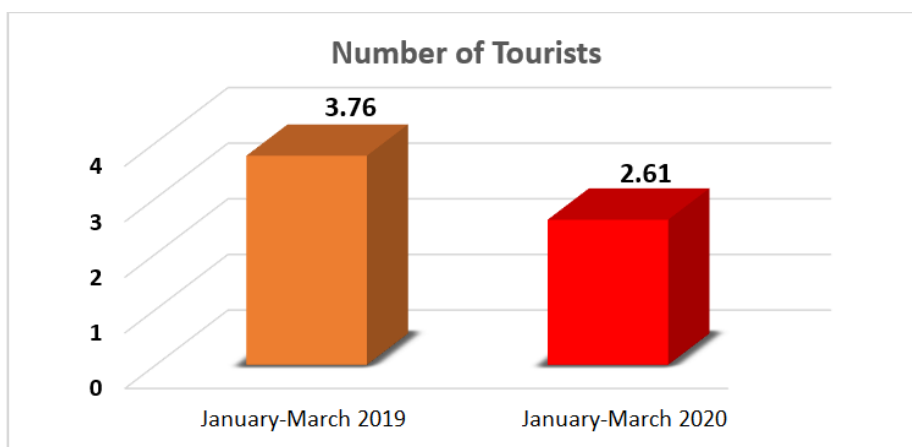


Figure 1. Number of Tourists Decreases in Indonesia (Ministry of Tourism and Creative Economy [MTCE], 2020)

Based on figure 1 above it can be known that since the corona virus pandemic spread around the world, the number of foreign tourist visits to Indonesia has slowly decreased. Cumulatively from January to March, the number of tourists who came only reached 2.61 million people or decrease dramatically by 30.62 percent; compared to the same period last year, 3.76 million people. When compared to

February, the number of tourist arrivals decreased by 45.50 percent; While when compared to the same period last year the decline was recorded even more drastically, which is 64.11 percent. The decrease from the tourism sector is predicted to reach IDR. 60 trillion Rupiah.



Figure 2. Targets and Achievements Number of Indonesia Tourists in 2019 (MTCE, 2020)

Based on Figure 2, it can be known that tourism conditions in Indonesia are not encouraging enough before the covid 19 pandemic period in 2019. Data reported from the Ministry of Tourism show that targets and achievements in 2019 are far from expectations. The number of tourists targeted in 2019 is as many as 20 million tourists can visit Indonesia but the achievement at the end of the year is only able to bring tourists amounting to 16.1 million tourists who come to Indonesia. The realization of the expected achievement targets and especially the decrease in the number of tourists during the covid 19 pandemic requires the government to issue new policies in order to regrow the interest of tourists visiting in Indonesia.

LITERATURE REVIEW

Governance

Neo & Chen, explained that governance is a relationship between government and society so as to create a public policy formulation after they are implemented and evaluated (Neo & Chen, 2007). In a broad sense, governance will discuss regulations, institutions, and networks that explain how the function of an organization. The use of governance theory has a three-dimensional as

mentioned by (Lahat & Sher-Hadar, 2020) classified the first dimension of institutional that describes governance as a system that involves many stakeholders, from government and private for the implementation of various activities to respond to problems and public necessity. The second dimension, is the value that is used as the basis at the time of decision-making. The value of public administration that is used as the basis in decision making as an example of efficiency and effectiveness has been turned into social values, freedom and humanity. The third dimension describes the process of how elements and government agencies respond to various public problems in their environment.

Therefore, governance is a way to manage the economy of a country and existing social resource by regulating the relationship between government and society which will create policies to be implemented and evaluated so that there is harmonious interaction between government, society and private. This definition of governance gives issue to the term of good governance which means ensuring respect for human rights and the rule of the law; Strengthening democracy; Promote transparency and capacity in public administration. This respect is

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demonstrated by inviting and the participation of effective individuals able to ensure that accountability, transparency, and legitimacy, namely good governance during the implementing development programs that impact local communities (Public Affairs Foundation, Sirker, & Cosic, 2007; Sullivan, 2001).

Collaborative Governance

Collaborative governance explains that managers and public representatives working in local government agencies need to develop a customer-oriented approach to delivering services (Ciborra & Navarra, 2005; Jones, Hackney, & Irani, 2007). They need a clear idea of the intentions of the new government (Kanat & Özkan, 2009) and what they are doing in achieving that new government (Jones et al., 2007; Hope, 2009). At the other end, local communities need to come forward to share knowledge and concerns with public managers and representatives to develop holistic efforts to achieve the best possible outcome of development projects (Bozeman, 2002; Dollery, 2003; Lahat & Sher-Hadar, 2020). Citizens need a clear conception of their role in local government affairs, which will consequently help them become more empowered to participate in local development programs (Macintosh & Whyte, 2008; Mahmud, 2004; Stoker, 2006).

A way to clarify the concept of society role in local government affairs by conducting *collaborative governance*. (Carmeli & Cohen, 2001; Reinhold & Dolnicar, 2021) active members of the network are involved in policy making, structure and decision making for sharing economy platforms. Networks are built on the same interests, values, and beliefs. (Hartley et al., 2013) have created the term '*collaborative governance*' to highlight multi-stakeholder engagement across organizations as viable alternatives or additions to coordination together with market competition and hierarchical solutions.

Collaborative governance transcends boundaries in a focus on what is happening

within a particular organization in a more inter-organizational, multi-level and cross-sectoral approach, i.e., it is often required to deal with existing problems (Ansell & Gash, 2008; Ansell & Torfing, 2015). At the same time, it is not a universal panacea because it is often time consuming and may have high transaction costs. As involvement in policymaking becomes more widespread, problem solving becomes more difficult (Peters & Hoornbeek, 2005). Institutional environments are critical for the coordination of practices that target complex public policy issues because they include broad relationship systems in different jurisdictions areas that can directly influence the goals, structure, and outcomes of collaborative settings (Bryson, Crosby, & Stone, 2006).

The pattern of collaboration that has been formed is the basic form to encourage the participation of every individual involved. *Collaborative governance* is best suited for circumstances that require continuous cooperation. Factors that affect the implementation of collaborative governance according to (DeSeve, 2004) were as follows: a. *Network structure* b. *Commitment to common purpose* c. *Trust among the participants* d. *Governance* e. *Access to authority* f. *Distributive accountability/responsibility* g. *Information sharing* h. *Access to resources*.

RESEARCH METHOD

The analysis of the study was conducted through a review of the literature related to the issue of tourism handling policies in Indonesia during the Covid 19 pandemic, where the target and achievement of the number of tourists visiting in Indonesia, and the decrease in the number of tourists in the same time period in the year before the occurrence of covid 19. Review literature is conducted from various points of view; theory and journal to study determinants and risk factors related to tourism development policies that will be carried out by the government in the current New Normal period. The study of the results of the

analysis of employment data is one of the community-based information used in analyzing determinants related to the issue of tourism handling policies in Indonesia during the covid 19 pandemic. Information related to policies and programs is obtained from related sectors including the Ministry of Health, and Global Policy by downloading through internet technology.

RESULT AND DISCUSSION

Tourism Conditions at the Global and Indonesian level

UNWTO in March 2020 announced that the impact of the Covid-19 pandemic will be felt across the tourism value chain.

About 80% of Small and Medium Enterprises (SMEs) from the tourism sector with millions of livelihoods worldwide are affected by Covid-19. In response to the Covid-19 pandemic, UNWTO has revised its growth prospects for international tourists negative by 1% to 3%. This has an impact on declining receipts or estimated decrease of US \$ 30 billion to US \$ 50 billion. Before the Covid-19 pandemic, international tourists were estimated to grow between 3% and 4%. Asia and Pacific will be the worst affected regions, with a drop in arrivals expected to be between 9% and 12%. Where the estimated decline in tourism can be seen in Figure 3 below.

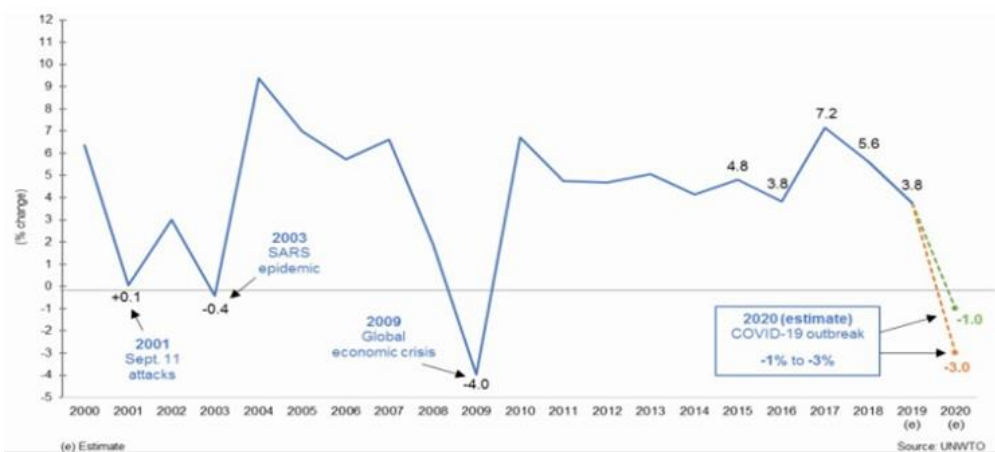


Figure 3. Estimated Decline in Tourism at the Time Covid 19 Around the World (UNWTO, 2020)

The tourism industry is faced with a huge drop in foreign tourist arrivals with massive cancellations and a drop in bookings. The decline also occurred due to a slowdown in domestic travel, mainly due to people's reluctance to travel. I'm worried about the impact of Covid-19. The decline in foreign tourist visits to Indonesia is also seen from the data of tourists who come through the air entrance (airport). When compared to visits in December 2019, the number of tourist visits to Indonesia

through the air entrance in January 2020 decreased by 7.62 percent (Figure 4).

The decline of tourism and travel business has an impact on SMEs businesses, and disruption of employment. Whereas so far tourism is a labor-intensive sector that absorbs more than 13 million workers. That figure does not include the derivative impact or multiplier effect that follows including the derivative industries formed under it. The decline of tourists, especially to Indonesia, will affect foreign exchange receipts from tourism.

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Approximately \$1.3 billion in foreign exchange receipts from tourism. China as the country of origin of the second most foreign tourists in Indonesia. Based on data from the National Labor Survey (*Sakernas*), the energy absorbed in tourism efforts continues to increase. It is Not only from the number of workers, the share of tourism to the absorption of national labor but also

continues to increase. This suggests that tourism can be one alternative to reducing the unemployment rate. In 2017 the number of workers in the tourism industry reached 12.74 million people or 10.53 percent of the total national workforce of 121.02 million people (Figure 5).

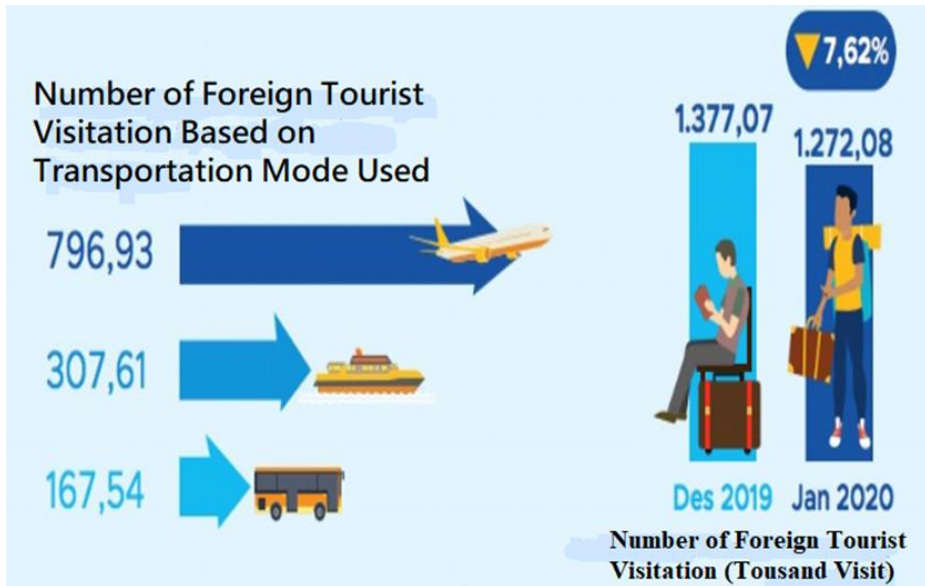


Figure 4. Number of Foreign Tourist Visitation Based on Transportation Mode Used ([Badan Pusat Statistik \[BPS\]](#), 2020)

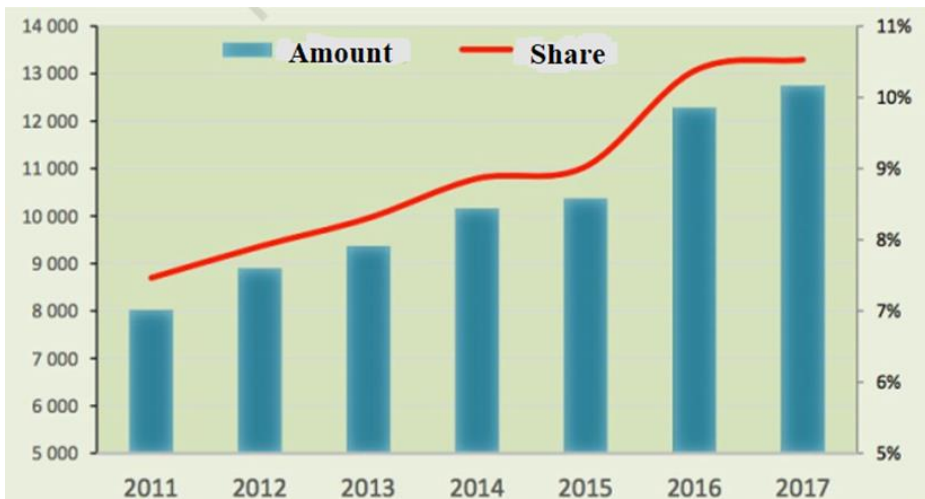


Figure 4. Number of Workers in Business Tourism, 2011-2017 (BPS, 2018)

Covid-19 has had a major impact on almost all aspects of life including the tourism sector due to increased travel restrictions, cancellations of major events and reluctance to travel internationally and domestically. To overcome this storm, various countries are struggling to cope with the impact of the Covid-19 pandemic.

That condition certainly shouldn't be allowed. In this difficult situation, there must be a breakthrough for the tourism sector to squirm again. The sector must start moving and productive when the pandemic is not yet fully contained. Therefore, it is necessary to appreciate by president named Mr. Joko Widodo's move to encourage the tourism sector to remain productive in difficult times. In a limited cabinet court, the President asked the tourism industry to prepare a new concept on the new normal order or new normal. We agree with the President's directive. In order to survive, the tourism industry must adjust to pandemic conditions. If the pandemic situation in the new normal era requires everyone to run health protocols, the tourism industry has to adopt that provision in giving services.

New standards, new habits, and new cultures in the tourism sector must be developed so that new and satisfactory tourism products can be created and presented to the tourists of the new normal era. *Solo travel tour, wellness tour, virtual tour, and staycation* are tourist products that can be cited as examples of holiday alternatives that are predicted to sell in the new normal era.

We believe that other more creative and solute to travel products can be created by our tourism industry with various comparative and competitive advantages respectively. Like the President's directive, the keywords of new normal era travel products pay close attention to health, hygiene, safety, and security issues. The principle of complying with health protocols should not be abandoned in packing services. The habit of maintaining distance, avoiding crowds, always wearing a mask, diligently washing hands should be able to be packaged as an integral part in

one tourist product. We support the efforts of the Ministry of Tourism to establish all the principles and protocols as a new standard for the tourism industry. With the new standard it is expected to be born creative guidelines. Coupled with the spirit without giving up and believing that tourism will survive and sustain in the current new normal era in Indonesia.

The importance of the government role in intervening the new normal policy in the field of tourism, because some of the research that has been done at the global level provides an overview that in collaboration between stakeholders carried out by the government in the field of tourism able to increase economic growth in the country's income sector, and provide solutions to employment problems. As well as research conducted by (Matijová, Onuferová, Rigelský, & Stanko, 2019) which mentioned that Tourism is considered as the largest service sector leading to a number of social and economic changes in Slovakia. The results of the study were analyzed using regression models, in which the resulting relationship between accommodation prices and unemployment was performed using simple linear regression. The study's findings suggest that one of the factors of the decline in the unemployment rate is the support of tourism production potential, which is conditioned by the quality of services offered, which is reflected in higher accommodation prices. The conclusion of the study is that there is a considerable contribution to the private and public sectors. For practice, (Matijová et al., 2019) advised paying more attention to the price analysis of goods or services provided, as well as, to create a corporate environment that is in accordance with effective tourism strategies to be able to increase employment.

Mura, & Kajzar conducted a study on increasing tourist visitors by offering the culture and history that exists in the Czech Republic today to be able to boost economic growth in this country (Mura, & Kajzar, 2019). The results of the study that

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have been done show that history and cultural events are one of the alternative motivations to attract tourists to the city. If there are no improvements in the tourism infrastructure, it will be very difficult to be able to attract visitors. Cities also have a duty in improving services in the areas of catering, accommodation, transportation services, and activities for children. The results are especially relevant for destination management organizations and cultural organizations that can help attract more tourists by using the various tools or media that exist today in the Czech Republic.

According to the research result from (Folorunso, Ayeni, & Ayeni, 2020) mentioned that the inclusion of architectural models of buildings in a shopping center and other public services it will be able to attract tourists. The findings suggest that the inclusion of tourism-oriented architectural features will be able to promote and increase sales. It also shows that other facilities such as restaurants, cinemas and sports facilities promote social interaction, extending the length of time spent in malls and consequently affecting sales.

Cozma, & Coros conducted research on the topic of sustainable tourism, which was discussed at the national level and had a significant impact on the economic development and international image of Romania (Cozma, & Coros, 2017). The aim is to minimize negative effects on the environment, to protect cultural heritage and also to offer learning opportunities, including benefits to the local economy and contributing to the structural development of local communities. The case study focused on the commune of Rodna. The results showed that local governments and owners were aware that the poor conditions of local tourism were, but they also showed optimism about the possibility of a future restoring economic well-being early from the mining period. In this case, the prediction is that tourist arrivals will increase due to the rehabilitation of tourist attractions, future infrastructure

improvements, and the increasing quality of accommodation services.

A study conducted by (Karimah & Hastuti, 2019) examined the long-term relationship between economic growth and international tourism acceptance (ITRs) in the state of Palestine during the period 1995-2014. To achieve research objectives, gross domestic product (GDP) is used as a proxy for economic growth while ITR is used as a proxy for the tourism sector. The study's findings suggest that there is a unique long-term relationship between GDP and international tourism acceptance. In addition, the granger causality test confirms the causal relationship of ITR to economic growth in the state of Palestine. The paper uses empirical evidence to demonstrate the role of the tourism sector in the economic performance of a country where its economy relies heavily on foreign aid and donations. Therefore, the Palestinian government has to develop a dynamic policy to promote the tourism sector to the country. This in turn leads to job opportunities, poverty alleviation, and economic growth.

Bunghez mentioned that tourism can represent, in the context of contemporary civilization, through its content and role, different areas of activity, and a very important segment in the economic and social life of most countries in the world (Bunghez, 2015). This work aims to analyze the dual relationships and implications of tourism in the economic field, as well as the factors that determine the extent to which tourism contributes to the economy of a destination. (Bunghez, 2015) showed how tourism can influence through its activities and development, both material and human components, as well as explains the beneficial effects, acting as an element that stimulates economic progress and development in a country.

Gaki-Papanastassiou and Papanastassiou mentioned that tourism satisfaction is the most important component in the analysis of tourism behavior, because it affects the choice of tourist destinations and product consumption, as well as the future decision

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of tourists to revisit those destinations (Gaki-Papanastassiou & Papanastassiou, 2014). The purpose of this paper is to investigate the satisfaction of tourists visiting the Ionian Islands in Greece using quantitative methods that capture the factors that influence traveler satisfaction and their choice to repeat the visit, the relationship between them and the consideration of the cause that led to it. Shaping tourism behavior. The results revealed factors affecting tourism satisfaction, the relationship between these factors, the relationship between satisfaction and return to the destination, satisfaction assessment according to traveler segmentation regarding their motives, the usefulness of information in satisfaction and its impact. From the experience of tourism in travel behavior or accommodation obtained when visiting the tourist attraction. Tourism policy recommendations arising from the results of the study can lead to diversification and enrichment of tourism products, but also to the increased satisfaction of tourists visiting the Ionian Islands in Greece.

Qian et al. in the research mentioned that the influence of tourism on the environment has led to research on the development of sustainable tourism (Qian, Shen, & Law, 2018). Experts and governments actively conduct sustainable tourism research, and their contribution to the field has achieved global notoriety. These findings illustrate the development of research on sustainable tourism in terms of collaboration, impact, knowledge base, and thematic coverage. These Six main themes were selected to demonstrate the latest trends in sustainable tourism research and guide future studies. Thus, this research can contribute to the development of sustainable tourism research and guide industry practices.

Zaei & Zaei wrote that tourism is a sector that can contribute to the economic growth of a region (Zaei & Zaei, 2013). In addition, tourism produces social benefits for the region (e.g., Development of SMEs, creation of new jobs, infrastructure upgrades, etc.). Culturally, tourism is said

to be an element of community enrichment, behaving to the confluence of various cultures. In addition, tourism can contribute positively to the maintenance of the natural environment by protecting, creating or maintaining national parks or other protected areas. This paper focuses on the tourism sector and its impact on the economic, environmental, political and socio-cultural creatures of the host society. The main purpose of the study is to highlight the economic impact of countries that have well-organized and well-managed tourist destinations.

Direction of Government Policy in the Field of Tourism

The trend of world tourism development annually shows a very rapid development. This is due, among other things, to changes in the socio-economic structure of countries in the world and more people have higher incomes. In addition, tourism has developed into a global phenomenon, becoming a basic necessity, and part of human rights that must be respected and protected. Government and Local Government, tourism business, and the community are obliged to be able to guarantee that travel as everyone's rights can be enforced so as to support the achievement of improvement of human dignity, improvement of welfare, and friendship between nations in order to realize world peace.

In the face of global change and strengthening people's personal rights to enjoy free time by traveling, tourism development is needed that relies on diversity, uniqueness, and national peculiarities. In addition, tourism development must still pay attention to the number of residents. The number of residents will be one of the main capitals in tourism development in the present and future because it has a dual function, in addition to being a human resource asset, also serves as a potential source of archipelago tourists.

Thus, tourism development can be used as a means to create awareness of national identity and togetherness in

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diversity. Tourism development is developed with an approach of growth and economic equality for the welfare of the people and development that is oriented to regional development, relies on the community, and empowers the community covering various aspects, such as human resources, marketing, destinations, science and technology, cross-sector relations, cooperation between countries, empowerment of small businesses, and responsibility in the utilization of natural resources. and culture. Which has been regulated in concerning Tourism (MTCE, 2009).

The role of the government in developing tourism in general is to provide infrastructure (not only in physical form), expand various forms of facilities, coordinate coordination between government apparatus and private parties, general arrangement and promotion to other regions and abroad. The government has authority in the regulation, the provision of spending allocation of various infrastructure related to tourism necessity. Not only that, the government is responsible in determining the direction that tourism travel is headed but also Macro policies pursued by the government are a guide for other stakeholders in playing their respective roles.

Based on the strength, important position, and influence of stakeholders on a stakeholder group can be categorized into several groups of ODA (1995) grouping stakeholders into the name of primary, secondary and key stakeholders. As an illustration of the grouping on various government policies, programs, and projects (public) can be presented. Stakeholders also have several categories, namely as follows:

Primary stakeholders are stakeholders who have a direct interest in a policy, program and project, namely the community and community leaders and public managers.

Supporting (secondary) stakeholders: have no direct interest in a policy, program and project. But it has concerns and concerns, namely government institutions,

NGOs, universities, entrepreneurs (Business Entities).

Key Stakeholders: have legal authority in terms of decision making which is an executive element according to its level, legislature and agency. The subject is the district government, Regional Representative, the office that directly oversees the project in question.

Where according to concerning tourism each authority of the Central Government, Province to District/City and Entrepreneurs engaged in the tourism field are as follows (MTCE, 2009):

Central Government is authorized: drafting and establishing a master plan for national tourism development; coordinate tourism development across sectors and across provinces; organizing international cooperation in the field of tourism in accordance with the provisions of the laws and regulations; establishing national tourist attractions; establishing national tourism destinations; establish norms, standards, guidelines, procedures, criteria, and supervisory systems in the implementation of tourism; develop human resource development policies in the field of tourism; Maintaining, developing, and preserve national assets that are tourist attractions and potential untapped assets; conduct and facilitate the promotion of national tourism; provide conveniences that support tourist visits; provide information and/or early warning related to the safety and security of tourists; increase community empowerment and tourism potential owned by the community; supervise, monitor, and evaluate the implementation of tourism; and allocate a tourism budget.

Provincial Government: drafting and establishing a master plan for provincial tourism development; coordinate the implementation of tourism in its territory; carrying out registration, recording, and registration of tourism business registration; establishing provincial tourism destinations; establish the tourist attraction of the province; facilitate the promotion of tourism destinations and tourism products located in its territory; maintaining

provincial assets that are the tourist attraction of the province; and allocate a tourism budget.

District/city government is authorized: drafting and establishing a master plan for the development of tourism districts/cities; establishing district/city tourism destinations; establish the tourist attraction of the district/city; carrying out registration, recording, and registration of tourism business registration; regulate the organization and management of tourism in its territory; facilitate and promote tourism destinations and tourism products located in its territory; facilitate the development of new tourist attractions; organizing tourism training and research within the scope of districts/cities; maintain and preserve the tourist attractions located in its territory; organizing the guidance of tourist-conscious communities; and allocate the tourism budget, and

Every tourism entrepreneur is obliged: maintain and respect the religious norms, customs, culture, and values that live in the local community; provide accurate and responsible information; providing a service that is not discriminatory; provide comfort, hospitality, security protection, and safety of tourists; providing insurance protection to tourism businesses with high-risk activities; develop partnerships with local micro, small, and cooperative businesses that mutually need, strengthen, and benefit; prioritizing the use of local community products, domestic products, and providing opportunities to the local workforce; improving workforce competence through training and education; play an active role in infrastructure development efforts and community empowerment programs; participate in preventing all forms of acts that violate decency and unlawful activities in the environment where they are business; maintain a healthy, clean, and beautiful environment; maintaining the preservation of the natural and cultural environment; maintaining the image of the country and the nation of Indonesia through tourism business activities responsibly; and apply business standards and competency

standards in accordance with the provisions of the laws and regulations.

CONCLUSIONS

The Central Government from the level of the Ministry of Tourism and Creative Economy, up to the Tourism Office at the Provincial and Regency/City levels, as well as entrepreneurs who are engaged in the Tourism field try to prepare destinations in accordance with the "new normal" conditions post-Covid-19 pandemic in accordance with the principles of hygiene and excellent sanitization, offering a unique local experience, to good visitor management so that there is no buildup (*overcrowded*). In addition, tourism destinations are also encouraged to continue to improve and be more aggressive in applying the principles of sustainable tourism development (*resilience, sustainable, and responsible*).

Collaborative Governance in implementing sustainable tourism policy able to simply be understood as tourism that takes into account the full economic, social and environmental impacts of current and future, meeting the needs of visitors, industry, environment and local communities. Management practices and guidelines for sustainable tourism development can be applied to all forms of tourism activities in all types of tourist destinations, including mass tourism and various other types of tourism activities. Sustainability principles refer to the environmental, economic, and socio-cultural aspects of a tourist destination.

Sustainable tourism development requires participation from relevant stakeholders as well as strong political leadership to ensure active participation and agreement between stakeholders. The achievement of sustainable tourism is a continuous process and requires constant monitoring, innovation and necessary preventive measures and improvements to the impact of tourism activities has to also continue to be done so that tourists feel safe and comfortable in doing tourism in the current new normal era.

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THE DEVELOPMENT STRATEGY OF LOCAL ECONOMY THROUGH VILLAGE-OWNED ENTERPRISES ABBREVIATED AS BUMDes (CASE STUDY IN PAYAKABUNG VILLAGE, INDRALAYA SUB-DISTRICT, OGAN ILIR DISTRICT)

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ABSTRACT

One of the indicators or characteristics of the regional autonomy successful is the creation of regional independence. Those efforts can be executed through the Village-Owned Enterprises (BUMDes). The purpose of this study is to describe alternative strategies for local economic development in Payakabung Village, North Indralaya Sub-District, Ogan Ilir District by applying SWOT analysis. This study is a descriptive quality research. The research site was conducted in Payakabung Village, North Indralaya Sub-District, Ogan Ilir District of South Sumatra. The focus of this

research is based on the strategy management process, with SWOT analysis. The results of SWOT analysis that have been carried out as the basis for the formulation of alternative strategies include as follows; Capital optimization to increase activities operationalization, partnership necessity together with private company in the processing of agricultural land, the existence of training and incentives by using CSR funds, Marketing products by involving the private sector as one of the promotional agents, the Village Fund which becomes the capital activities can be used for research on improving the quality of BUMDes products, Product marketing using online-based media to expand the target market.

Keywords: Local Economy, SWOT Analysis, Village-Owned Enterprises (BUMDes), Village Fund, Private Sector.

INTRODUCTION

Decentralization policy is basically the handover of authority and power to the region in managing the region potential autonomously. Decentralization has the goal that the government is able to prioritize budget efficiency and effectiveness of the function of the government service system to all levels of Indonesian society. This means decentralization indicates a vertical structure of state power system from central to regional government. In Indonesia the implementation of Decentralization applied in the form of Regional Autonomy policy (Nadir, 2013).

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One of the indicators or characteristics of the regional autonomy successful is the creation of regional independency, according to (Bahtiar & Supeno, 2020; Nadir, 2013) further stated that the autonomous region independency focuses on the first two things, namely the lower level of local government dependency to the central government, both in planning program, to the provision of funds. Regional planning will only be effective and efficient if it is created and implemented by the local government itself. The second is the ability of the region in advancing the level of independent economic growth (growth from inside) as well as external factors that directly affect the growth rate of regional development (growth from outside).

Based on (Undang-undang tentang Desa [UUTD], 2014) to support the development rural areas, the government strengthens two important rule points governing the development instrument, namely regarding village allocation funds sourced from the State Revenue and Expenditure Budget (APBN) and village revenue sources. Village allocation funds have been clearly regulated that the allocation of village funds is at least 10% of the balance funds received by districts / cities in the Local Budget (APBD) after deducting special allocation funds (DAK). This amount causes every village in Indonesia to achieve a larger allocation fund and being able to support capacity building and development programs in a village. In addition, villages are also given the opportunity to manage independent village income sources that can come from Village-Owned Enterprises (BUMDes), village market management, village-scale tourism area management, non-metal mineral mine management, rock mines without heavy equipment, as well as other sources income that are not for sale.

Payakabung Village is a village located in North Indralaya Sub-District, Ogan Ilir District, South Sumatra. In 2018 Payakabung Village is one of the villages among 14 other villages in South Sumatra determined as the best village in the village

funds management in South Sumatra by the Ministry of Finance through the Directorate General of Treasury of South Sumatra Province. This village is considered prospective as an organizer of Good Governance in the village financial management in 2018. Based on the data from the Ogan Ilir PMD Office, the assessment criteria for the use of village funds are the orderly administration of village-level planning distribution the Village Medium-Term Development Plan (RPJMDesa), Village Development Program Plan (RKPDesa), Village Revenue (APBDesa) progress of development implementation at the village level and reporting of village financial management.

Even though this village having performance, Village-Owned Enterprises (BUMDes) in Payakabung Village which is an institution that is formed and expected to be a partner for the community in continuing and developing the village economy, those are still faces many obstacles. They are such as lack of public awareness to actively participate in business units, extreme weather, falling selling prices of products produced by business units, and rules governing incentives that have not been suitable for BUMDes managers. The strategy of local economic development through SWOT analysis is one of the analytical methods used to formulate alternative strategies based on internal and external conditions of Payakabung Village, by using SWOT analysis is expected to obtain several alternatives that are able to assist Payakabung Village in solving problems and developing its BUMDes therefore it can have a significant impact on local economic development in this village. This study aims to describe alternative strategies for local economic development in Payakabung Village, North Indralaya Sub-District, Ogan Ilir District by using SWOT analysis.

RESEARCH METHOD

This study is a descriptive quality research. Descriptive means this research is done on independent variables, i.e., without

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making comparisons or connecting with other variables (Erickson, 2017). The research site was conducted in Payakabung Village, North Indralaya Sub-District, Ogan Ilir District of South Sumatra. The focus of this research is based on the strategy management process, first; this research will analyze the direction and mission of Village-Owned Enterprises (BUMDes) organization in Payakabung Village. The next process is to analyze both internal and external environmental factors, the purpose of this analysis is to understand the BUMDes environmental in Payakabung Village to formulate a strategy for local economic development in Payakabung Village. The environment consists of external and internal environments. The external environment has two variables: *Opportunity* and *Threats*. While the internal environment has two variables: *Strength* and *Weakness*.

The data collection techniques in this study applies observation methods, interviews, and documentation studies. Observation is a data collection technique that is done by observing the field or research location directly. Interview is a primary data collection technique by asking a number of questions to informants based on indicators of predetermined research variables. Documentation studies is a method that is done by studying documents or records that have something to do with the subject matter (Mack, Woodson, Macqueen, Guest, & Namey, 2005). Data analysis techniques in qualitative descriptive research are to apply *interactive* data analysis techniques.

LITERATURE REVIEW

The General Description of Payakabung Village History

The history of the development of this village is starting from the name of the stop, which is a stopover for traders who use railway services. Payakabung became popular starting from the oil heating place which is in front of the Parti village road (*Simpang Parit*). Initially the oil heating environment was surrounded by swamps

that were then called "*payo*" and villages around the outskirts of the swamps were planted with many forests (stalks). In the end the name of the stop gradually began to disappear changed with the name of Dusun Payokabung and is currently famous by the name of Payakabung Village (Pemerintah provinsi Sumatera selatan, [PPSS], n.d.). Payakabung Village was formed in 1977, the first village was called Payakabung Hamlet around 1962 to 1969. Payakabung hamlet still includes the Marga Parit area, which was then led by the Village Chief named Mi'un Ahmad. After separating from Marga Parit Payakabung Village led by Krio Mi'un Ahmad previously domiciled as Village Chief, he ruled from 1977 to 1984, the same year of the first village chief was elected, and M. Tohir was elected for 10 years, from 1984 to 1994 (PPSS, n.d.).

In 1994 re-election of The Head of Payakabung Village won by M. Darwis with a term of two periods (10 years) namely from 1994 to 2004. Furthermore, Payakabung Village is led by Pjs Village Head, M. Napidin. R for one year from 2004-2005. In 2005 the third village chief was elected, and at that time Herman Susilo was elected as head of Payakabung Village with a term of four years. The period 2009 to 2010 the village was led by Pjs Head of Payakabung Village, named M. Yusuf (Sejarah desa payakabung, 2019). At the end of 2010, the fourth election of The Village Head of Payakabung was held and won by Faula Rosi. Mr. who was appointed by the Regent of Ogan Ilir named Ir. H. Mawardi Yahya on January 18, 2011. Currently Payakabung Village becomes a Depictive Village under the leadership of Mr. Faula Rosi MR. Payakabung is now starting to improve, development is gradually starting to be seen, starting with the construction of Village Health Centre (*Puskesmas*) building, Payakabung Village office construction, Early Childhood Education and Development (Paud) building construction, making concrete rabat road both in Countryside I and Countryside II, and currently also has a multipurpose building that serves as a

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sports facility and a place to hold deliberations (PPSS, n.d.).

Geographical Area of Payakabung Village

Payakabung Village is located in North Indralaya Sub-District of Ogan Ilir District, South Sumatra Province. The area of Payakabung Village amounted to 35.75 Km² or 4,151.09 hectares, consisting of a land area of approximately 23.45 Km (70%) and a water or swamp area of approximately 13.45 Km (30%). The geographical condition of this village is located at the height of the land from sea level with the amount of rain for six months

in the space of one year. The average temperature of this village is 27 degrees Celsius. Topology and arbitration of this village is the village up to the sub-district capital approximately two kilometers with a travel time of approximately six minutes. While the distance of the village to the district capital is six kilometers with a travel time of 18 minutes. The border of Payakabung Village are as follows: The north is bordered by Purnajaya Village; The south is bordered by Tanjung Baru Village; The east is bordered by Tanjung Baru Village and Permata Baru Village; and the west borders with Suka Mulya Village and Parit Village.

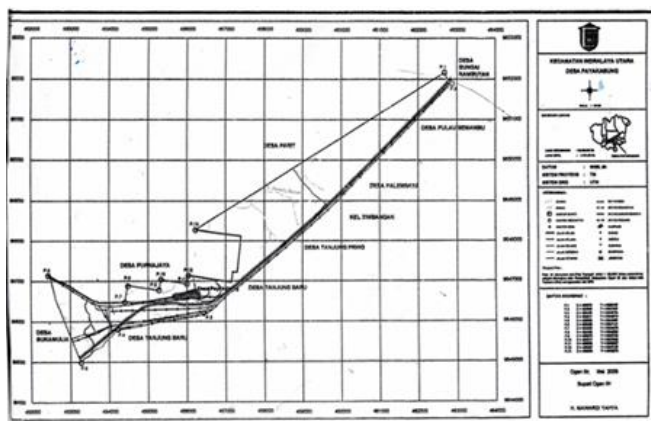


Figure 1. Payakabung Village Map (Pemerintah provinsi Sumatera selatan, n.d)

This village has two Countryside, namely Countryside I and Countryside II, each of which is headed by the Head of Countryside (Kadus). Countryside I consist of three Neighboring Pillars (RT) namely RT 01, 02 and 05, while Countryside II consists of two RT namely RT 03 and 04. The location of these two Countryside is only separated by railway tracks. The number of villagers based on data from the Payakabung Village Government is 612 heads of families or 2366 people in 2018, while the number of residents in 2019 has increased by 658 family heads or 2568 people. Meanwhile, the profession of the community in this village is very diverse,

such as civil servants who currently number 47 people, private employees as many as 196 people, rubber farmers as many as 123 people, farm workers or eavesdroppers as many as 239 people, merchant as many as 125 people, service businesses as many as 7 people, drivers as many as 45 people and self-employed and others as many as 165 people.

Payakabung Village has a vision and mission that includes all program plans and development activities that will be carried out by Payakabung Village gradually and continuously has to be able to deliver the achievement of the Village Vision - Mission. Vision and Mission of

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Payakabung Village in addition to being the Vision-Mission of the Elected Village Head Candidate, is also integrated with the common desire of the village community where the preparation process is carried out participatorily starting from the Village/Group level to the Village level. The vision of Payakabung Village is as follows "Creating a healthy, intelligent, faithful and religious Payakabung Village community and united to build the economy towards common prosperity and grow the Productive Economy of the community". While the mission of Payakabung Village is as follows:

- Realizing effective and efficient of the village governmental in order to optimize service to the community,
- Prioritizing facility and infrastructure development on target as well as emphasizing community necessity,
- Building facility that support economy activity movement especially for industrial and home industry, agriculture, commerce
- Creating community mindset about the importance of education and health as well as health disturbance.

In these vision and mission explained that there is a desire from village leaders to build villages so as to make the village able to provide good services to the community, the village government also continues to improve facilities and infrastructure for the benefit of the community and as a support for the village community to improve the economy to be more independent.

The Analysis of Payakabung Village Revenue

Village revenue as includes all receipt of fund through village accounts which is the right of the village in one budget annual that does not need to be paid back by the

village. The village revenue estimate is based on the assumption of the realization of village income in the previous year with an estimated increase based on the potential of being the original source of village income, The Balance Fund Section, Financial Assistance from the Government, Provincial Government and District Government, Third Party Grants and Donations. The assumption of Payakabung Village Income in Fiscal Year 2020 is IDR.1,358,543,866.00 (one billion three hundred and fifty-eight million five hundred forty-three thousand eight hundred and sixty-six rupiah), this budget can be illustrated in the Table 1.

Based on the table above shows that Payakabung Village income in 2020 is the highest comes from the State Budget in the form of village funds amounting to IDR. 866,094,000, - or 64% of all village income owned during 2020. Furthermore, the other income owned by Payakabung Village is derived from the allocation of village funds and fixed income which is IDR. 482,389,866, - or 36% of Payakabung Village income. But based on the table, village income derived from the original income of Payakabung Village for one year is only 0.41% or IDR. 5,600,000, which comes from Stated-Owned Enterprises (BUMDes) revenue share, and other income is only 0.33% of the overall income of Payakabung Village which comes from the results of village businesses, namely the village market and the village Drinking Water Company. Those are very much different when compared to village spending spent to provide capital participation for Village-Owned Enterprises (BUMDes) and funds for community empowerment. This means that the village economy dependency still does not exist, the village government still relies on village funds provided by the central government to carry out village development.

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Table 5. Payakabung Village Income in 2020 (Meutia & Liliana, 2017)

Analyses	Amounts	Percentages
A. Village Original Income (PADesa):		
Revenue Share from Village-Owned Enterprises (BUMDes)	IDR. 5.600.000, -	0,41%
Village business results (village market and village Drinking Water Company)	IDR. 4.460.000, -	0,33%
Village Revenue Result		
Self-Help Results and Community Participation		
Bank Interest or Current Account Services		
B. Transfer Revenue		
State Budget Village Fund (APBN)	IDR. 866.094.000, -	64%
Part Of the District Tax and Levy Proceeds		
Village Fund Allocation (ADD) + Fixed Income Payment Policy (SILTAP)	IDR. 482.389.866, -	36%
Financial Assistance from The Government		
Financial Assistance from the Provincial Government		
Financial Assistance from the District/City Government		
C. Others Revenue		
Party grants and donations		
Other legitimate village income		
Estimated Amount of Revenue	IDR. 1.358.543.866, -	100%

Village spending as intended includes all expenditures from village accounts which are village obligations in one budget year that will not be paid back by the village. This spending in accordance

with (Peraturan Kementerian Dalam Negeri [PKDN], 2007) consists of Direct Spending and Indirect Spending, Payakabung Village Spending in 2020 can be seen at the Table 2.

Table 9: Details of Payakabung Village Spending Forecast in 2020 (Inten, & Liliana, 2017)

No	ANALYZES	AMOUNT	PERCENTAGE
1.	Implementation of the Village Government	IDR. 366.531.400, -	27%
2.	Implementation of Village Development	IDR. 196.487.866, -	14%
3.	Community Development	IDR. 43.400.000, -	3%
4.	Community Empowerment	IDR. 15.800.000, -	1%
5.	Emergency, and Urgent Countermeasures	IDR. 500.982.300, -	37%
6.	Village-Owned Enterprise (BUMDes) Capital Participation	IDR. 235.342.300, -	17%
Spending Estimation Amount		IDR. 1.358.543.866, -	100%

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Based on the table above show that Payakabung Village spending above, the distribution of spending is divided into six types of spending, namely, government spending is IDR. 366,531,400, - or 27% of the total spending of Payakabung Village. Details of the cost of spending on the implementation of the village government are intended for the provision of fixed income and village head allowances, village devices, social security for village heads and village devices, provision of village government operational funds, Village Consultative Agency (BPD) allowances, and BPD operational provision. In addition, village government maintenance spending is also used for the provision of village government infrastructure facilities, population administration management, civil registration, statistics and archival and implementation of governance, financial planning and reporting.

Village development expenditure in 2020 is estimated to reach IDR.196,487,866, - or 14% of the total spending of Payakabung Village. The Details of this expenditure are intended for the Education's field, namely the education implementation at various levels such as: Early Childhood Education and Development (PAUD), kindergarten, landfill, non-formal schools owned by the village government. In addition, the expenditure of the village implementation development is also intended for the health sector, namely the implementation of village health posts, the implementation of Integrated Healthcare Centre (Posyandu) and the health alert village program. The Details of this expenditure are also used for the cost of public works and spatial arrangements, namely the construction, rehabilitation and improvement of village road infrastructure. Furthermore, this expenditure is also allocated to the residential area in the form of development and rehabilitation of improving clean water connections to households, development of village-owned forestry and environment and implementation of village public information.

The other Payakabung Village spending is community development spending which amounted to IDR. 43,400,000, - or 3% of the total spending of Payakabung Village. The Details of community development spending are intended for the procurement and implementation of village security posts, extension training or socialization to the community in the field of law and community protection, the construction of village-level arts and culture groups, cadet coral construction, youth and sports clubs at the village level, the construction of indigenous institutions, the construction of Village Council (LKMD), Community Empowerment (LPM) or Village Community Empowerment Institute or Village (LPMI) and the guidance Empowerment of Family Welfare (PKK).

The Other expenditures allocated in 2020 are community empowerment expenditures, this total expenditure is amount IDR.15,800,000, - or 1% of the total Payakabung Village spending in 2020. The Details of community empowerment spending are intended for increasing the capacity of village apparatus, namely village devices and Village Consultative Agency (BPD) and the budget is used for training and counseling for child protection in this village. While for this year the largest budget used for spending is disaster management, emergency and urgent spending, this is because this year the community, especially in Payakabung Village, was frightened by the spreading of the Corona Virus Disease 2019 (Covid-19) outbreak, this budget is intended for communities affected by Covid-19, the amount of the budget for this expenditure is IDR. 500,982,300. - or 37% of the total spending of Payakabung Village in 2020. This budget is allocated directly to communities affected by Covid-19 in the form of groceries necessity and other assistance funds to support the economy of the village community.

The last of Payakabung Village Expenditure is intended for the participation of Village-Owned Enterprises (BUMDes) Payakabung capital, which is amount IDR.

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235,342,300, - or 17% of the total village budget in 2020. This capital participation is given to the efforts of villagers under the auspices of Village-Owned Enterprises (BUMDes), these businesses are village savings outlets, fragrant lemongrass, oyster mushrooms, toman fish nurseries, chicken husbandry and other businesses that will be developed by Village-Owned Enterprises (BUMDes) Payakabung.

Forming Process of Village-Owned Enterprises (BUMDes) Payakabung

The establishment of Village-Owned Enterprises (BUMDes) is based on the results of meetings and deliberations with the village community related to the formation of Village-Owned Enterprises (BUMDes) on January 16, 2017. The establishment of BUMDes Payakabung based on Village Head Decree No. 140/19/BUMDes/I/2017 published on January 17, 2017. Furthermore, based on the Decision of the Village Head No. 41/20/SK. BUMDES / PYK / VI / 2018 dated June 25, 2018, then the management of Independent Village-Owned Enterprises (BUMDes) Payakabung Village was formed (Aritenang, 2021). The background of Payakabung Village encourages the formation of BUMDes as the desire of village devices and village communities to increase the economic potential of Payakabung Village. The potentials of Payakabung Village are agricultural land whose results can later be sold in the market to increase the number of farmers, and reduce unemployment in this village. The types of village potential that have are fragrant lemongrass oil, oyster mushrooms, ornamental cramps, *Bongkol* food, peanut food (*Peyek*), chicken husbandry and rubber gardens.

The initial capital participation for Village-Owned Enterprises (BUMDes) Payakabung in 2017 came from the village fund budget amount IDR. 137,310,000, -. The funds are further divided for the inclusion of fragrant lemongrass business capital amount IDR. 50,000,000, this fund was disbursed in 2017, which is given to villagers who have fragrant lemongrass

businesses. Those Funds are issued in the form of fragrant lemongrass seeds and organic fertilizers, the result of which will be essential oil. This oil is the raw material for many products including the manufacture of cosmetic products, fragrances, perfumes, aroma therapy, flavoring, painkillers, anti-infection and bacterial killing.

Furthermore, the capital participation of Village-Owned Enterprises (BUMDes) Payakabung is further intended for the funding of the slaughtered chicken business unit. Those Funds issued for this chicken husbandry business amounted to IDR. 51,000,000, - this fund was issued based on Village Regulation No. 01/BUMDes-M/PYK/VI/2018 on June 04, 2018 on the funding of chicken herd business units. This fund is issued for the purchase of village goods or assets in the form of chicken seedlings, vaccines, cutlery and drink chickens, chicken animal feed and others. The other budget of Village-Owned Enterprises (BUMDes) is intended for capitalization of oyster mushroom cultivation which is amount IDR. 35,000,000,-. This oyster mushroom business has actually been running since 2015, at that time this business failed so that it had a vacuum. Since the existence of Village-Owned Enterprises (BUMDes), this business then bounced back in 2017 until now. Village-Owned Enterprises (BUMDes) in this effort to prepare everything needed by residents, even the land has also been prepared by BUMDes, but there are still some obstacles in the management of oyster mushrooms, namely constraints on water factors and unprofessional managers therefore it isn't maximal managed. In the strategy management process, it is important for the organization to build both of vision and mission of the organization or company up to the assessment successful of the implementation strategy as a reference to make a new decision that are oriented to the future. Vision and mission describe the values that are considered important and the goals of the organization. The values that exist in the vision and mission of an

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organization are useful to provide the clear guidelines for various organizational both in action and behavior decisions (Wiggill, 2014). Village-Owned Enterprises (BUMDes) Pakabung Village itself has the vision of "INDEPENDENCY" which is "Realizing an Independent Village that Is Able to Serve the Community to Achieve Mutual Prosperity". Furthermore, to describe this vision, a mission is created which as the basic framework in determining the direction of the organization and the decision-making management in the future. Village-Owned Enterprises (BUMDes) Payakabung mission consist of as follows:

Developing Village-Owned Enterprises (BUMDes) as a locomotive of economic activities and empowerment of village communities to improve the community welfare of Payakabung Village in realizing independency in all fields.

Increasing The Village Original Income of Payakabung to improve the development and improvement of the community services of Payakabung Village.

Exploring and empowering the village potential to be used in an effort to improve the community's welfare.

Strengthening institutions and expanding the work network through cooperation, both internally and externally, those villages with various potentials of the community and parties as well as synergy with government institutions to strengthen the economy growth of Payakabung Village.

RESULT AND DISCUSSION

Based on the vision and mission of Village-Owned Enterprises (BUMDes) Payakabung above, BUMDes was created with the aim to create community independency in Payakabung Village by providing good services to the community to realize a prosperous society. It is hoped that through this Village-Owned Enterprises (BUMDes) able to realize economic independency and community empowerment. Along this activity, BUMDes is expected to increase the

original income of Payakabung village. Village-Owned Enterprises (BUMDes) is also expected to act as a bridge for people who have businesses to establish good cooperation with relevant stakeholders therefore able to develop the community potential and the village economy.

The Potential Analysis of Payakabung Village to be developed Village-Owned Enterprises (BUMDes) grouped into a variety of products developed by the surrounding community consisting of as follows:

Lemongrass Product

The development of fragrant lemongrass cultivation in Payakabung Village began from the creativity from one of the villagers who wanted to open a business that was different from the efforts of the majority residents in this village, namely rubber and palm oil farmers. Furthermore, in 2016 Payakabung Village welcomed a team from Semarang City Regional Government who made visits and observations about local potential that has to be managed to the maximum and produce for the village community. In that the profession of the people in Payakabung Village itself are still monotonous, therefore, it is necessary to make a guidance in making changes to agricultural patterns, one of which is the ride-hailing system. From the results of these observations, the team saw the potential that could be developed in this village. The potential shows a gap in the rubber plantations of residents who are still very young and have enough space to do a sari system.

The results of these observations were further reported to Ogan Ilir Regent as an input for the development of Payakabung Village. The village community also asked the district government to generalize the development of village potential in accordance with the state of the village area such as temperature, soil contours and different climates of each region. Based on this condition, the economic development of Payakabung Village starts from the innovation of superior products, namely fragrant lemongrass, this product is newly

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cultivated in Payakabung Village. The management of lemongrass is utilized from all sides even the resulting waste is also reusing.

In 2017 the people who developed fragrant lemongrass plants felt that this plant has promising potential if they are developed. Furthermore, the community uses makeshift equipment, namely simple distillation tools and processing fragrant lemongrass into fragrant lemongrass oil. The result of such simple management turned out to produce the economy of the citizens, therefore the program is finally developed by the community and proposed to the government to be developed better. The community expects capital assistance in the form of fertilizer subsidies and seeds for lemongrass. Therefore, the obstacle in the development of lemongrass oil is a volatile price in accordance with market conditions, so that the results of profits from sales often experience ups and downs. In these calculations for a period of two months should be the profit obtained reached amount IDR. 5,000,000, - per month, but due to fluctuating prices, the profit only reached only IDR.1,600,000, - per month.

In 2018 the development of fragrant lemongrass oil was included in the budget of State-Owned Enterprises (BUMDes) Payakabung, in order to the condition of the price of local fragrant lemongrass did not sell in the market because it was inferior to the cheaper export lemongrass price, finally, this development did not work well. In mid-2018, the community innovated by mixing local scented lemongrass distilled produce with other spices so that it became massage oil, and its distillation water was used in mixtures to make a soap. This fragrant lemongrass oil also contains ethanol as a substitute for alcohol, so this oil is also used by the public as a Covid-19 prevention product in the form of hand sanitizers that are used privately due to difficult permit limitations. Furthermore, in 2019 this product is budgeted by BUMDes to make distillates that are modified therefore they can distill various products

such as other plant sterilization media for their own production.

In addition to massage oil and a mixture of fragrant lemongrass soap is also processed into syrup that was originally processed into tea with a refreshing fragrant lemongrass essence. The obstacles encountered by State-Owned Enterprises (BUMDes) in guiding the community are consumptive community behavior, namely the community is used to consuming outside goods instead of their own production goods. State-Owned Enterprises (BUMDes) in this case has helped the community in innovating to develop the lemongrass itself into a useful product.

Oyster Mushroom Product

The oyster mushroom business has actually been running since 2015, at that time this business failed so that it had a vacuum and bounced back in 2017 until now. While the connection of this business with Stated-Owned Enterprises (BUMDes) began at the end of 2018. The role of Stated-Owned Enterprises (BUMDes) in this business is to prepare everything needed by the citizens, even the land has also been prepared by BUMDes, but there are still obstacles to the water factor and the administrator is still unprofessional so that it is not fully maximal. In 2017 the needs of the oyster mushroom market are still well fulfilled. In a day they can reach 100 kg in a market, so that the turnover can be quite a lot. But when the current pandemic period there is a decrease because the market needs are reduced, nowadays the production is reduced to normal conditions. The process of planting oyster mushrooms from start to finish takes about two months and a half starting from preparation to harvest, with the calculation method used by using a new capital count taking into account's results. The tendency of each planting mechanism depends on each farmer. There are breeding methods with their own development ranging from nurseries and preparing breeding to be re-cultivate, in accordance with existing opportunities.

This oyster mushroom business when tied to Stated-Owned Enterprises

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(BUMDes) for one-year profits that can be only to return capital because it is still focused on completing equipment and supporting facilities, so that in the second period can only reach the benefits, it is also very influential when recruiting local residents as workers. The harvest system is used every day, with the harvest period seeing the condition of the fungus, for those who have a slightly thin edge has to be harvested, although there is no market demand because the product is left longer, they will be becoming rot. In addition, another way is processed, but currently constrained by covid, processed products are not in accordance with the desires of the market. If the production is a lot but marketing is small, the manager should be able to pack as well as possible and put in a refrigerator that can more or less last for two days.

Fowl Husbandry

Fowl husbandry business has been implemented by Stated-Owned Enterprises (BUMDes) since June 2018, Fowl husbandry business is basically the result of the aspirations of villagers who have adequate land area and have considerable interest in poultry maintenance. Fowl husbandry has been regulated in Village regulation number 01/BUMDes-M/PYK/VI/2018 on the funding of chicken herd business units, with a funding amount IDR. 50.000.000, -. Until now there have been no significant obstacles and able to progress from 2019 to 2020.

Toman Fish Cultivation (Channa microplates)

The potential of the river in South Sumatra is a great potential for the development of freshwater fish cultivation. One of them is the cultivation of Toman fish which is a type of fish from the cork fish tribe. Toman has a high economic and nutritious value, and is easy to cultivate (Sinh & Pomeroy, 2010). People in Payakabung Village also cultivate this toman fish in an effort to improve the village economy.

In this study also describes the analysis both of internal and external factors that aim to find out the strengths and weaknesses of the organization in operations and managerial, it is necessary to examine the strengths and weaknesses of the organization before determining goals and outline to the action of achieving goals (Teece, 2010). Internal and external environmental analysis is also needed to identify areas of weakness and determine whether they have strategic significance – and whether they make the organization getting weak. The Analysis of an organization's internal environment is sometimes referred to as an analysis of an organization's strengths and weaknesses, or also called an organization's self-identity analysis (SWOT) analysis. SWOT analysis is the systematic identification of various factors to formulate an organizational strategy. This analysis is based on logic that can maximize strength and opportunity, but can simultaneously minimize weaknesses and threats (*threats*). SWOT stands for internal environment strength and weaknesses as well as the external environment of opportunities and threats faced in the organizational world. SWOT analysis compares external factors of opportunity and threat with the internal factors of strengths and weaknesses (Vlados, 2019). Internal factor analysis is an analysis conducted on factors derived from within the village and Stated-Owned Enterprises (BUMDes) Payakabung consisting of strengths and weaknesses. Meanwhile, external factor analysis is an analysis conducted on factors derived from the outside environment of the village and Stated-Owned Enterprises (BUMDes) Payakabung consisting of opportunities and threats.

Based on the research results, researcher found that Payakabung Village has a large enough agricultural land that can be used to improve the community economy. The extent of the agricultural land can be used to maximize the agricultural output of rubber, fragrant lemongrass, oyster mushrooms that have long been managed by the people of

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Payakabung Village. In addition, the people of Payakabung Village since the beginning actually already have an independent business to develop this village, the community already has a plant of fragrant lemongrass products, oyster mushrooms, toman fish cultivation and fowl slaughterhouse. The community has made various kinds of innovations to develop the village potential aiming to economy improvement along with Stated-Owned Enterprise (BUMDes) formed in 2017, The community also feels the business capital assistance provided by BUMDes to develop its needs. Evident in the allocation of village funds, BUMDes was given a capital allocation amount IDR. 235.342.300, - the funds were used for capital addition for Small and Medium Enterprises under the guidance of BUMDes Payakabung. The strategic location of the village also makes it easier for businessman to promote their products out of the village. The village, which is only about 34 km from the provincial capital, allows people to make better sales to the market.

The other obstacle in doing marketing, faced by businessman in Payakabung Village show that they do not yet the maximum marketing that can be done, although the location of the village is close to the capital but they have not been able to maximize marketing for these products. The products owned are generally only enjoyed by the internal people of this village, marketing out of the village is usually only done when the exhibitions of small and Medium-Enterprise's business products at the district level. The rest of the businessman only make sales in the markets that are in this village. The lack of marketing is inseparable from the limitations of knowledge and education of business people, the lack of knowledge related to how to promote the products so that they can be sold to the wider community becomes an obstacle encountered in marketing activity. In addition, the limitations of human resources that will do marketing are also an obstacle, generally people not only focus on making products so as to produce finished goods,

but also do not have the resources that are able to promote product marketing. For licensing according to business actors, they also have enough difficulty to get local product marketing permits, it causes businessman cannot do marketing as professionally.

When viewed from the potential and constraints possessed by the community of business people in Payakabung Village, there are actually many opportunities that can be developed to improve the local economy. These opportunities include seeking cooperation with partners to collaborate to market superior products resulting from these business actors. In addition, Stated-Owned Enterprises (BUMDes) Payakabung also able to observe Corporate Social Responsibility (CSR) funds from companies in order to provide assistance for village business actors either in the form of training, mentoring or capital provision aimed at developing community businesses.

The Good opportunities can also be done by developing fragrant lemongrass products, this product can be used as essential oil. Indonesia is a large producer of oil. This oil is managed with the raw materials of fragrant lemongrass oil, clover leaf oil, memento flowers, patchouli oil, fragrant root oil and other ingredients. The basic ingredients of this essential oil are widely exported abroad, such as: United States, Japan and Europe. In Indonesia until now there are still few business people using essential oils to be further processed into products that have higher value. Business people generally sell essential oil base materials to other entrepreneurs to immediately earning money. Furthermore, in the development of toman fish, business people in Payakabung Village actually have a good opportunity in processing this product. Toman fish (*Channa microplates*) can be exported abroad, because many countries need processed fish products. Once this fish harvest can reach two tons, this amount if multiplied by the price of toman is quite expensive that able to improve the people economy of Payakabung Village.

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While, in the process of local product development is often eroded by other products that are more advanced, so that the product loses in the market, the number of imported products also makes the market of local products, especially products from Payakabung Village is less competitive. In addition, in the process of planting agricultural products the threat of disease pests and floods is also a challenge for business people in Payakabung Village in developing their products. In the development of community businesses, often the provision of capital allocated by Stated-Owned Enterprises (BUMDes) is less used effectively and efficiently, as evidenced by the allocation of village funds for community business capital assistance through Stated-Owned Enterprises (BUMDes), the revenue sharing funds from the participation of capital are only IDR. 5.600.000, - for one year.

Implementation of Village-Owned Enterprises (BUMDes) Payakabung Development Strategy which is next in accordance with the strengths, weaknesses, opportunities and threats that have been discussed, then conducted SWOT analysis (Table 3). The strategy carried out in the development of BUMDes Payakabung in accordance with SWOT analysis is the result of analysis both in internal and external factors in the form of formulation of strengths, weaknesses, opportunities and threats. These four formulations can then be formulated into an alternative strategy that can be applied by BUMDes Payakabung. The strategy to maximize strength and opportunity is by collaborating between BUMDes Payakabung with several related stakeholders to maximize agricultural products in this village, they are important because with a large enough land this village requires good assistance by companies that have developed to create product development innovation. Furthermore, ongoing training and mentoring from companies is also needed to assist the community in developing Small and Medium-Sized Businesses. This Mentoring needs to be done consistently

because of the lack of community support in promoting product marketing.

Another strategy that can be done is Village-Owned Enterprises (BUMDes) observe corporate social responsibility (CSR) funding to develop innovation and creativity of local products, by the assistance of CSR in addition to capital assistance is expected to be held training and mentoring that continues to be implemented by stakeholders therefore this assistance can be properly allocated. The development of fragrant lemongrass plant products also has opportunities that can be used in this local economic development strategy, this product can be made into the basic ingredients of making essential oil, local entrepreneurs are expected to create essential oil products independently and promote marketing to abroad. In addition, other products such as oyster mushrooms, broiler chicken and toman fish *Channa Microplates* can be developed and marketed so that they can be exported abroad.

Furthermore, the strategy to reduce weaknesses and take advantage of existing opportunities is to continue coaching and supervision implementation carried out by CSR assistance stakeholders, Payakabung Village has received assistance from PT. PLN in 2019, the assistance in the form of fragrant lemongrass seeds with a land greening agenda through crop cultivation for climate control, the assistance was given amounting to IDR. 50.000.000, - with the requirement of the design of wastewater management installations. However, from the funds given to the lemongrass, the product does not produce, this is due to the lack of product quality to be sold in the market. The harvest of local seeds of fragrant lemongrass is less desirable so that the price in the market has decreased which resulted in considerable losses. Therefore, it is expected that by providing CSR funds consist of assistance and training provided to allocate budgets and process budgets. Along With the assistance of CSR, it is also expected that creativity and innovation can be improved so as to create new products from existing basic materials, so that with the innovation able to increase sales abroad.

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Table 3. Swot Matrix Results

		WEAKNESS (W)	
		STRENGTH (S)	
		<ol style="list-style-type: none"> 1. Having a large land area to develop agriculture 2. Having had lasting innovation for village independence efforts 3. Having capital from village funds 4. Strategic location close to urban 	<ol style="list-style-type: none"> 1. Limiting knowledge and education 2. Human resources limitation 3. Less than the maximum effort in promoting product marketing 4. Does not have a cooperation network 5. The difficulties of manufacture licensing for the business activity
		STRATEGY S-O	STRATEGY W-O
OPPORTUNITY(O)	<ol style="list-style-type: none"> 1. Collaboration and cooperation to market products 2. CSR funding assistance 3. Exporting products abroad 4. Larging oil producers in Indonesia 	<ol style="list-style-type: none"> 1. Cooperating with stakeholders to develop agricultural businesses in the village (S1, S2, O1) 2. Conducting mentoring and training for these farmers to develop businesses (S2, O1, O2) 3. Providing CSR funds to develop local product innovation (S2, O2) 4. Developing fragrant lemongrass products into essential oils for sale abroad (S2, O2, O4) 5. Developing product marketing to export abroad (S4, O3, O4) 	<ol style="list-style-type: none"> 1. Conducting coaching from CSR giving BY companies to business actors (W1, O1, O2) 2. Opening the market to sell products outside the village (W3, O1, O2, O3) 3. Assisting by the company to do marketing (W3, W4, S1, S2) 4. Maximizing the production effort of fragrant lemongrass to produce essence oil in order to be exported (W3, O3, O4)
		STRATEGY S-T	STRATEGY W-T
THREAT (T)	<ol style="list-style-type: none"> 1. Competition with imported products 2. Plant pests 3. Climate condition (Rain and Dry seasons) 4. The capital used is not used effectively and efficiently. 	<ol style="list-style-type: none"> 1. Developing innovation and creativity of local products in order to compete with imported products (S2, T1) 2. Maximizing supervision of capital that has been given to business actors (S3, T4) 	<ol style="list-style-type: none"> 1. Joining together with supermarkets to promote local products (W3, W4, T1) 2. Marketing products by using social media and E-Commerce (W3, W4, T1, T4)

CONCLUSIONS

Based on the description of the study, it can be concluded that strategies to increase strength and reduce external threats are not a lot of different from other strategies, namely by developing product innovation so that they can compete with other products, maximizing supervision of capital provided both using village funds and CSR in order they can be utilized

effectively and efficiently. Transparency in fund management is needed in the strategy to minimize this threat, because funds are the most important thing in their management. It is also necessary for the trust level of the village community in providing funds for the business units management. The plan will be expected that some of the profits will be handed over to Village-Owned Enterprises (BUMDes),

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because with the development of BUMDes able to finance other activities therefore later it is expected that the village community will not depend on the budget funds from the central government anymore. The advatging of SWOT program will be developed in Payakabung Village if these programs executed by professional staff and employee as well as good knowledge relates on the local wisdom and regional government in Palembang City. Palembang City know as one as one of big cities in Indonesia that still determine about local wisdom as the implementation rule and government program.

The next strategy to minimize shortages and threats is the need for cooperation with supermarkets to market products from Payakabung Village. This year, Village-Owned Enterprises (BUMDes) Payakabung made BUMDes Mart in the village by collaborating franchise with Indo Grosir. Later the goods produced by Payakabung Village business actors can be marketed in Indo Grosir, in addition Indo Grosir will also open a branch in Payakabung Village, BUMDes Payakabung has prepared five shophouses built using village funds to market local goods. With the opening of Indo Grosir marketing shop, employee management and training will be provided by Indo Grosir for the people of Payakabung Village. The Village Government also cooperates with the North Indralaya Subdistrict to reject in giving operational permission if there is another mini market that will open a branch in this village.

Product marketing by using social media and E-Commerce is also needed in local product marketing strategies, this is because of its low cost and able to reach all regions. Products made in Payakabung Village have a distinctive uniqueness, therefore, if marketed through the platform is expected to be more effective and sell in the market. In addition, the obstacles faced today are marketing that decreases due to the occurrence of pandemics as well as the lack of marketing levels and public consumption of products, one of which is mushrooms is not comparable in normal

circumstances. Weather also affects mushroom production as it does when the rainy season will be more productive and the dry season less productive, but this can be developed with simple technology that keeps the fungus moist. Mushroom products that have not been sold in the market are also overcome by doing good packaging and storage in the refrigerator so that it can last longer.

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THE IMPLEMENTATION OF THE POLICE ASSESSMENT CENTER ON THE INDONESIAN NATIONAL POLICE IN SUPPORTING OF OPEN PROMOTION

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ABSTRACT

The way to clarify the concept of the human resources competence of The Indonesian National Police (POLRI) is believed to be a key factor in determining the success of the police organization. Currently, POLRI has implemented an open position promotion program which one of the stages uses the Assessment Center to exam managerial competence. This research aims to analyze the policies and impact of assessment center implementation in supporting of the open positions promotion. The Researchers apply qualitative

approaches with data collection techniques in the form of observations, interviews and document studies. The results of the study findings concluded that the Assessment Center implementation policy in support of open promotion in the narrow sense has been implemented although incomplete. In a broad sense, the implementation of assessment center policies in supporting of open promotion has not been successful and has not given a positive impact. This is because The Indonesian National Police as a bureaucratic organization, does not fully have the organizational capacity that is the backbone of bureaucracy, which involves: organizational structure; mechanism of work; human resources; financial support as well as resources needed to work. These four elements have not been able to realize optimal conditions and support each other.

Keywords: The Indonesian National Police (POLRI), Assessment Centre, Assessor, Implementation, Empowerment.

INTRODUCTION

The Indonesian National Police (POLRI) as a large and complex organization is a tool of the state that functions in order to maintain the security and order of the community, enforce the law and protect, as well as serve the community. Borthakur stated that in the POLRI administration system, the benchmark of police success is determined by the operational management system, while to support the success of the POLRI is determined by the coaching management system, both of which are interconnected (Borthakur, 2019). As an element supporting the success of the POLRI which

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is a professional organization, the quality of human resources itself should have individual competencies that support the organization's work system especially if given the confidence to occupy an appropriate position and at the right time (*the right man, on the right place, at the right time*).

In line with this condition, the POLRI has made a work program related to the development of human resources of the POLRI namely an open position promotion program around the Police environment. One of the stages in the open position promotion program is the managerial competency test conducted through the *Police Assessment Center*. The National Police Assessment Center has been used to support the Police Chief's policy in the promotion of open positions for every level and office space in its jurisdiction in accordance with the delegation of its authority. This is as stated in the Budget Activity Plan sheet of the Ministry of Institutions (RKAKL) in the POLRI about the promotion of open positions.

In its implementation, there is a presumption that The Indonesia National Police *Assessment Center* in supporting the promotion of open positions is an administrative activity and limited to carrying out obligations only, and there is a less clear understanding of the purpose of the *Assessment Center* itself. This is reflected in some openly promoted office spaces are still general. One example is the promotion of open positions for the position of Unit Head in the Indonesian National Police (Haripin, & Siregar, 2016), while the position of Unit Head consists of 7 (seven) different positions, namely: 1) Head of the Intelligence and Security Unit (Kasatintelkam); 2) Head of The Water Police Unit (Kasatpolair); 3) Samapta Bhayangkara Unit (Kasatsabhara); 4) Head of Traffic Unit (Kasat lalu); 5) Head of The Criminal Investigation (Kasatreskrim); 6) Head of The Drug Investigation Unit (Kasatresnarkoba); and 7) Head of Community Development Unit (Kasatbinmas), they have different competencies from one to another. Based

on the description, the author research about the implementation of The Indonesian National Police *Assessment Center* in support of the promotion of open positions.

The purpose of the research is to describe, explore and analyze the implementation of policies and the impact of the implementation of the Indonesian National Police *Assessment Center* in supporting the promotion of open positions with data or information sources including observed events, namely parties directly involved in the implementation of Indonesian National Police *Assessment Center*.

LITERATURE REVIEW

As an analytical tool to answer existing problems, the following relevant theoretical and concept foundations are needed as follows:

The Theory of Human Resource Management

According to Soltis, Brass, & Lepak, stated that management is a different process consisting of *planning, organizing, actuating* and *controlling* that are executed to determine and achieve goals that have been set using humans and other resources (Soltis, Brass, & Lepak, 2018). Human resources according to (Horton et al., 2003; Schermerhorn Jr, & McCarthy, 2004) stated that there are people, individuals, and groups that help organizations produce goods or services. (Cherkesova, Belikova, Popova, Sukhova, & Demidova, 2015) mentioned simply said that human resource management is the practice and policy of determining the "human" aspects or human resources in management positions, including recruiting, screening, training, rewarding and assessing.

Competency Theory

Competence is a fundamental characteristic that a person has a direct influence on a particular job, or it is said that through competence it can predict excellent performance (Kunnanatt, 2008; Raven, 2001; Skorková, 2016). In addition,

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competence is a synergy of knowledge, skills, and or work attitudes in carrying out work in accordance with established performance procedures and standards (Ratković-Njegovan, & Kostić, 2014). Furthermore, Tra & Linh explained that there are 2 (two) types of competency assessment, namely by using competency-based standards (soft competencies) and competency standards based on job functions - hard competencies (Tra, & Linh, 2021). *Assessment Center* itself generally uses job title-based competency standards or assessment of soft competencies, so that what is tested is managerial competence.

Implementation Concept

There are two approaches to understanding implementation such as follows: 1) The narrow meaning by which implementation is part of a policy process or cycle; and 2) The Broad meaning where implementation is seen as a study or field of study. The success of implementation in a narrow sense is to look at the compliance of implementers implementing policies contained in the policy document (Laws, Regulations and Programs) and following the existing Standard Operating Procedure (SOP) (Meier, Ripley, & Franklin, 1987; Tummers, & Bekkers, 2014; Williams, 2021).

While in the broadest sense as a study or field of study, the success of implementation is not only seen in a narrow sense, but also from the success of realizing policy goals that are in fact in the form of the emergence of policy impacts. The implementation process involved various elements such as policy quality, organizational capacity and human resource capabilities, all of which work in harmony (Howlett, 2019). On the other hand, Mwaniki & Gathenya stated that currently bureaucracy is still the backbone for the achievement of various policy goals, and the success of bureaucracy is greatly influenced by the capacity of the organization (Mwaniki, & Gathenya, 2015). Organizational capacity as a unity of organizational elements involving a) organizational structure; b) mechanism of

work; c) human resources; and d) financial support and resources needed to work (Gregory, & Howard, 2009).

Assessment Centre Concept

The *Assessment Center* is not only a designation for a place that is the center of assessment activities, but also is used to refer to a process, procedure or method of approach to assess and measure a person's competence (Schuler, 2008). In the *Assessment Center* method, competency assessment is carried out on several assesses through several simulations or measuring instruments and is carried out by several assessors so that the assessment becomes more objective. Assessment center was defined as an assessment process where potential competence or owned by employees is currently evaluated by more than one assessor using various assessment techniques (Bobrow, & Leonards, 1997). In the POLRI environment, *Assessment Center* is a method that has been standardized to assess or measure the potential and prediction of a person's success in a position through several measuring tools or simulations or assessment methods based on job competence and carried out by several assessors.

Assessment Centers can be used for very different purposes (Kord, & Thornton, 2020). The purpose of using the *Assessment Center* is as follows:

- Determining who will get a promotion. In this case, the dimensions and exercises used are appropriate to identify employees with long-term success potential at lower and medium-level positions within the organization. *Assessment Center* results are an evaluation of several managerial dimensions and an overall assessment rating. In addition to feedback for participants, results are only given to managers who will make promotional decisions. These results are used alongside other information relating to promotional decisions.
- Diagnosing the strengths and weaknesses of the on-duty manager

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so that further development can be planned more effectively. In this case, the *Assessment Center* is used to assess skills that can be developed within a reasonable timeframe. The exercise should provide an opportunity to evaluate participants on each separate dimension.

- Developing managerial skills and expanding organizational development. In this case, the *Assessment Center* is used to provide exercises similar to work situations. This exercise provides an opportunity to practice new skills and gain feedback from neutral observers.

The *Assessment Center* business process classify into several stages, namely (Kleinmann, & Ingold, 2019): Requirements of Competency Standards of Position; Determination of Competency Assessment Methods; Administration of *Assessment Center* Implementation; and the Implementation of the *Assessment Center*. The *Assessment Center* business process is the flow of *Assessment Center* implementation in which, each organization can reduce or increase activities at the time of the implementation of the *Assessment Center* in accordance with their individual necessity.

The Concept of Open Office Promotion

Promotion of open positions is an activity to inform and require people who have the necessary qualifications and competencies for the position to be filled through an assessment process that is implemented in a transparent, measurable and accountable manner. While in The Indonesian National Police Regulation, the promotion of open positions is the filling of certain echelon positions that are carried out by open selection. The stages that must be implemented include as follows: Announcement; Registration; Administrative Examination; Managerial Competency Test; Field Competency Test; Track Record Search; and determination of results. Bases on these stages, the managerial competency

test is carried out with the *Assessment Center* by the managerial competency test team. The managerial competency test is conducted to assess the conformity between the managerial competencies possessed by participants with the standards of managerial competence required in this position.

RESEARCH METHOD

The approach used in this research is a qualitative research approach that is expected to produce an initial and general understanding of the implementation policies and the impact of The POLRI *Assessment Center* in supporting the promotion of positions. Qualitative research was a method for exploring and understanding meanings that are describe to social and humanitarian problems (Creswell, & Poth, 2017). One type of qualitative research that has been obtained is that researchers develop in-depth analysis of a case, often in the form of programs, events, activities, processes, with one or more individuals.

The source of data or information is the determining party in obtaining the necessary data. In addition, the research techniques used consist of as follows: Data Collection Techniques, which include observations or observations, interviews, and review of documents; Data Analysis Techniques, which include the stage of data reduction, data presentation and conclusion withdrawal; and Data Test Technique (Data Validity), namely by relating to data sources or information that is the result of comparisons either in the form of similarities or reasons of difference that certainly support the accuracy of research.

RESULT AND DISCUSSION

The implementation of The Indonesian National Police *Assessment Center*, in addition to being seen in a narrow sense can also be seen in the broadest sense as a field of study, as according to (Meier et al., 1987) mentioned that the success of implementation is not

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only seen in terms of compliance of implementers in following standard operating procedures (SOP), but also from their success in realizing policy goals that are in the form of policy impacts. In this approach, (Kyriakidou, 2010), stated that bureaucracy is still the backbone in implementing policies and bureaucratic success is strongly influenced by organizational capacity. Organizational capacity is a unity of organizational elements involving organizational structures; mechanism of work; human resources; and the financial support and resources needed to work (Schermerhorn Jr, & McCarthy, 2004; Gregory, & Howard, 2009). The POLRI which is a bureaucratic organization cannot be separated from the influence of the capacity of the organization in its success in implementing *Assessment Center* policy of The Indonesian National Police in supporting the promotion of open positions, including in realizing policy objectives that are in fact in the form of the emergence of policy impacts.

Organizational Structure

At this time, the position of The Indonesian National Police *Assessment Center* already has its own organization structure, namely the Competency Section that organizes Assessment Center activities but the Working Procedure Relationship (HTCK) between the organizers in this case the Competency Section with assessors is only available in State Police of the Republic of Indonesia Region (Polda) does not exist and is only limited to calls using a Warrant only. In this case, the assessor has no parent and no formal relationship, in line with the theory from (George, & Jones, 1997), Organizational structure was a system of formal relationships between tasks and authorities that control and coordinate resources to achieve goals so that the organization can run effectively and efficiently. With such a model, the formal relationship between the duties and authorities that control and coordinate resources becomes non-existent so that the purpose of implementing the Assessment Center becomes ineffective and efficient.

Working Mechanism

The mechanism of work is the workings of the organization in achieving its goals and consist of a teamwork (Langton, 2013). In the implementation of The Indonesian National Police of *Assessment Center* policy, the working mechanism is arranged in such a way that it can achieve the expected objectives. The *Assessment Center* business process consists of several stages that in each organization can reduce or increase their activities according to their individual necessity (Weick, 2017).

The main requirement of the *Assessment Center* is to have a Competency Standards Department (SKJ) document and the existence of a Competency Dictionary (KK) which is an official document of the organization used to conduct the competency assessment process. The implementation of The Indonesian National Police *Assessment Center*, there is no Standard of Competence of the Department (SKJ), but there is a so-called Department Competency Profile (PKJ), which is a required competency for a certain position (Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 5 Tahun, [PKKNRI], 2016). While the Competency Dictionary is a list of types of competencies, definitions of competence and descriptions for each level of proficiency or competence compiled.

The implementation of the POLRI *Assessment Center* in support of the promotion of open positions tends to refer to 1 (one) such as the Competency Profile of the Department (PKJ), such as the example in the Competence Profile of the deputy Head of the Regional Police (Wakapolres) Department, while some other positions are promoted, such as the position of Head of The Police; Police Chief; Head of Unit to the Police; Section Head, Sub-Field Head and Head Of Sub-Directorate to Regional Police Head (Polda); and the Department of Middle Officer (Pamen) and First Officer (Pama), are not specifically/specifically using the Competency Profile of the Department (PKJ) that has been stipulated in (PKKNRI,

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2016) concerning the implementation of The Indonesian National Police *Assessment Center*. This is because the determination of the position type promoted has been determined directly from the center even though each position has its own type of competence. It has an impact on the lack of clearness purpose of the *Assessment Center* itself.

In this case, the implementation of The Indonesian National Police *Assessment Center* does not comply with what has been regulated and contained in the regulations that have been set. As according to (Meier et al., 1987) mentioned that to understand the success of implementation in a narrow sense is to observe at the compliance of implementers implementing policies contained in policy documents (in the form of Laws, Regulations and Programs). In terms of the use of the Terms of Competency Standards (SKJ), the non-compliance of implementers implements (PKKNRI, 2016) concerning the implementation of The Indonesian National Police *Assessment Center*, so that implementation is not fully implemented as it should and makes the goal has not been achieved.

Furthermore, the purpose of *Assessment Center* is to support the promotion of open positions as stated in the Budget Activity Plan contain in the Ministry of Institutions (RKAKL). The competency assessment method used tends to be only 3 (three) methods, namely: psychometry; Behavior-based interviews (Behavior Event Interviews); and Leaderless Group Discussion.

Assessment centers can be used for very different purposes: promoting or promotion of a person; diagnosing the strengths and weaknesses of the manager on duty; and developing managerial skills, where the dimensions and exercises used will differ from each other. In the implementation of The Indonesian National Police *Assessment Center*, the purpose of the implementation of The Indonesian National Police *Assessment Center* is for the promotion of positions, so that the assessment method used should be able to

identify employees with long-term potential success. In every competency that will be assessed, not all assessment methods can accommodate or explore these competencies. This means that to explore a competency of a position needs to be planned from the beginning, what assessment method is most appropriate and not only use 3 (three) assessment methods as mentioned earlier.

Human Resource

Human resources have an important role in the implementation of assessment centers. Assessors, especially in the Head Police Region (Polda) are members of the Police and Civil Servants of the Police who have structural positions, so that in the implementation of the *Assessment Center* becomes constrained when the assessor prioritizes the completion of their main task rather than conducting *Assessment Center* activities. This is because the task as an assessor is an additional task. The number of human resources owned by organizations mandated to implement a policy will affect the capacity of the organization in carrying out its mission to realize organizational goals (Gregory, & Howard 2009; Van Rensburg, Basson, & Carrim, 2011). Therefore, assessors who are inactive and not present in *Assessment Center* activities because there are other activities make the organization in this case of The Indonesian National Police *Assessment Center* being unable to carry out its duties properly, therefore the goal is not achieved.

Likewise, with assesses, in research, some assesses state that *Assessment Center* activities used for promotion purposes, never know the results and follow-up, so it is felt that the activity is only formality and administration. This certainly has an impact on assesses who are only limited to carrying out orders only in participating in *Assessment Center* activities. Assesses becomes less motivated to know what its competence itself.

According to Meier et al., 1987, stated that to understand the success of implementation in a narrow sense is to look at the compliance of implementers

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implementing policies following standard operating procedures (SOP) solely. Implementation that is part of the policy cycle is only a matter of administration and management, as in the implementation of the POLRI *Assessment Center*, where human resources in this case assesses has followed all stages of the *Assessment Center* even though it is felt that its activities are only administrative.

Financial Support and Resources Needed to Work

Financial support and resources needed, is one of the influences of the organization's capacity in determining the success or absence of policy implementation. In every *Assessment Center* activity, the amount of budget used tends to be only for office stationery (ATK) and consumption (snacks and lunches) for assessors, assesses and administrators. In the implementation of the *Assessment Center*, assessors who have structural positions at the Head Regional Level (Polda) in participating in activities are not supported by budget for accommodation. This has an impact on the reduced assessor present and makes the assessor's motivation reduced.

Other resources needed in the implementation of the POLRI *Assessment Center* are facilities and infrastructure. In its implementation, the facilities and infrastructure in the POLRI *Assessment Center* room are still not fully sufficient because some activities still use other rooms. Due to lack of insufficient facilities and infrastructure in the implementation of *Assessment Center* which is one element in the capacity of the organization will make the implementation of policies do not work properly.

CONCLUSIONS

Implementation of The Indonesian National Police *Assessment Center* policy in a narrow sense has basically been implemented. While in the broadest sense, the implementation of *Assessment Center* policy can be said to have not been

successful. Currently, the implementation of *Assessment Center* policy also has not had a positive policy impact. This is because the capacity of the POLRI organization which is a bureaucratic organization has not been able to realize optimal conditions or support each other among the four elements (organizational structure; mechanism of work; human resources; financial support and resources needed to work).

The implementation of the POLRI *Assessment Center* in support of the promotion of open positions still does not have a clear goal. Therefore, there is difficulty in distinguishing with other *Assessment Center* objectives, be it for mapping personnel competence or diagnosing the strengths and weaknesses of personnel on duty, or for the purpose of developing managerial skills and expanding organizational development. As for the advice for the progress and good implementation of the POLRI *Assessment Center* in supporting the promotion of positions, namely as follows:

- Clarity of purpose of use of *Assessment Center*, socialization and commitment and strong integrity of the *Assessment Center* organizers, so that when determining the requirements of the Competency Standard (SKJ) and competency assessment methods can be adjusted to the applicable provisions. In addition, with clarity of purpose use *Assessment Center*, socialization and commitment and strong integrity will make assesses, assessor and administrator become motivated in the implementation of *Assessment Center*.
- Financial support is needed for accommodation, training and development in order to improve the competence of assessors, in addition to optimization of *Assessment Center* facilities and infrastructure so that in implementation it will become better.

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COLLABORATIVE GOVERNANCE IN MOBILIZING VILAGE-OWNED ENTERPRISES (BUMDes) DURING COVID-19 PANDEMIC IN INDONESIA

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ABSTRACT

Village - Owned Enterprises (BUMDes) was developed to increase the village revenue and drive the people's economy through resource and village asset management. The existence of BUMDes is expected to improve village potential and become a pillar of the community's economy. Not only oriented on increasing the village local revenue, but BUMDes must also have a social mission to help the villagers, especially during the COVID-19 pandemic. The study method employed was

descriptive qualitative, and the data were collected through interviews, observations, and documentation. Informants were selected through purposive sampling out of the various parties related to BUMDes in the Polanharjo Sub-district, Klaten District. The results of the study showed that the mass development of BUMDes as a top-down policy without any consideration of the local potential of each village has caused a lack of support from the community and has led to the lack of development of BUMDes, making many lapses into a stasis. However, there are a few BUMDes that were able to develop well, making them a motor for the village economy during the COVID-19 pandemic through their various business enterprises. The BUMDes units that have succeeded to grow and develop are those that could identify the local potentials and resources through various innovations, receive social support through their people's participation and build partnerships with many parties such as the village government, private sector, and the community in the form of collaborative governance.

Keywords: BUMDes; Collaborative Governance; Village Economy; Potential Resource; Business Enterprises.

INTRODUCTION

Building Indonesia from its margins by strengthening its regions and villages in the frame of a united country is one of the nine government programs. The objective of these programs is to pinpoint the development priorities in instigating

changes to a sovereign and independent Indonesia in terms of the economy. The policy for developing Indonesia from the margins and villages is a breakthrough because at the moment there are 83,813 villages in Indonesia with 39,091 of them still classified as underdeveloped and 17,268 villages classified as extremely underdeveloped (Badan Pusat Statistik [BPS], 2020). Therefore, it can be said that in terms of territory, Indonesia is a village country, which means that developing Indonesia is developing the villages as the spearhead of development.

One of the government's missions in developing rural areas is done through the empowerment of rural communities. The objective is to improve the productivity and diversity of rural businesses, increasing the availability of infrastructure and facilities that support the rural economy, developing and strengthening institutions that support the production and marketing chain, and optimizing the resources as the foundation of rural economic growth (Madekhan, 2007). The aim is to create an opportunity for the regions and rural areas to develop their abilities as the backbone of the regional and national economy. Rural development has a very strategic role in driving the people's economy and distributing welfare (Todaro, 2000). Welfare distribution in the village community is not merely to increase the income and social welfare, but is more about improving the people's participation in economic activities to activate all the potentials and resources in the village.

As much as 43 percent of the people live in rural areas with a fairly high poverty rate at 12.83 percent out of the total poor who number 26.42 million people. The COVID-19 pandemic has weakened the economic activity and decreased the people's income, increasing the number of the poor. The increase in the number of the poor due to the COVID-19 pandemic is because the majority of the informal sector workers, including those in agriculture, has decreased; however, the trade cost has increased, causing a decrease in the farmers' income. With the multitude of

issues and potentials, the village must become a priority in developing the economy through policies related to economic empowerment. Empowerment of the people's economy can be done by consolidating and institutionalizing the economic activities such as by establishing a BUMDes.

BUMDes emerged as an innovation in driving the village economy which is based on the village's resources and assets. BUMDes is a business unit established in villages and is jointly owned by the village government and people, and therefore reflects the spirit of togetherness in running the business. Therefore, the BUMDes has to be managed by the village people; from the village, by the village, and for the village. The economic activities in the BUMDes could be part of the effort to improve the local and regional economy (Ridwan, 2015). According to (Intergovernmental Panel on Climate Change [IPCC], 2014) about Villages, supported by the Republic of Indonesia Minister of Village, Development of Disadvantaged Regions, and Transmigration Regulation Number 4 Year 2015 about the Establishment, Management, and Disbanding of BUMDes is the legal basis for villages so that they could manage their existing resources and assets to improve the villages' economy through BUMDes. The issuance of Government Regulation Number 47 Year 2015 strengthened the presence and role of BUMDes as a medium for increasing the rural economy's independence.

BUMDes as a pillar of economic activities in the village plays the role of a social institution and commercial institution. BUMDes as a social institution aligns with the people's interest through its contribution in providing social services. On the other hand, its role as a commercial institution aims to gain profit through offering local resources (goods and services) to the market. As a social and commercial institution, BUMDes is more of a reflection of the element of togetherness in running a business, as the community in rural areas usually have a strong sense of culture, collaboration, brotherhood, and

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social sense and does not merely focus on gaining profit. Its presence is expected to mobilize village potentials and create a business forum for the community, creating economic activities for the community that centers upon their village.

BUMDes as one of the government's strategic programs is expected to improve the rural community's economic welfare (Eko, 2014). The establishment of BUMDes is one of the government's leading programs in the effort to develop villages and make them more prosperous. Therefore, its establishment is paramount in mobilizing the village economy. Village funds that are allocated to villages must become a driving force for the development of the village economy through BUMDes. The number of BUMDes in Indonesia in 2015 was 1,022 units, and it increased rapidly in 2016 to 12,848 units (Muradianingsih, 2016). According to the Central Java Village Community Empowerment, Population, and Civil Agency records, there are currently 2,511 BUMDes. Meanwhile, the number of BUMDes in Klaten District is 350 BUMDes. The development of BUMDes is inseparable from the Village Fund Allocation (Alokasi Dana Desa [ADD]) which is partially for the establishment and development of BUMDes. This regulation was stated in Minister of Village, Development of Disadvantaged Regions, and Transmigration Regulation number 21 Year 2015 about the determination of priorities in villages fund allocation in 2015 article 9: one of the priorities in utilizing village funds is to establish and develop BUMDes. Village funds can also be used to fund governance, development, people, and community empowerment, especially for the improvement of the village community welfare and the quality of human life and the effort to eradicate poverty.

The COVID-19 pandemic has also affected various aspects of life in rural areas, especially in terms of budgeting and funding for economic development. The diversion of the budget was done to overcome the economic impact on the community (Sarip, Syarifudin, & Muaz,

2020), specifically to suppress the rise of the poverty rate in village communities. Therefore, in 2020, the government increased the fiscal stimulus in the Village Fund by IDR 72 trillion. The increase in Village Funds was focused on community empowerment and development of village potentials to maintain the people's buying power so that the national economic growth national would not be halted. The financial stimulus in the Village Fund was done by accelerating the distribution of the Village Funds through Direct Cash Aid (*Bantuan Langsung Tunai [BLT]*) which has been conducted in villages and at the same time has created an opportunity for developing the village economy by strengthening BUMDes.

The objective of the establishment and management of BUMDes is to realize creative and productive economic management in the village. In addition to improving the village potential and village economy, BUMDes is expected to become the backbone for growth and just distribution in the rural economy. Therefore, in running its activities, BUMDes is expected to fulfill the community's needs (both productive and consumptive) through the distribution of goods and services that can mobilize the village economy.

The mass development of BUMDes without consideration of the local potentials of each village eventually yielded not very promising results. Besides, the factor of the BUMDes's readiness for managing businesses is still an issue. The management of BUMDes as a profit-oriented and social institution is also hindered by the personnel's limited ability, lacking knowledge and experience, and the limited facilities and infrastructure (Wibawati, 2015). These conditions were also found by Agunggunanto *et al.* who stated that many villages failed to run the BUMDes because the village was unprepared and the limited village potentials, thus limiting the types of business they could develop, the human resources involved were also weak, and the low community participation due to the lack

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of knowledge of the BUMDes itself (Fahrudi, 2020), (Agunggunanto, Arianti, Kushartono, & Darwanto., 2016).

The weak BUMDes management has caused many business units run by them to be partially stalled (Tama, & Yanuardi, 2013). The high number of business units that are stalled or are not developing is mostly caused by the lack of the management staff's understanding and capability in asset management strategies. Having good asset management strategies could increase the BUMDes income (Hayyuna, Pratiwi, & Mindarti, 2014). However, in reality, asset management strategies are rarely employed in BUMDes due to human resource limitations. BUMDes was established to strengthen the village economy through its various business units which could increase the village revenue. However, the BUMDes management is judged to be ineffective because of the lack of transparency and accountability as the improvement in the village economy is only enjoyed by the BUMDes actors and is yet to spread to the general community (Sidik, 2015). In other words, the effectiveness of the BUMDes management in improving the village community's economy is still lacking (Purnamasari, Yulyana, & Ramdani, 2016).

The business units developed by BUMDes include financial services, non-financial services, rentals, trade, crop cultivation, livestock cultivation, fish farming, crafts, and tourism. Even though there is a significant increase in the number of BUMDes, there are very few that can grow and develop. The BUMDes that fail to develop and lapse into a stasis are judged to be inoperational. This can be seen from the following:

- The village citizens and government do not fully understand what the BUMDes are, causing the BUMDes to miss its target.
- The management of the village institutions is not yet optimum, causing the BUMDes to be excluded from the village governance and economic institutions.

- The village's limited human resource capacity in managing and developing an accountable BUMDes.
- The low local initiative in mobilizing the local economic potentials for the improvement of social welfare and the economy of the village citizens.
- The lack of a consolidation and collaboration process between the stakeholders in realizing BUMDes as a pillar of the people's economy.

The various issues mentioned above are the common issues found in all BUMDes. Another issue often found in the development of BUMDes is the weak resource capacity in the village and the fact that the consolidation and collaboration between the stakeholders in order to realize BUMDes as a village economy pillar are lacking. The lack of collaboration in the BUMDes management because the BUMDes does not have any partners. Partnerships are paramount in realizing the BUMDes objectives. A partnership among stakeholders will be formed if in an institution there are various participation programs such as discussion forums, panel users, youth forums, and regional committees (Newman, Barnes, Sullivan, & Knops, 2004). The presence of these forums will encourage participation initiatives that can be included in the public policy context. Also, the many meetings in these participation forums will give rise to many innovations which could either be an obstacle or a proponent building a collaboration.

Collaboration is an alternative in managing BUMDes because of the complexity of the BUMDes' role and functions in the rural community's economy. The development of BUMDes cannot be done independently, so it requires a partnership with other institutions both private and non-governmental. Besides collaboration, public participation is also very important in the management of BUMDes as a unique institution. BUMDes is a village endeavor that is jointly owned

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between the village government and the people, so in its activities, there will be a public and community partnership or a partnership between the village government village as the public sector and the local community (Eko, 2014). The management of BUMDes which is partnership-based is a breakthrough in the development of BUMDes and as a trigger in building the people's autonomy creatively and adaptively. In developing the BUMDes management partnership, there needs to be a collaborative approach. Everingham stated that in building strong local governance, the government must invest in a collaborative process to construct social infrastructure and assets (Everingham, Warburton, Cuthill, & Bartlett, 2012).

Effective collaboration is formed through various processes such as communication, teamwork, and flexibility. Collaboration between institutions in achieving certain goals for the public interest can be said to be a collaboration in governance or collaborative governance. Collaborative governance is a management chain where one or more public institutions directly involve the stakeholders in the formal policy-making process, oriented on consensus, and is deliberative in creating a public policy (Ansell & Gash, 2008). Therefore, collaborative governance must be understood as continuously developing, as the process will have continuously ongoing communication and negotiation (Plotnikof, 2015). Communication will always exist both in the design and the implementation of the collaboration. Meanwhile, negotiations will reduce the tension in the collaborative process, leading to changes in and development in the organization.

Collaborative governance is important because an organization and its environment are subject to change, where several organizations have similar purposes but work in different capacities (Sudarsono, 2011). A shared purpose but with different capacities in several organizations and the demand of the rapid environmental development causes collaboration to become a way to solve problems in an

institution. In collaboration there is an interactive process with involves the autonomy of a group of actors who utilize a shared rule, norm, or organizational structure to solve problems, reach an agreement for collaborative action, sharing resources such as information, funds, or staff. In general, the collaborative process will involve five complex variable dimensions: governance, administration, autonomy, mutuality, and norms (Thompson, & Perry, 2006).

The form of collaborative management which involves many stakeholders in a working network between institutions with different organizational roles, functions, and rules needs equality and balance between the government, private sector, and people. In BUMDes management which is based on collaboration or partnerships with a third party requires a certain managerial capacity and management. Within this management the relationship between the various stakeholders is independent, but it must be able to accommodate its various stakeholders' interests. Therefore, there needs to be a public manager who can mobilize his/her organization but is also capable of working in another organization network. For this purpose, a public manager in collaborative governance needs a unique managerial and leadership approach (Silvia, 2011).

Even though many BUMDes are currently in stasis, some BUMDes could develop and grow well and become the center of its village's economic development. With various business activities, these BUMDes could directly mobilize the local economy at the village level, causing the village community's economic activities to center on the village itself. The BUMDes that could survive and develop usually have good managerial capacity and management and are supported by the development of strategic partnerships both in the form of corporations between villages and collaborations with a third party (Wibawati, 2015), (Rosyadi, & Listianingrum, 2013).

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The BUMDes that could develop are usually BUMDes that could develop innovation in its management. The BUMDes has the potential to develop the rural economy so that economic growth could be more evenly distributed and not be centered on urban areas. To achieve this potential, sustainable resources such as long-term funding through business incubator policies and education of entrepreneurship are required (Gherghina, Botezatu, Hosszu, & Simionescu, 2020). The entrepreneurial spirit is a must in an organization to encourage innovations in public services with specific assets to improve efficiency (Hartley, Sørensen, & Torfing, 2013).

A few BUMDes with the criteria above found in Polanharjo Sub-district, Klaten District yang have succeeded in developing themselves into the center of their village's economy and are motivators for other BUMDes around them to develop. In Polanharjo Sub-district, Ponggok, Sidowayah, Polan Village and some other villages have successfully managed their BUMDes, making them pilots that could inspire the BUMDes around them to develop and become the center of their own village's economy. The success of these BUMDes was what made the author interested in observing them in the process of managing their businesses and improving their organizational capacity through collaboration with other parties to improve their BUMDes performance.

RESEARCH METHOD

The method used in the current study was the qualitative descriptive approach because it could explain, give meaning, and explore the causes and reasons behind them better. A qualitative study is believed to be able to express and understand various phenomena in the field (Strauss, & Corbin, 1998). This study attempted to observe the collaborative governance concept in the management of BUMDes in Polanharjo Sub-district, Klaten District. The data analyzed were collected from interviews, supplemented by secondary data analysis

and field observations. The data analysis used an interactive model (Miles & Huberman, 1992) consisting of three phases: data reduction, data presentation, and conclusion-making or verification.

RESULTS AND DISCUSSION

Developing Village Potentials and Resources through BUMDes

A village is a legal community unit that has an original structure based on special rights of origin. Based on this definition, the village has the authority to manage and arrange its citizens' interests according to the local conditions and socio-culture, giving the village a very strategic original autonomy (Widjaja, 2009). Even though it has a special authority, villages have long been stigmatized as marginal areas with limited facilities and poor people. Villages, with their existing potentials and resources, have contributed to urban areas and this is admitted by many parties. Therefore, it is only fair and proper that rural development must become a priority in all development strategy plans and policies in Indonesia. Rural development through the development of the rural economic base has long been conducted. Rural development must be conducted through the empowerment of its people to improve productivity and the diversity of village businesses, increase the availability of various facilities, strengthening institutions that support the production chain, distribution, and marketing, and optimizing all resources to improve the village economy (Tama, & Yanuardi, 2013).

Programs for developing the village economy basis through people empowerment have long been launched through various schemes by several Ministries/Institutions and Regional Governments. One of the ways these programs are realized is through the rolling funds for Micro-Financial Institutions (Lembaga Keuangan Mikro [LKM]) which was formed specifically (*ad hoc*). From the official data of the Ministry of Internal Affairs (2010), it is estimated that there are

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61,400 LKM units in Indonesia. However, these institutions are yet to run as expected. In the end, many of these LKMs have failed. In general, these LKMs have transformed into BUMDes. One of the most dominant factors in village development is too much government intervention, which has instead impeded the creativity and innovations of the village community in managing and running the rural economic engine (Faedlulloh, 2018).

The Government through the Ministry of Internal Affairs has made BUMDes an empowerment model for the village community. BUMDes was born as a novel approach in the effort to improve the village economy based on the village's needs and potentials. The management of BUMDes is completely run by the village community: from the village, by the village, and for the village. This makes the BUMDes a village business forum with the spirit of independence, togetherness, and cooperation between the village government and people, developing local assets to provide services for the community members and increase the people's economic income and village revenue. This makes the BUMDes a unique institution because it's a collectively-owned village business that is driven by the collective actions between the village government and people, making it an inclusive effort.

As a vessel for the community's economic businesses in an institutionalized form or a professionally-managed business unit but still rests upon the original potentials of the village, presently BUMDes has metamorphosed into a new icon of development which is based on the improvement of the rural economy. The emergence of BUMDes has complemented the previous village development program through the allocation of the Village Fund Allocation (*Alokasi Dana Desa (ADD)*). The presence of ADD is expected to empower the village economy strengthening-process through BUMDes. This is because there is support from the larger village fund budget. This provides

adequate capital for the establishment of the BUMDES.

According to Minister of Village, Development of Disadvantaged Regions, and Transmigration's data, the amount of village fund allocated in 2015 was IDR 20,67 trillion, and in 2016 increased to IDR 46,98 trillion, in 2017 became IDR 60 trillion 2017 and 2018, and in 2019 it was 70 trillion. ADD is aimed at the development of economic empowerment and rural community empowerment so that the village economic growth and the village people's income can also increase such as for establishing BUMDes. This was stated in the Regulation of the Ministry of Village, Development of Disadvantaged Regions, and Transmigration Number 4 Year 2015 about the Establishment, Management, and Dissolution of the Village-Owned Enterprise and Regulation of the Ministry of Village, Development of Disadvantaged Regions, and Transmigration Number 5 Year 2015 about the Establishment of Village Fund-Use Priorities. In these regulations, there were a few main points about the empowerment of the village community as an effort to develop independence and community welfare by improving knowledge, attitude, skill, behavior, ability, and awareness and by utilizing resources through the establishment of policies, programs, activities, and accompaniment that aligns with the essence of the issues and the need priorities in the village community.

According to the regulations above, ADD can be used to establish a BUMDes to accelerate people empowerment and improve the village economy. BUMDes is an innovation that could change the mobilization of the village economy. BUMDes is oriented on driving and accelerating the village economy through the village-owned resources to increase the village local revenue, thus improving the village autonomy. Utilization of the available resources as a potential that must be put forward based on the region's specific characteristics will give rise to a creative industry. The BUMDes (Village-Owned Enterprises) works by

accommodating the community's economic activities in an institution or professionally-managed business unit, but by still relying on the village's original potentials. This could make the people's businesses more productive and effective.

Polanharjo has 10 water sources or springs with a water debit of 5 – 1850 liters/second. In the dry season, there are often conflicts between the agricultural community and the productive spring water users both from the government and the private sector. These springs fulfill the water needs of the paddy fields and fish ponds in Polanharjo. This condition affects the people whose livelihood is mainly farming and fish farming. Polanharjo Sub-district, especially Glagahwangi, Sidowayah, Kapungan, Borongan, and Sidoharjo Villages, is one of the rice production centers in Klaten District. These villages produce most of the rice in

Polanharjo with the focus of planting organic rice and developing the Rajalele rice variety. The number of water sources and the ability to utilize them has made Polanharjo one of the iconic districts in terms of BUMDes management.

In Polanharjo Sub-district, Ponggok, Sidowayah, and Polan Villages had succeeded in managing their BUMDes into pilot BUMDes which could induce a euphoria, becoming a pioneer for the BUMDes and inspiring the BUMDes around them to develop also. The presence of BUMDes in Polanharjo District has given a real example of utilizing local resources, an abundance of water, for the development of various BUMDes endeavors such as tourism, fisheries, agriculture, and providing clean water. The BUMDes found in Polanharjo District and the types of businesses they have developed are presented in Tabel 1.

Table 1. The Types of BUMDes Business Activities in Polanharjo Sub-district

No	Village	BUMDes Name	Type of Business Activity
1	Sidowayah	Sinergi	Umbul Kemanten water resort, Kampung Dolanan, Rumah Pangan Kita (RPK. Our Food House), Farming, Fisheries, and Animal Husbandry Services
2	Karanglo	Sumber mulyo	Multipurpose building rental
3	Ngaran	Karunia Sejahtera	Multipurpose building rental, gym, BUMDes kiosks, Pamsimas (Program Penyediaan Air Minum dan Sanitasi Berbasis Masyarakat, Community-Based Clean Water Provision and Sanitation Program), table and chair rental, savings and loans.
4	Polan	Makmur Bina	Water resort, water management, financial services
5	Kahuman	Maju Jaya	Rice mill, conference hall, soccer field
6	Glagahwangi	Bangkit Bersama	Magazine, drinking water refill, tourism
7	Sidoharjo	Sidoharjo Makmur	Pamsimas, agricultural supply store
8	Turus	Barokah	Agricultural production services, agricultural supply store, agricultural crop management
9	Janti	Janti Jaya	Tourism, trade, savings and loans, rentals, parking, fish ponds
10	Kranggan	Kranggan sejahtera	Agricultural land cultivation
11	Wangen	Wangen Sejahtera	
12	Ponggok	Tirta Mandiri	Tourism, clean water supply store, fish pond rental, car rental, services
13	Keprabon	Keprabon Makmur	Savings and loans, clean water, garbage, agricultural supplies, tourism village, other services

The table above shows that most of the BUMDes in Polanharjo Sub-district have main business units in water resource management, either for tourism or other kinds of utilization such as clean water management, fisheries, and farming. The numerous springs have made Polanharjo Sub-district an area rich with water resources. These water resources are utilized by the government, the private sector, and the community. Therefore, the BUMDes in Polanharjo Sub-district which are successful are those having businesses in water tourism as their main business unit with the support of other services.

The development of the creative culture and industry is a new alternative for the strategy in developing the rural economy and is believed to have great potential, earning its status as new gold (Drummond, & Snowball, 2019). This is because the development of the creative culture and industry has become a phenomenon in facing the development and challenges of globalization. The technology information factor has accelerated the development of the creative industry, making it an alternative answer for the challenges in improving community welfare. Besides being based on water resource management, the BUMDes in villages where there are no springs tried to develop business units through creative economic efforts. The local cultural heritage, arts, and culture in the community could be developed into a tourism alternative. The development of sustainable community-based tourism will thrive and yield results if it involves the people from the planning process to the activity evaluation (Benu, Muskanan, King, Asa, & Wulakada, 2020).

The development of community culture-based tourism has been recently viewed as a catalyst for a sustainable tourism industry in rural areas (Setokoe, & Ramukumba, 2020). This can be seen from how the community culture-based tourism could bring about a positive change in the rural community. The existing changes are not limited to improvements in the economy but could also empower the

people. For example, Sidowayah Village through their BUMDes 'Sinergi' has managed a 'Kampung Dolanan'. This is a traditional children's games-themed tourism. Kampung Dolanan has become an innovation and has inspired many other BUMDes, showing them that the types of BUMDes businesses are not limited to clean water management or savings and loans, but could also involve other issues such as the development of the local culture.

Building Participation and Innovation

BUMDes as a vessel for accelerating the village economy in realizing the objectives and program requires innovations and participation of the entire village community. Community participation is the main asset in mobilizing the BUMDes and for balancing the limitations in funds and the village government BUMDes managing staff. Participation is a form of active involvement of the people in a group activity by volunteering their abilities. Participation can also be defined as the willingness to support the success of a program according to each person's ability without sacrificing their own needs (Mubyarto, 1997). From these definitions, it can be said that the core of participation is the involvement of the in supporting the success of a development program, and not the process of mobilizing the people. Therefore, participation is the keyword in development and is one of the indicators in good governance.

Moynihan classified community participation based on the type of participation and also representation. There are three types of participation based on the type and level of representation: 1) False participation, where the decisions made are not transparent because they were made by public authorities, thus the participation existing is only symbolic and only involves a few groups in the community. 2) Partial participation, in this participation, the decisions are made by an elite group in the government by involving a limited interest group, thus the participation only involves

certain groups in a limited forum and some of the people have no opportunity at all to participate. 3) Full participation. In this level of participation, decisions are made by government authorities with a strong influence from community participation, involving the wider community in an intensive discussion with the government (Moynihan, 2003). Based on Moynihan's identification of the forms of participation above, it can be concluded that the maximum benefit of the involvement of the people in decision-making is very much determined by the interests, issues, and problems to be solved. These issues, interests, and problems will affect the roles and types of participation that the community must play. The participation model will then become an important foundation for the determination of the best participation instrument for the people.

Community participation is the involvement of community members in the development and the execution of programs conducted in the community. Community participation is a process where all the community parties could form and be involved in all the development initiatives. There are three reasons why community participation so important. First, community participation is a tool for collecting information about the condition, needs, and attitude of the local community, with whose absence the development program and other programs would fail. The second reason is that the people would have more faith in projects or development programs if they feel involved in the preparation and planning processes because they would understand the intricacies of the said project and would have a sense of belonging for that project. Many efforts to realize projects in developing countries show that the people's aid would be difficult to expect if they are not involved. The third reason is that participation is urgent due to the belief that it is a democratic right for the people to be involved in community development (Conyers, 1991).

The involvement of the people enables them to have a sense of responsibility for the sustainability of the development

program, allowing the community's potentials and creativity to be more exposed. The people's active participation is also a controlling power over the government policies so that a synergy between the local resources, the government's political power, and financial resources from external investors is built (Suyanto, 2003). Community participation could also be said to be a power to ensure that the development process or the involvement of external investors does not marginalize the economic role of the local people. Active participation of the community in the planning process is expected to build a strong sense of ownership in the community over the results of the development. In participation, there will always be voice, access, and control. Voice is the community members' rights and actions in conveying their aspirations, ideas, needs, interests, and demands on their closest community and even the government policies. Access is the method for influencing and determining policies and the active involvement in managing public goods, including the people's access to public services. Control is how the people are willing to and able to be involved in monitoring the governmental duties. This will then lead to a government that is transparent, accountable, and responsive to its people's needs.

Community participation in development is the functionalization of all the available resources, both natural resources and human resources in a conducive situation and condition which is aimed to improve the community welfare. The people's willingness to take part in the management of a development program is an indication of the people's initial ability to develop independently. Community participation in the BUMDes program in Polanharjo Sub-district is participation through the involvement of the people in giving contributions program in the form of energy, goods, and information. This participation was done through the involvement in business activities that are in sync with PKK, Pokdarwis, other community group units. However, the

community participation in mobilizing BUMDes was still relative because the people who did not participate in the group activities mentioned above did not know what BUMDes are and what the benefits are. Therefore, their desire to be involved in BUMDes is still weak.

The community members who do not participate in BUMDes business activities those who do not participate in community business activities do not joining a community business group because people who do not want to try to engage in existing activities and only benefit from the existence of BUMDes. This causes the people to be dependent. Therefore, there needs to be a strengthening effort from the village government to build the desire and ability of village citizens who are not yet involved in community groups so that they could participate and innovate the management of BUMDes business activities. Increasing participation also requires innovation as a way to introduce something new, either new ideas or new methods or approaches and efforts to find creative solutions for the people. Innovation s new and beneficial ideas which could improve the efficiency, effectiveness, and quality of the results significantly through a new system, method, product, or policy (Macaulay, & Norris 2003).

Innovation can be realized and implemented if it is actively supported by the people. In the innovation process, people must be placed as the subject instead of simply being treated as an object of a program so that they would be more empowered because they could be the agent of change for themselves and their surroundings. BUMDes is a social idea that is realized in the form of an institution to optimize natural resources and accommodate the people's economic activities. BUMDes is also a form of public service innovation to manage village resources and assets to mobilize the village economy. The BUMDes innovation has become a local economic power to improve the community welfare and increase the village local revenue. So, in addition to increasing the village local revenue,

innovations in the BUMDes could also empower the people through the BUMDes business units such as the tourism village management, fish pond rentals, culinary kiosks rentals, village shops, *et cetera*. Therefore, the establishment of BUMDes s mainly to empower the people and thus improve their welfare. The existing assets and resources are managed from the community, by the community, and for the community. Therefore, BUMDes could become a source of income for the community's needs and achieve its objective to create an autonomous village.

The BUMDes as a new policy in mobilizing the rural economy is expected to help manage the assets and resources in the villages in Polanharjo Sub-district. At the moment, most of the BUMDes in Polanharjo Sub-district manage business units involving water resources both for tourism and other kinds of utilization such as clean water management, fisheries, and farming. During the COVID-19 pandemic, many BUMDes in Polanharjo Sub-district that are involved in tourism lost much of their income. The tourism sector was one of the leading business units of several BUMDes, and these units generated most of the BUMDes revenue. At present, almost all the BUMDes in Polanharjo Sub-district have redirected their businesses to clean water management, animal husbandry, farming, and management of Rumah Pangan Kita, especially in distributing aid in the form of the 9 necessities.

Innovation can be seen from the existing characteristics, namely: (1) *Relative Advantage*, that the innovation has superiority and added value and is a characteristic that distinguishes it from others. (2) *Compatibility*, that in innovation there is compatibility, to facilitate the transition process to the adaptation of innovation. (3) *Complexity*, that in innovation there will always be complexity. (4) *Trialability*, that innovation can be accepted if it has been tested and proven to have more advantages than previous innovations. (5) *Observability*, that the results of an innovation are tangible (Rogers, Singhal, & Quinlan, 2019).

BUMDes as a form of innovation in managing resources for the welfare of its citizens can also be assessed based on the existing characteristics. **First**, the existence of BUMDes has provided benefits and economic development for the people in Polanharjo Sub-district. Before the COVID-19 pandemic, there was a lot of spring-based tourism in this sub-district, which absorbed a lot of workers. However, nowadays the ongoing businesses are leasing ponds, agriculture, and clean water management. Through the existing business units, BUMDes could empower its citizens. **Second**, BUMDes is also considered an innovation that aligns with the interests and needs of the community because the community can actively participate in their village's natural resource management through the business sector managed by BUMDes. Therefore, the existence of BUMDes can also provide business opportunities for the community, provide investment opportunities for the people, and become a source of village local revenue. **Third**, making BUMDes an option for developing the village economy and empowering the community is a process that requires time does not happen instantly. The success in developing BUMDes in Polanharjo Sub-district also depends on how the village handles the various complexities that exist because each village faces different problems. **Fourth**, as an innovation, BUMDes was initially directly applied in the community in certain villages such as Ponggok. After the BUMDes turned out to have a positive impact, it was adopted by many of the surrounding villages. **Fifth**, the innovation applied has tangible results. As with the BUMDes in Polanharjo Sub-district, based on observations, it can be seen that several BUMDes have developed have made Polanharjo famous as a sub-district capable of developing its villages through the use of appropriate resources. BUMDes is an innovation in mobilizing the village economy and empowering the community.

Collaborative Management in Developing BUMDes

Today's public problems are increasingly complex, so finding solutions requires the involvement of various parties. Currently, there is not a single actor, either the government, the public, or the private sector, who has the knowledge, resources, or capacity to single-handedly solve all the problems (Kooiman, 2012). Collaboration is a cooperation between organizations to achieve difficult-to-achieve common goals. Based on this definition, a collaboration will involve several independent organizations that have self-autonomy and share similar purposes.

In more detail, collaboration has various definitions depending on the scientific perspective and point of view. In sociology, collaboration is a relationship between organizations; in state administration collaboration is a relationship between governments, in economics collaboration, there is a relationship in building strategic management and networks between organizations (Agranoff, & Mcguire, 2003). These various definitions of the term collaboration are trying to explain an interaction or relationship between organizations where the relationship between these organizations aims to carry out various activities for the public interest.

In general, the term collaboration in governance is a voluntary and reciprocal relationship between different public institutions, either private-public institutions or franchise organizations, to provide public services. This definition states that collaboration is cooperation aimed at achieving the goals of either an individual, group, or organization (Munt, 2003). In collaboration, the stakeholders involved work together and reach a consensus to make decisions for solving public problems. Collaboration between stakeholders is continuous, dynamic, and interdependent. Therefore, collaboration is a dynamic concept, incremental in nature, and occurs through several phases.

Effective collaboration is realized through various processes such as

communication, cooperation, and flexibility. Collaboration between institutions in achieving goals for the public interest can be called collaborative governance. Collaborative governance is a management chain in which one or more public institutions directly involve the stakeholders in a formal, consensus-oriented, and deliberative policy-making process in making public policies (Ansell & Gash, 2008). The collaborative management model provides an innovative approach through consensus by making decisions, setting priorities, selecting among priorities, and implementing solutions to the problems identified. Collaborative governance is a multi-sectoral relationship through civic involvement, dialogues, deliberative democracy, multi-stakeholder collaboration, and dispute resolution (Bingham, 2011). Collaborative governance is important because the organization and its environment develop, where several organizations have a common goal but have different capacities, as well as the rapidly developing environmental demands make collaboration a way to solve problems in an institution.

In collaboration, there is an interactive process involving the autonomy of a group of actors who utilize shared rules, norms, or organizational structures to solve problems, reach an agreement to take collective action, and share resources such as information, funds, or staff. Effective collaborative governance will include three dimensions (Bingham, 2011):

- Achieving the client's goals; the main objective of the collaboration is to improve services.
- An improved relationship between organizations can increase the chances for solving the problems and improve the social capital in the community served.
- Development of the organizations will improve the organizational capacity in competing effectively.

Collaborative governance can be created through public values and innovation in decision-making processes,

power relationships, and trust-building (Vangen, Hayes, & Cornforth, 2014). This shows that in collaboration there is a dialogue where communication flows through a trustworthy network so that there will be a relationship, reciprocity, learning, creativity, and adaptation of the existing system (Innes & Booher, 2010). In this case, it means that the participants in the collaboration will speak on behalf of their group's interests. How much influence a stakeholder has can be seen from: First, the initiative must have begun from the actors who had clear demands for the public interest; Second, each collaborating stakeholder has a role in determining the purpose of the collaboration; Third, the relationship between stakeholders must be strategic in nature, meaning that in every activity every actor must be transparent. If an institution only acts as an agent involved in implementing the agenda of the main actors, then the relationship that is created is definitely not a collaborative governance relationship, but a relationship that could be cooptation, domination, or divide-and-rule, which are contrary to democratic collaborative governance (Donahue & Zeckhauser, 2011).

BUMDes as a business entity established in the village is jointly owned by the village government and the community (is communal in nature), not owned by individuals. BUMDes is more of a reflection of the element of togetherness in running a business because it is more suitable for the life of people in rural areas who generally have culture, cooperation, brotherhood, a strong social sense, and are not merely looking for profit. Because of this uniqueness, the collaboration process in BUMDes management will also be dynamic, especially for strengthening and complementing between stakeholders.

In general, the condition of BUMDes in Klaten District, especially in Polanharjo, is only at the establishment stage and is still determining the right business units to be managed. In Polanharjo Sub-district, Klaten District, the 13 existing BUMDes can be classified into 1 independent BUMDes, 1 advanced BUMDes, 4 developing

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BUMDes, and 7 pilot BUMDes. The classification is made based on the development indicators of each BUMDes, such as the existence of a Village Regulation in its establishment, the presence of a statute of association, finances, and others that have been stipulated by Bapermades.

The lack of development of BUMDes in Polanharjo Sub-district, Klaten District, can be seen from the number of BUMDes classified as developing and initiating. BUMDes classified as developing and initiating are facing difficulties in becoming advanced BUMDes. They could be said to be in stasis. BUMDes cannot develop due to several reasons: The demand that each village immediately has a BUMDes. This demand has made the villages feel they were required to immediately establish a BUMDes, regardless of their condition; The village government and community do not understand what BUMDes is. Even though there is a regional regulation on the procedures for establishing a BUMDes, the village government does not yet understand it and is still confused about how to manage and determine what business units they should develop. In a situation like this, there needs to be a commitment from the leaders and innovation (by the community leaders or village head); the lack of competent human resources in managing the BUMDes. Human resource problems can be overcome by asking the managing staff to participate in organizational and entrepreneurial managerial training; Accompaniment in the initial phases of BUMDes management is very important. This is related to the cultural problem of the Indonesian people, who feel insecure when attempting to learn something new. They cannot be left to their own devices immediately but must be accompanied until they can operate on their own. Assistance for BUMDes has been proven to make BUMDes that were initially monitored and assisted, become active and developing BUMDes, enabling them to become a driving force in the village economy and to contribute to the village's local revenue.

Only a few BUMDes have been able to manage their business units effectively, allowing them to survive and provide revenue for the village. The BUMDes that could survive were mostly pilot BUMDes, which at the beginning of their establishment were already a program launched by the government. Furthermore, there was coaching and mentoring from the government through village extension workers. Assistance carried out by the government through Bapermades was done through village extension workers who helped and guided the management of BUMDes based on the criteria from Bapermades. The village extension workers are expected to become facilitators for the village in carrying out programs related to infrastructure development and community empowerment. Apart from the government element, assistance can also come from the private sector in the form of cooperation or in the form of providing CSR. The existing mentoring is temporary, so if the mentored BUMDes is successful, the mentoring program may be terminated. The collaboration model scheme for BUMDes strengthening is presented in Figure 1.

BUMDes operates to gain profit, and ideally, in running its business it should also be colored by local culture, a business philosophy rooted in local wisdom such as member base and self-help. This makes BUMDes a unique institution where the village business is a collective property jointly owned by the village government and the community. In the economic or public administration theories, there is what is known as a public and private partnership, whereas the BUMDes is a public and community partnership. Therefore, building BUMDes requires collaboration or partnerships with various interacting multiple parties.

Collaboration is an alternative in managing BUMDes due to the complexity of the BUMDes' roles and functions in the rural community economy. Besides, BUMDes cannot develop independently; it requires partnerships with other institutions, both private and non-governmental organizations, in its management.

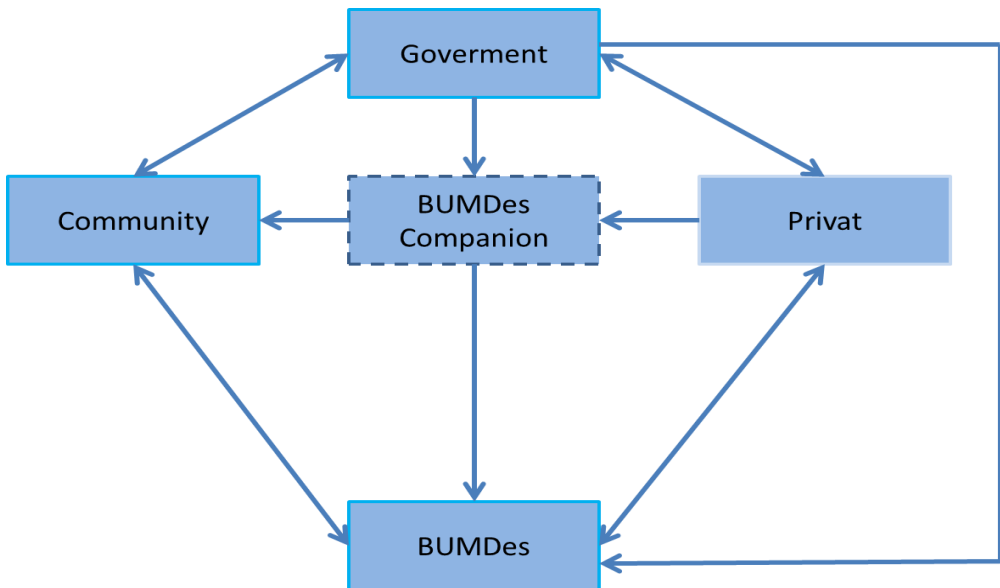


Figure 6: Bumdes Strengthening Scheme Through Collaborative Governance

Collaboration in BUMDes management is an institutional collaboration between BUMDes, the village government, the community, the banking sector, the Community Empowerment Agency, and other stakeholder institutions. In BUMDes management, each element has its role and purpose, especially for improving the village economy and increasing the people's income.

CONCLUSIONS

BUMDes was formed as a communal village economic institution to improve the economic and social life of rural communities, but in its implementation, many BUMDes could not develop. The policy of each village to have a BUMDes made the establishment of BUMDes be carried out instantly, ignoring existing procedures, resulting in many BUMDes are in a state of coma. Problems that often arise in the development of BUMDes are that BUMDes are managed without considering the potentials and resources in the village, the low level of innovation and community participation, and the lack of consolidation and cooperation between stakeholders. These problems make it difficult for

BUMDes to become the backbone in driving the village economy.

Creating an independent BUMDes requires collaborative management between the village government, the BUMDes managing board, the community, and the private sector to improve resources and services. Collaboration is also carried out to increase the organizational capacity to have effective competitiveness, increase problem-solving ability, and develop innovation. In addition, assistance is very important in the early stages of the establishment of a BUMDes. This is related to the cultural problem of the Indonesian people, where when they start to learn something, they cannot be left to their own devices immediately but must be accompanied until they can manage to operate independently before being released. Mentoring for BUMDes has been proven to provide positive results, allowing the emergence of social support in the form of community participation. BUMDes, whose early establishment requires assistance, could then become an independent BUMDes and become the spearhead of development and the driving force of the village economy.

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PRANJE NOVCA KAO DESTABILIZIRAJUĆI FAKTOR JEDNOG DRUŠTVA

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APSTRAKT

Bosna i Hercegovina se kao potencijalni kandidat za članstvo u Evropskoj uniji i država opredjeljena za proces evroatlanskih integracija obavezala za učvršćivanje vladavine prava i jačanje institucija u oblasti pravosuđa i unutrašnjih poslova. Jedno od značajnih aktivnosti u ovom procesu odnosi se na donošenje i implementaciju javnih politika na polju borbe protiv pranja novca, imajući u vidu da je ova društvena pošast u svojim pojavnim oblicima najveća prijetnja za stabilnost i nesmetano funkcionisanje jedne

države. Pranje novca predstavlja globalni problem dvadeset prvog vijeka. Kao oblik privrednog kriminala proces pranja novca zastupljen je kako u nacionalnim, tako i u međunarodnim razmjerama.

Iako postoji veoma veliki broj definicija pranja novca, može se reći da se ono sastoji od kraćeg ili dužeg kretanja sredstava koja su stečena ilegalnim aktivnostima, da bi se kroz ciklus transformacije dobila prividno legalna sredstva. Kompleksnost borbe protiv pranja novca i problemi suprotstavljanja raznim oblicima pranja novca prevazilaze mogućnosti i napore koje preduzimaju nadležni organi i institucije vlasti. Sve zemlje trebalo bi da idu ispred „perača“ novca, odnosno trebalo bi da idu ispred u osmišljavanju i propisivanju metoda i načina borbe, ali isto tako trebalo bi da ne dozvole da kriminalci koriste korumpiran i neuređen institucionalni okvir te da pomoću pranja novca steknu unosne prihode.

Ključne riječi: pranje novca, organizovani kriminal, krivično djelo, faze, metode.

UVOD

Fenomen koji u današnje vrijeme iziskuje posebnu pažnju jeste upravo proces pranja novca. Pod pojmom pranja novca podrazumijeva se nezakonito sticanje novca putem ilegalnih aktivnosti pomoću kojih se nastoji prikriti pravi izvor novca. Upravo te ilegalne aktivnosti mogu da budu odličan izvor zarada. Iz tog razloga ove aktivnosti se veoma često koriste u svrhu stvaranja povećane vlastite egzistencije, prljavim novcem koji nastaje kao rezultat tih aktivnosti smatra se svaki novac koji je

stečen nekom kriminalnom aktivnošću ili nekim krivičnim djelom.

Pranje novca je oduvijek bilo zanimljivo, ne samo kao tema za obrađivanje, nego i kao samo djelo. Smatra se da je ovaj pojam vezan za istoriju mafije i njen razvoj u SAD-u. Sa izrazom „pranje novca“ u sudskom i pravnom kontekstu prvi put se susrećemo 1973. godine u SAD-u povodom afere Watergate-a, dok 1982. godine ovaj pojam dobija i svoj pravni okvir. Za pranje novca može se reći da predstavlja niz radnji u bankovnom, novčanom ili nekom drugom poslovanju sa krajnjim ciljem prikrivanja pravog izvora novca, odnosno imovine ili prava dobijenih novcem koji je stečen na nezakonit način. Zemlje koje prolaze kroz period tranzicije su idealno mjesto za pranje novca. Međunarodni monetarni fond je procijenio da se ukupan obim pranja novca u svijetu nalazi između dva do pet procenata (2 - 5 %) ukupnog svjetskog društvenog proizvoda. Odnosno, izraženo u novcu 590 milijardi do 1,5 biliona američkih dolara godišnje. S obzirom na tajnost i prirodu pranja novca, navedeni podaci su samo indikator veličine problema. Sam pojam pranja novca potiče od engleske riječi „*money laundering*“, što znači legalizacija kapitala stečenog kriminalnom djelatnošću, odnosno finansijske transakcije radi prikrivanja stvarnog porijekla novca i drugih oblika kapitala na tržištu. Sastoji se u falsifikovanju finansijske dokumentacije i manipulacije u sistemu međubankarskih transakcija. Ovo djelo vrši se u više faza te je obaveza svih organa koji učestvuju u tom procesu da rade na prevenciji i suzbijanju ovog djela.

POJAM PRANJA NOVCA

Danas, fenomen pranja novca predstavlja ozbiljan međunarodni problem i sve više je izražen kroz utaju poreza, ilegalnu trgovinu drogom i oružjem, prostituciju, reket, organizovanu kocku kao i druge kriminalne kanale. Zbog svog dominantnog međunarodnog karaktera, rezultirali su i brojni pokušaji definisanja ove djelatnosti, a najčešću primjenu u

stranoj literaturi imaju definicije koje u sebi sadrže uže i šire značenje pranja novca. Također, potrebno je naglasiti da će se definicija pranja novca razlikovati zavisno od toga da li se pranje novca posmatra sa ekonomskog, sociološkog ili pravnog aspekta (Budimir, 2019). U širem smislu, pranje novca definišemo kao proces u kome se prihodi za koje postoji osnovana sumnja da su stečeni kriminalnom aktivnošću, prenose, prebacuju, transformišu, razmjenjuju ili mijenjaju legalnim sredstvima, radi skrivanja ili prikrivanja prave prirode sticanja prihoda (Karadža, Vejinović, Pajić i Pajić, 2017). Prema užem shvatanju, pranje novca predstavlja radnju ili pokušaj radnje kojom se skriva ili prikriva nelegalno porijeklo sredstava, tako da izgleda da ona potiču iz legalnih izvora. Takođe, pranje novca označava i aktivnost usmjerenu na prikupljanje nepošteno ili nezakonito stečenih prihoda putem dopuštenih poslova.

Pranje novca obično promatraju kao proces koji se odvija u tri različite faze. Prva faza je *plasman* u kojoj se sredstva stečena kriminalnim putem uvode u finansijski sistem. *Raslojavanje (prikrivanje)* je druga faza materijalnog procesa i ona podrazumijeva da je nekretnina već oprana i da su njezino vlasništvo i izvor prikriveni. *Integracija* kao konačna faza definisanja pojma pranje novca, među domaćim i stranim autorima utemeljena su različita vjerovanja, počevši od onih da je termin pranje novca utemeljen krajem dvadesetih godina u vrijeme prohibicije u Sjedinjenim Američkim Državama, do promišljanja da je taj naziv zapravo izveden iz podatka o vlasništvu mafije nad praonicama rublja u SAD-u (Hadžović, Kržalić, Berberović-Tadi, Hodović i Dizdarević, 2014).

Pranje novca podrazumijeva svaku aktivnost usmjerenu na: prikrivanje nepošteno ili nezakonito stečenih prihoda kroz dopuštene poslove; pretvaranje ilegalno (nezakonito u pravilu kriminalno) ostvarene dobiti u prividno legalnu, pretvaranje nepošteno i nezakonito stečenog prihoda s prividom poštene i zakonite zarade; pretvaranje ili prenošenje predmeta

koji potiču iz određenih krivičnih djela, kao i svako drugo skrivanje njihovog porijekla (tzv. krivično djelo skrivanja), te svako sticanje, posredovanje i upotreba takvih predmeta (tzv. krivično djelo sticanja), sva činjenja i nečinjenja radi prikrivanja izvora protivpravno stečenog novca, odnosno korišćenje stečenog novca za obavljanje dopuštene djelatnosti ili sticanje imovine na zakonit način (Bačić, Pavlović, 1999).

Pored navedenog shvatanja, većina zemalja prihvata definiciju koja je sadržana u Bečkoj konvenciji (Konvencija Vijeća Evrope o pranju, traganju, oduzimanju i privremenom oduzimanju prihoda stečenoga krivičnim djelom i o financiranju terorizma) prema kojoj se pod pranjem novca podrazumijeva „konverzija ili prenos imovine, sa znanjem da je ta imovina rezultat bilo kakvog prekršaja ili bilo kakvih prekršaja (tada vezanih za prodaju droge) ili čin učestvovanja u takvom prekršaju ili prekršajima sa namjerom skrivanja ili maskiranja kriminalnog porijekla imovine ili pomaganja bilo kom licu koje je uključeno u izvršenje takvog prekršaja ili takvih prekršaja s namjerom izbjegavanja pravnih posljedica aktivnosti tog lica“. Bečka konvencija dodaje da pranje novca uključuje i „kupovinu posjedovanje ili korišćenje imovine, sa znanjem u vrijeme primitka te imovine da je ona rezultat prekršaja ili više prekršaja... ili čina učestvovanja u takvom prekršaju ili prekršajima“. Učesnici u pranju novca pribjegavaju najraznovrsnijim finansijskim transakcijama kako bi prikrili porijeklo novca i tako ga učinili legalnim sredstvom prometa na tržištu novca, što im osigurava normalno korišćenje u poslovnim odnosima u kojima plasiraju svoj kapital (Kulić, 2001).

OBLICI ISPOLJAVANJA, FAZE I NAČINI PRANJA NOVCA

Pranje novca je proces kojim kriminalci pokušavaju prikriti istinsko porijeklo i vlasništvo nad imovinom koja je stečena kriminalnim aktivnostima. U svakom slučaju pranje novca podrazumijeva mnogobrojne međusobno

različite tehnike koje su obično složene, domišljate i tajne. Zajedničko im je da se njima mora sakriti originalno porijeklo i vlasništvo novca, te da naručioci žele zadržati kontrolu nad samim postupkom i po potrebi ostvariti njegovu promjenu. Prema grubim procjenama, vjeruje se da se u svijetu godišnje opere između 300 i 500 milijardi američkih dolara. Tanzi procjenjuje da neto finansijska dobit onih koji se time bave predstavlja 2% globalnog BDP-a, s tim da je vrijednost opranog novca vjerovatno znatno veća (Tanzi, 1996). U međunarodnoj pravnoj literaturi imamo tri opšteprihvaćene faze u pranju novca i to faza plasiranja, faza prikrivanja i faza integracije.

➤ *Faza plasiranja (placement)* - je fizičko polaganje sredstava stečenih kriminalom koje kriminalac želi plasirati u finansijski sistem. Plasiranje može biti obavljeno na mnoge načine u skladu sa dostupnim mogućnostima. Ilegalni profiti se uvode u legalni finansijski sistem, odnosno gotovina koja je pribavljena kriminalnim načinom poslovanja uplaćuje se na bankovne račune obično pod izgovorom neke legalne djelatnosti što predstavlja samu fazu ulaganja. Depoziti se ulažu zbog nekog legalnog posla, gdje se plaćanje obavlja u gotovom novcu. Kada dođe do mješanja gotovine koja je stvorena kriminalom i prihoda koji su nastali legalnim poslovanjem smanjuje se mogućnost brzog otkrivanja "vrućeg novca". Uplata novca stečenog kriminalom u banku, može biti izvršena na više načina u skladu sa dostupnim mogućnostima. Pored uplata vrućeg novca javlja se i osnivanje lažnih tzv. "fantomskih firmi" koje ne posluju, postoje isključivo kao sredstvo radi uplate gotovog novca na račune u bankama; usitnjavanje velikih suma novca između saradnika koji ga polažu na račune u iznosima koji su dovoljno mali ili su ispod zakonskih cenzura, te stoga nisu sumnjivi bankarskim

službenicima i nisu predmet posebnog praćenja. U ovoj fazi, u novije vrijeme susreće se i kupovina, odnosno preuzimanje firmi sa ozbiljnim finansijskim poteškoćama, čiji računi treba da posluže samo kao tzv. "bojler računi", gdje će se sliti novac prethodno deponovan na račune raznih finansijskih institucija. Bez obzira pojavljuje li se novac koji proizlazi iz kriminalne aktivnosti u obliku gotovine ili ne, prva faza je najopasnija za kriminalce, tada još postoji direktna veza između novca i kriminalne grupe (Lilley, 2003).

- *Faza prikrivanja (laundering)* - je odvajanje sredstava stečenih kriminalom od njihovih izvora stvaranjem slojeva transakcija dizajniranih za prikrivanje i davanje izgleda legitimnosti. Najčešće korišteni načini su: mjenjanje valute, korišćenje uvozno-izvoznih firm ili osiguravajućih društava, manipulisanje garancijama, obveznicama, hartijama od vrijednosti, poslovanje preko off-shore subjekata, korišćenje box office i rezidentne pošte. Nakon što je gotovina pretvorena u bankraski depozit, sljedeći korak je prebacivanje sredstava s jednog računa na račune drugih baznih banka odnosno prividnih subjekata, i drugih institucija. Sve ovo se radi kako bi se prikrilo originalan izvor i destinacija početnog kriminalnog kapitala. Novac se premješta mnogobrojnim transakcijama, ali osnovni cilj je da se prikrije veza između novca i kriminalne aktivnosti. Tokom faze prikrivanja u procesu pranja novca obavi se ogroman broj transakcija kojima se novac prenosi po čitavom svijetu. Mnoge transakcije su čak i besmislene te za njih se ne može pronaći nikakvo pokriće poslovanja. Prava svrha tih transakcija je da prikriju tragove kretanja novca, da otežaju posao svakome ko pokuša da

istraži odakle novac zaista potiče. Kada se novac nađe na nekom od računa, s njim se radi sve ono što može da prikrije njegovo porijeklo. U ovoj fazi kupuju se polise osiguranja, skupocijena roba, umjetnička djela, akcije, investicioni fondovi, daju se pozajmice, koriste se razni finansijski instrumenti.

- *Faza intergracija (integration)* - je nivo u kojem se sredstva stečena kriminalom tretiraju kao legitimna. Ako je prikrivanje uspjelo, integracija plasira sredstva kriminalom stečena nazad u ekonomske tokove kao legitimna sredstva. Popularni metod integracije novca stečenog kriminalom u legalne tokove je kupovina nekretnina, (poslovne zgrade, skladišta ili stanovi). Iako se finansira prljavim novcem, prihod koji se ostvaruje izdavanjem prostora u zakup neće biti sumnjiv jer je rezultat zakonom dozvoljene djelatnosti. Cilj ove faze, kao i procedure pranja novca je da novac stečen kriminalom prebaci u poslove koje zakon ne zabranjuje. Jedan od načina je i oživljavanje firmi koja se nalaze u teškoćama investiranjem ogromnih suma novca. Firma nastavlja normalno da posluje koristeći novac stečen kriminalom kao svoj osnovni kapital. Perači novca primaju dividende ili direktorske plate, što su zakoniti vidovi prihoda. Potrebno je istaći, da se često ove tri faze ne mogu razlikovati. Pojedine faze pranja novca mogu biti iste, ili što je još češće, pojedine faze se mogu preklapati.

Kako će se odvijati pojedina faza i koje će se metode pri tom koristiti, zavisi o raspoloživim mehanizmima za pranje i zahtjevu organizovanog kriminaliteta koji taj posao naručuje. Nezakonito finansiranje se može prenositi kroz seriju kompleksnih međunarodnih finansijskih transakcija. Opšte tipologije pranja novca su:

- *Nominees* - jedna od najčešćih metoda pranja novca i skrivanja kapitala. Perač koristi članove porodice, prijatelje ili saradnike kojima zajednica vjeruje, koji neće privući pažnju da izvršavaju transakciju u njegovo ime uz korišćenje prostorija koje "Nominees" posjeduje, zatajivanje izvora i vlasništva predmetnih sredstava.
 - *Smurfing ili struktuisanje* - mnogi pojedinci polažu gotovinu ili kupuju bankovne mjenice od različitih institucija ili jedna osoba vrši transakciju u iznosu koji je manji od onoga koji po zakonu mora biti prijavljen, a gotovina se naknadno prebacuje na centralni račun.
 - *Kupovina kapitala gomilom gotovine* - pojedinci kupuju veće predmete kao što su automobili, brodovi, nekretnine, umjetnine, drago kamenje. U mnogim slučajevima perači koriste kapital, ali se distanciraju od njega tako što ga registruju na prijatelja ili rođaka.
 - *Pozajmica od banke* - koristeći ovaj metod kriminalac daje svom saradniku iznos nelegitimnog novca, a saradnik priprema papire za hipotekarni kredit za kriminalca u istom iznosu uključujući svu ili potrebnu dokumentaciju. Ovo stvara privid da su sredstva kriminalaca legitimna.
 - *Legitimno poslovanje "Co-mingling" sredstva* - kriminalne grupe ili pojedinci mogu preuzeti ili investirati u poslovanje koje uobičajeno koristi velike gotovinske transakcije iznose kako bi pomješali sredstva nelegitimno stečena kriminalnim putem sa sredstvima koja potiču iz legitimnog poslovanja.
 - *Saučesništvo banke* - saučesništvo banke se dešava kada je zaposleni u banci umještan u olakšavanje dijela procesa pranja novca.
 - *Novčane usluge i mjenjane valuta* - pojedinci često koriste sredstva stečena kriminalom za kupovinu stranih valuta kako bi ih mogli prebaciti na off-shore bankovne račune bilo gdje u svijetu;
 - *Krijumčarenje valute* - sredstva se pomjeraju preko granica kako bi se prikrilo njihov izvor i vlasništvo, te kako bi perači izbjegli izlaganje zakonu i sistemu koji snima ulaz novca u finansijski system.
 - *Elektronski transfer sredstava* - odnoseći se kao i na telegrafski transfer ili kablovski transfer ove metode slanja novca se sastoje od slanja sredstava elektronskim putem iz jednog grada ili zemlje u drugu kako bi se izbjegla potreba fizičkog transporta valute.
 - *Kockanje u kazinu* - pojedinci donose gotovinu u kazino te kupuju čipove za klađenje, nakon igre i nekoliko klađenja kockar vrši isplatu ostatka čipova, te traži ček od kazina.
 - *Mjenjački poslovi* - zbog toga što su uključene u široku lepezu novčanih transakcija, djelatnost mjenjačnica u razvijenim zemljama predmetom je strože zakonodavne regulative. Naime, mjenjački se poslovi obilato koriste za prikrivanje traga prljavom novcu, posebno novcu od prodaje droge (koji je najčešće u malim apoenima i različitih valutama). Osnivanjem mjenjačnice s nekoliko podružnica proces pranja novca će se odvijati u potpunosti i pod neposrednim punim nadzorom kriminalnog miljea. Iz istog razloga većina zakonodavstva u svijetu zahtjeva licenciranje mjenjačnica i njihov budan nadzor (Šikman, 2013).
- U Republici Srpskoj na snazi je "Zakon o mjerama bezbjednosti u poslovanju gotovim novcem i drugim vrijednostima", sam nadzor nad mjenjačnicama sprovode ovlašćena službena lica Ministarstva unutrašnjih poslova RS, na osnovu člana 14. pomenutog Zakona (Zakon o mjerama

bezbjednosti u poslovanju gotovim novcem i drugim vrijednostima [ZBPGN], 2015).

Pored navedenih tipologija u novije vrijeme identifikovani su i drugi načini pranja novca, kao što su nezakonite arbitražne transakcije strane valute koje se ispoljavaju u nekom od sljedećih oblika: strana valuta koja ulazi u lokalnu zemlju, sticanje strane valute u lokalnoj zemlji, transferi nezakonitog novca strukturisani kroz međunarodne novčane pošiljke. Posebno je interesantan “*Peso broker*” (Peso razmjena na crnom tržištu). Alternativne službe za slanje novca koje se zovu “neformalni system za transfer novca”, generalno se povezuju sa određenim geografskim regionima i za to dobijaju različita imena u skladu sa lokacijom na kojoj se nalaze: *havala*, *hundi*, *crno tržište peso razmjena* i drugi (Stojanović, 2020). Takođe, poznati su načini međunarodna simulacija pozajmica i kapitalizacija legitimnih kompanija nezakonitim sredstvima. Korišćenje pravilno inkorporisanih obaveznika za koje postoji dokazana finansijska evidencija je jedan od najčešćih metoda prikrivanja pravog vlasništva i porijekla novca, fizički transporter nezakonite dobiti iz kriminala (Karan, 2007).

STRATEGIJE I ORGANI U BORBI PROTIV PRANJA NOVCA

Shvativši realnu opasnost od organizovanog međunarodnog kriminala, međunarodna zajednica je razvila strategiju opšte borbe protiv najopasnijih vidova kriminaliteta, kao što je trgovina opojnim drogama, oružjem, bijelim robljem i sl. S tim je u neraskidivoj vezi i pranje novca. Radi povećanja efikasnosti borbe protiv pranja novca i finansiranja terorizma u državama članicama, Ujedinjene nacije i Evropska unija donijele su, između ostalog i sljedeća dokumenta:

Ujedinjene nacije (UN) su usvojile:

- Konvencija za suzbijanje finansiranja terorizma iz 1999. godine (Konvencija o finansiranju terorizma),

- Konvencija protiv međunarodnog organizovanog kriminala,
- Konvencija protiv korupcije,
- Konvencija protiv nedopuštene trgovine opojnim drogama i psihotropnim supstancama
- Bečka konvencija,
- Rezolucije Savjeta bezbjednosti Ujedinjenih nacija 1540 o sprečavanju širenja oružja za masovno uništavanje i sredstava za njihovo prenošenje.

Evropska unija (EU) je usvojila 30. maja 2018. godine Petu direktivu za sprečavanje upotrebe finansijskih institucija u svrhu pranja novca ili finansiranja terorizma, uz obavezu zemalja članica da je do 10. januara 2020. uključe u domaće zakonodavstvo (Direktiva Evropskog parlamentarnog vijeća, 2015). Direktiva uzima u obzir revidirane preporuke The Financial Action Task Force (FATF) iz 2012. godine. Glavne izmjene odnose se na daljnje unapređenje primjene pristupa na bazi procjene rizika jačanjem nadzora. Pored toga, ova direktiva uvodi nove kategorije obveznika, pravila za utvrđivanje stvarnog vlasnika i veću transparentnost registara stvarnih vlasnika, prepoznaje elektronski dokument kao pouzdan i vjerodostojan izvor podataka i dr. Evropska unija primjenjuje i Uredbu 2015/847 o podacima koji prate prenos novčanih sredstava, koja je takođe zasnovana na standardima utvrđenim preporukama FATF-a.

MONEYVAL - (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) – MANIVAL Komitet Savjeta Evrope, osnovan je 1997. godine s ciljem da se međusobnim ocjenjivanjem procjenjuje usklađenost sistema za borbu protiv pranja novca i finansiranja terorizma u državama članicama s međunarodnim standardima. Procjena se vrši na osnovu prikupljenih informacija iz upitnika, kao i na osnovu posjete tima evaluatora, koji je izabrao sekretarijat MANIVAL-a. Evaluatori izrađuju nacrt izveštaja o usklađenosti zakonodavstva i prakse u

konkretnoj državi s međunarodnim standardima. Nakon određenog kruga usaglašavanja, konačna verzija izvještaja usvaja se na plenarnim zasjedanjima koja se održavaju najmanje dva puta godišnje. Svaki izvještaj sastoji se od analize stanja, ocjene stanja i preporuka za unapređenje sistema za sprečavanje pranja novca i finansiranja terorizma ocjenjivane zemlje. MANIVAL u okviru Savjeta Evrope posjeduje mehanizme pritiska na države članice radi primjene navedenih preporuka i sprovođenja drugih mjera na državnom nivou. Ti mehanizmi podrazumjevaju obavezu redovnog izvještavanja MANIVAL-a o svakom napretku, slanje visoke diplomatske misije u državu članicu, te isključenje iz članstva Saveta Evrope. Izveštaji koje usvaja MANIVAL jesu javni i koriste se u procjenama finansijske stabilnosti i sigurnosti ulaganja u pojedinim državama. Međunarodni monetarni fond i Svjetska banka preuzimaju izvještaje MANIVAL-a, koje ugrađuju u svoje analize i izvještaje.

The Financial Action Task Force (FATF) - Radna grupa za finansijsku akciju je međunarodno tijelo osnovano u Parizu 1989. godine s ciljem da razvija i unapređuje politiku za efikasnu borbu protiv pranja novca i finansiranja terorizma, kao i da prati sprovođenja mjera za sprečavanje pranja novca i finansiranja terorizma u zemljama članicama. U sprovođenju tih aktivnosti FATF saraduje sa ostalim međunarodnim tijelima uključenim u sprečavanje pranja novca i finansiranja terorizma, kao što je MANIVAL. FATF je 2012. godine revidirao i objavio 40 (četrdeset) preporuka za sprečavanje pranja novca koje se odnose na efikasno uspostavljanje sistema za borbu protiv pranja novca, a pokrivaju pravni sistem i sprovođenje zakona, finansijski sistem i njegovu regulativu, kao i međunarodnu saradnju. Sve preporuke se kontinuirano ažuriraju.

BAZELSKI KOMITET za superviziju banaka - čiji je osnovni cilj da poboljša razumjevanje ključnih supervizorskih izazova i unaprijedi kvalitet supervizije banaka širom svijeta, promovisao je 29

ključnih principa koji uspostavljaju minimalne standarde za efikasan sistem supervizije, a uključuju i:

- princip br. 15 - proces upravljanja rizicima, u skladu s kojim supervizori utvrđuju da banke imaju sveobuhvatan sistem upravljanja rizicima koji obezbeđuje prepoznavanje, mjerenje, procjenu, praćenje, kontrolu i ublažavanje svih materijalno značajnih rizika, kao i izvještavanje o njima;
- princip br. 29 - proces zloupotrebe finansijskih usluga, u skladu s kojim supervizori treba da se uvjere da banke primjenjuju adekvatne politike i procese, uključujuću striktna pravila „Upoznaj svog klijenta”, koji promovišu visoke etičke i profesionalne standarde u finansijskom sektoru i sprečavaju da banka namjerno ili nenamjerno bude iskorišćena za kriminalne aktivnosti. Bazelski komitet je usvojio i dokument o mjerama poznavanja i praćenja stranke za banke, u kome je posebno obrađeno pitanje usvajanja pravila „Upoznaj svog klijenta” u bankama.

Uloga banaka u sprečavanju pranja novca, kao i invetivnost ljudi koji se bave pranjem novca je bez limita. Zbog toga je svima koji su obavezni da preduzimaju radnje i mjere za otkrivanje i sprečavanje pranja novca, ponekad izuzetno teško da prepoznaju ovu kriminalnu radnju. U nabranjanju ovih obveznika po Zakonu o sprečavanju pranja novca, nisu slučajno na prvom mjestu banke i druge finansijske organizacije. Poslovanje banaka sa jedne strane, podrazumjeva apsolutnu tajnost i zaštitu podataka svojih klijenata kao i tajnost usluga, a sa druge strane izloženost velikom broju rizika od aktivnosti pranja novca. Iako se nalazi u okruženju u kojem borba protiv kriminala traje već duži niz godina u Bosni i Hercegovini, Zakon o sprečavanju pranja novca i finansiranju terorističkih aktivnosti donesen 2004. godine koncipiran je tako da u najkraćim crtama definiše osnovne pojmove pranja

novca, obveznike preduzimanja mjera za sprečavanje pranja novca, radnje koji su obveznici dužni da preduzimaju, koje se odnose na utvrđivanje identiteta stranke, dužnost prijavljivanja nadležnom organu kao i kaznene odredbe. Poznata je povezanost pranja novca sa terorizmom te stoga cilj borbe protiv terorizma (prevencija) je da se terorističkim grupama onemogući pristup međunarodnom finansijskom sistemu, te da se smanji mogućnost da se sredstva podižu, kao i da se finansijske mreže prljavog novca terorista razotkriju, izoluju iz legalnih tokova i onesposobe (Marković i Stanojević, 2009).

Brojne su definicije pranja novca, ali sve one govore o procesu pretvaranja nezakonskih prihoda stečenih kriminalnim aktivnostima u sredstva koja imaju privid legalnog porijekla. Glavne funkcije i ovlašćenja Uprave za sprečavanje pranja novca su: prijem podataka od obveznika, analiza, čuvanje i distribucija podataka te preduzimanja zakonskih mjera i radnji radi sprečavanja pranja novca. Banke predstavljaju najmogobrojniju grupu obveznika, imaju visoku kvalifikacionu strukturu zaposlenih i dobru tehničku opremljenost. Razvijanjem bankarskog sistema u Bosni i Hercegovini banke postaju mjesta gdje se obavljaju kompleksne i velike transakcije. Iz Uprave za sprečavanje pranja novca naglašavaju da su banke sprovođenjem Zakona o sprečavanju pranja novca i razvijanjem analitičkih procedura osposobljene za rano otkrivanje neobičnih šema transakcija koje su obavljene bez opravdane ekonomske i pravne svrhe. Bankarske evidencije su pristupačne i omogućavaju brzu rekonstrukciju individualnih transakcija i mogu pružiti dokaze za krivično gonjenje. Za efikasniju borbu protiv pranja novca banke su u obavezi da formiraju unutrašnju kontrolu, izvještavaju o transakcijama u skladu sa Zakonom i dostavljaju finansijskim jedinicama dokaze o finansijskim transakcijama. Unutrašnja kontrola mora da pokriva sve organizacione cjeline gdje bi se moglo pojaviti pranje novca, nadgleda primjenu Zakona o

sprečavanju pranja novca i finansiranje terorizma, da prati rad službi, kontroliše ih da bi sve sumnjive transakcije bile dostavljene Upravi. Organizovana borba protiv svih oblika kriminala, uključujući i pranje novca predstavlja nužnost s kojom se suočava Bosna i Hercegovina.

Finansijsko-obavještajni odjel (FOO) Državne agencije za istrage i zaštitu (SIPA) predstavlja centralnu finansijsko-obavještajnu jedinicu u Bosni i Hercegovini (BiH) koja funkcioniše u skladu sa međunarodnim standardima u oblasti borbe protiv pranja novca i finansiranja terorističkih aktivnosti. U skladu sa Zakonom o Državnoj agenciji za istrage i zaštitu i Zakonom o sprečavanju pranja novca i finansiranja terorističkih aktivnosti, FOO obavlja poslove koji se odnose na sprečavanje, otkrivanje i istraživanje pranja novca i finansiranja terorističkih aktivnosti, poslove koji se odnose na promovisanje saradnje između nadležnih organa BiH, Federacije BiH (FBIH), Republike Srpske (RS) i Brčko distrikta BiH (BDBiH) u oblasti sprečavanja pranja novca i finansiranja terorističkih aktivnosti, kao i na promovisanje saradnje i razmjene informacija s nadležnim organima drugih država i međunarodnih organizacija zaduženih za sprečavanje pranja novca i finansiranja terorističkih aktivnosti. FOO je, kao osnovna organizaciona jedinica SIPA-e, operativno od 28.12.2004. godine, kada je stupio na snagu prvi Zakon o sprečavanju pranja novca, a 29.06.2005. godine primljeno je u Egmont grupu finansijsko-obavještajnih jedinica (FOJ). Od navedenog perioda, dva puta je donesen novi Zakon o sprečavanju pranja novca i finansiranja terorističkih aktivnosti i trenutno je na snazi Zakon iz 2014. i 2016. godine (Zakon o sprečavanju pranja novca i finansiranja terorističkih aktivnosti [ZSPNFT], 2016). Zakonodavni i institucionalni okvir u BiH je takav da sistem sprečavanja, otkrivanja i istraživanja krivičnih djela pranja novca i finansiranja terorističkih aktivnosti u BiH nije u nadležnosti samo jedne institucije već se radi o oblasti koja je u nadležnosti institucija na svim nivoima vlasti uz zakonsko definiranje uloge svih učesnika

sistema, te njihove obavezne međusobne interakcije i saradnje.

Primarni zadatak FOO-a je da prima, prikuplja, evidentira i analizira informacije, podatke i dokumentaciju, te istražuje i prosljeđuje rezultate analiza i/ili istraga nadležnim tužilaštvima i drugim nadležnim organima, kako u BiH tako i u inostranstvu, koji istražuju krivična djela pranja novca i/ili finansiranja terorističkih aktivnosti. Ukoliko FOO sumnja u pranje novca ili finansiranje terorističkih aktivnosti u vezi s nekom transakcijom ili osobom, ovlašteno je za privremeno obustavljanje te transakcije ili transakcija u trajanju do pet radnih dana, kao i za kontinuirano praćenje finansijskog poslovanja klijenta u trajanju do šest mjeseci.

Kada se govori o sprečavanju pranja novca potrebno je naglasiti da postoji nekoliko opšteprihvaćenih načina na koje se može izvršiti sprečavanje pranja novca a to su: represivna/preventivna strana sistema; identifikacija i praćenje klijenta; prijava gotovinskih transakcija; prijava sumnjivih transakcija i finansijsko obavještajna služba (Mista, 2013). BiH je članica posebnog Komiteta stručnjaka Vijeća Evrope zaduženog za praćenje provođenja mjera za sprečavanje pranja novca i finansiranja terorističkih aktivnosti - MANIVAL, koji funkcioniše po principu uzajamnih procjena država članica prema metodologiji i standardima međunarodnog tijela koje postavlja standarde za borbu protiv pranja novca i finansiranja terorizma – FATF. U skladu sa Odlukom Vijeća ministara BiH, službenik FOO-a ima ulogu šefa BiH MANIVAL delegacije, čiji je zadatak predstavljanje i ostvarivanje saradnje BiH sa Moneyval komitetom Vijeća Evrope.

TIPOLOGIJE PRANJA NOVCA U BOSNI I HERCEGOVINI PO FINANSIJSKOM ODJELU DRŽAVNE AGENCIJE ZA ISTRAGE I ZAŠTITU

Tipologije pranja novca predstavljaju metode, tehnike i trendove pranja novca koje, posmatrane u ograničenom vremenskom periodu, imaju više zajedničkih karakteristika ili obilježja.

Prepoznavanje i analiziranje novih tipologija posebno je značajno ako u obzir uzmemo okolnost da je pranje novca proces koji se neprekidno razvija. „Perači“ novca usavršavajući i primjenjujući nove tehnike i modalitete čine proces pranja novca još kompleksnijim a samim tim i komplikovanijim za otkrivanje i naročito teškim za dokazivanje. Uočavanje novih tipologija je neophodno za izradu analize rizika za potrebe što efikasnijeg preventivnog djelovanja.

Na osnovu raspoloživih podataka, informacija, dokumentacije i dokumentiranih slučajeva pranja novca, tokom 2019. godine uočene su i izdvojene tehnike, trendovi i tipologije pranja novca sa ciljem njihovog boljeg razumijevanja i uočavanja potencijalnih rizika sa kojima su suočeni različiti sektori, te da bi se na taj način doprinijelo sprečavanju i otkrivanju nekih od brojnih metoda koje se koriste za prikrivanje izvora nezakonitih sredstava u BiH.

Dosadašnja iskustva kao i iskustva drugih zemalja ukazuju da su oblasti sa visoko izraženim stepenom rizika sa aspekta pranja novca bankarski sektor, uvozno-izvozni poslovi, tržište kapitala, tržište nekretnina i virtualne valute. Dokumentirani slučajevi po Izvještaju Državne agencija za istrage i zaštitu sumnje na pranje novca ukazuju na izraženu zastupljenost sljedećih tipologija koje imaju obilježja pranja novca (Izvještaj Državne agencije za istrage i zaštitu, Finansijsko-obavještajno odjeljenje, 2021):

- Novac stečen internet prevarama van područja BiH, usmjeren bezgotovinskim transferima u korist pravne osobe u BiH, da bi potom sredstva bila dalje bezgotovinski transferisana u korist dvije pravne osobe u inostranstvu, dok je ostatak sredstava iskorišćen za bezgotovinsko plaćanje i gotovinsko podizanje na području BiH.
- Novčana sredstva stečena ustupanjem potraživanja od dvije strane pravne osobe (koje su uredno izvršavale svoje obaveze prema pravnoj osobi u BiH), stranog

pravnoj osobi, koja je zadržala za sebe jedan dio novčanih sredstava (što je omogućeno zaključivanjem ugovora o ustupanju potraživanja i prikrivenim obavljanjem transakcija između više evropskih zemalja), dok je drugi dio novčanih sredstava iskorišćen za kupovinu dionica iste pravne osobe u BiH u više-milionskom iznosu, što je prikriveno obavljanjem transakcija između računa pravnih osoba iz ukupno šest zemalja.

- Bavljenje posredovanjem u trgovini nekretninama, dovođenjem u vezu kupca i prodavca, bez neophodnog ovlaštenja i suprotno propisima koji propisuju obaveznost registracije, te na taj način sticanje protivpravne imovinske koristi te ulaganje sredstava u kupovinu nekretnina i kapitala pravne osobe.
- Osnivanje pravne osobe isključivo u svrhu da se preko nje opere novac, gdje se sačinjavanjem dokumentacije o fiktivnoj trgovinskoj razmjeni sekundarnih sirovina između više pravnih osoba u različitim državama pokušalo prikriti stvarno porijeklo novca stečenog krivičnim djelom, a sve s ciljem da se novčana sredstva legaliziraju kod finansijskih institucija, odnosno učine nedostupnim pravosudnim organima u državi gdje je počinjeno krivično djelo iz kojeg su proizišla pomenuta sredstva.
- Bavljenje uvozom i trgovinom motornim vozilima (kupoprodajom) od strane fizičke osobe, bez neophodnog ovlaštenja i suprotno propisima koji propisuju obaveznost registracije, te na taj način sticanje protivpravne imovinske koristi.

Uočene tipologije ukazuju da su gotovinska sredstva doznačena na račune fizičkih osoba i sa njima povezanih privrednih subjekata često visokorizična u kontekstu pranja novca. Kada je riječ o računima pravnih subjekata, navedene

tipologije ukazuju i na zastupljenu zloupotrebu transakcija po osnovu novčanih pozajmica od osnivača ili u korist osnivača, kao i transakcija po osnovu pologa pazara, isplata za potrebe blagajne i materijalnih troškova. Zastupljene su i pojave koje indirektno ukazuju na razne vrste prevara, od krađe identiteta, krivotvorenja isprava, do zloupotrebe ovlasti, zloupotrebe platnih kartica, prevara u privrednom poslovanju, lažnog stečaja, nedozvoljene trgovine itd.

Tokom 2020. godine prema statističkim podacima iz 2020. FOO je preduzimalo i druge mjere i radnje iz svoje nadležnosti, u okviru kojih je:

- Zbog sumnje na pranje novca izdato 13 naloga bankama za privremenu obustavu transakcija sa ukupnim iznosom blokiranih sredstava od 19.577.245,45 KM, na računima sedam pravnih lica i 23 fizička lica.
- Zbog sumnje na pranje novca izdato pet naloga bankama za kontinuirano praćenje finansijskog poslovanja dva pravna lica i dva fizička lica.
- Sa drugim policijskim i poreskim organima svih nivoa u Bosni i Hercegovini ostvarena je saradnja u vidu dostavljanja 532 informacije/odgovora, sa podacima prikupljenim u skladu sa Zakonom o sprečavanju pranja novca i finansiranja terorističkih aktivnosti.

Prema povratnim informacijama primljenim u izvještajnom periodu, policijski i poreski organi su na osnovu informacija FOO-a preduzeli sljedeće mjere i radnje iz svoje nadležnosti:

- 12 do 100 predmeta službenici nadležnih poreskih uprava utvrdili su dodatne poreske obaveze u ukupnom iznosu od 4.617.759,81 KM;
- nadležnim tužilaštvima podnijeli ukupno 17 izvještaja o počinjenim krivičnim djelima i izvršiocima;
- zbog utvrđenih nepravilnosti izdali ukupno 21 prekršajni nalog; o utvrđenim nepravilnostima u dva predmeta upoznali nadležna tužilaštva.

EFEKTI PRANJA NOVCA

U sferi biznisa i savremenih globalnih kretanja novac zauzima značajno mjesto. Da bi inicirao bilo kakvu aktivnost ili realizovao ideju poslovni subjekt mora posjedovati kritičnu masu novca. Posmatrana iz ovog ugla definicija novca Milтона Fridmana "Novac je moć" dobija svoj pravi smisao. Novac sam po sebi ne znači mnogo dok ne bude ubrizgan u domaći ili strani privredni sistem. Ubacivanjem novca, odnosno gotovine i ekvivalenata gotovine u privredne tokove inicira se njegovo kretanje, što rezultira stvaranjem kompleksnih novčanih tokova. Ukoliko se razmatranje usmjeri jedan korak nazad neminovno se nameće pitanje izvora novca. Izvor novca ukazuje na stvarno porijeklo novčane mase koja je uložena sa ciljem iniciranja i održavanja reprodukcionog ciklusa.

Teoretska je pretpostavka da je porijeklo takve novčane mase legalno i transparentno. Međutim, praksa potvrđuje suprotno. Nepobitna je činjenica da se svakodnevno nelegalnim aktivnostima kreiraju velike sume novca, koje se različitim metodama integriraju u privredne sisteme. Ovakav postupak koji za cilj ima legalizovanje nezakonito stečene imovine naziva se *pranje novca*. Pranje novca uopšteno podrazumijeva rješavanje, pretvaranje ili čišćenje novca stečenog kriminalnim radnjama, njegov prelaz preko međunarodnih granica te njegovo ponovno uključivanje u regularne novčane tokove. Možemo reći da pranje novca nosi sa sobom negativne posljedice koje zadiru duboko u ekonomske, političke i socijalne strukture svake zemlje.

Neki od efekata pranja novca su:

- **Ekonomski poremećaji i nestabilnost** - Pranje novca je izuzetna pretnja integritetu finansijskih ustanova, koja dovodi u nepovoljan položaj ekonomske subjekte koji legalno posluju. Perači novca ne nastoje ostvariti najvišu stopu dobiti na novac koji operu već im je važnije mjesto ili investicija koje će im omogućiti da najlakše i najbrže recikliraju novac, tako često

ulažu u manje profitabilne investicije koje ne moraju biti korisne za određenu zemlju smanjujući njen potencijalni ekonomski rast, npr. u mnogim zemljama su bile finansirane aktivnosti u određenim privrednim oblastima, kao što su građevinarstvo i hoteli, ali ne zbog stvarne tražnje, već zbog kratkoročnih interesa onih koji peru novac. Kad te oblasti prestanu da odgovaraju akterima pranja novca, oni ih napuštaju izazivajući velike gubitke u njima samima kao i ekonomske poremećaje i nestabilnost (Stefanović, 2009).

- **Smanjenje poslovanja legalnog privatnog sektora** - Učesnici u pranju novca koriste posebno određene kompanije da bi razdvojili sredstva stečena po osnovu kriminalnih radnji od procesa prikrivanja nelegalno ostvarene dobiti. Kako ove kompanije raspolažu velikim iznosima novca, u mogućnosti su da svoje proizvode i usluge prodaju po cijenama koje su ispod tržišnih. U nekim slučajevima ove kompanije utvrđuju cijene koje su ispod proizvođačkih i zato su konkurentnije u odnosu na kompanije koje legalno posluju i pribavljaju sredstva na finansijskim tržištima. Promjena u potražnji novca kao rezultat pranja novca što se ne odražava u službenim pokazateljima može na nacionalnoj razini izazvati nestabilnost kamata i deviznih kurseva, međunarodnih tokova kapitala, usljed čega je teško sprovesti stabilnu i efikasnu politiku. Učesnici pranja novca vrše reinvestiranje sredstava tamo gdje očekuju da neće biti otkriveno njegovo porijeklo, ne u aktivnosti sa većim stopama povrata. Pranje novca kao i ostale nezakonite aktivnosti rezultira regresivnom distribucijom dohotka te stvaranjem velike potrošačke moći pojedinaca u uslovima opšte recesije. Velika

sredstva koja se zarađuju pranjem novca utiču na porast potražnje za luksuznim proizvodima, povećanje cijena nekretnina i nekih potrošnih dobara, što sve potiče špekulacije i inflaciju. Oblici radnog sudjelovanja koji su u skladu sa zakonom počinju se smatrati manje vrijednim, tako da nezakonitost postaje temeljno načelo ekonomske aktivnosti.

- **Opadanje reputacije države** - Pored toga što uveliko slabi slobodnu tržišnu ekonomiju, pranje novca narušava demokratsku političku strukturu i političku stabilnost zemlje, zatim stvara se opasna pretnja državnoj suverenosti, autoritetu državne vlasti, narušavanju javne ustanove te svemu onome što šteti nacionalnoj ekonomiji. Na ovaj način se omogućava kriminalnim organizacijama da djeluju na strukturu jedne države, slabeći njen privredni i politički položaj i djelimično ili potpuno preuzimajući vlast u cilju očuvanja svojih interesa. Dobro su poznati slučajevi da su predstavnici kokainskih kartela pokušavali nekad i uspijevali, doći u središnja tijela vlasti pojedinih zemalja te ih potkupiti. Kolumbijski predsjednik Ernesto Samper, optužen da je tokom izborne kampanje primao velike novčane iznose narko-mafije. Navodno su lokalni trgovci drogom nudili potpunu otplatu kolumbijskog vanjskog duga u zamjenu za nesmetano djelovanje. Pranje novca direktno utiče na smanjenje transparentnosti i narušavanje zdravlja finansijskog tržišta, važnih odrednica u djelotvornom funkcioniranju cjelokupne ekonomije.
- **Ugrožavanje programa reformi i privatizacije** - Sprovedenje programa privatizacije, odnosno ekonomskih reformi može biti ugroženo zbog pranja novca, posebno kod privatizacije državnih

firmi. U odnosu na legalne investitore, učesnici pranja novca mogu da ponude veće cijene, što je izraženo kod zemalja u razvoju koje zbog procesa privlačenja investicija mogu postati meta transakcije pranja novca.

- **Smanjenje državnih prihoda** - Poslovima pranja novca se ohrabruju tradicionalni načini utaje poreza, izbjegavanja zakona, krijumčarenje i bijeg finansijskih sredstava, što sve povećava porezno opterećene onih koji plaćaju porez. Pranje novca može korumpirati dijelove finansijskog sistema i onemogućiti uspješno upravljanje centralnih banaka i nadzornih tijela. Nužno je jačati zakonske odredbe protiv pranja novca, ali to ne znači smanjivanje tradicionalne bankarske kontrole (Stefanović, 2009). Na međunarodnoj razini, kretanje kapitala pod uticajem pranja novca može djelovati destabilizirajuće zbog integrativne prirode svjetskog finansijskog tržišta. Finansijske teškoće nastale na jednom mjestu mogu se vrlo lako proširiti na druge zemlje, pretvarajući tako nacionalni problem u međudržavni. Prema grubim procjenama u svijetu se godišnje opere između 300 i 500 milijardameričkih dolara. Procjenjuje se da je neto finansijska dobit onih koji se time bave 2% globalnog BDP-a. Nova informatička tehnologija, fleksibilnost i prilagodljivost u djelovanju, stručna pomoć i ogromna finansijska sredstva koja su na raspolaganju znatno olakšavaju proces pranja novca i njegov prenos preko granica. Iako u pranju novca ponajviše sudjeluju banke, od njega nisu pošteđene ni druge ustanove gdje se koriste veće količine gotovog novca, a često nisu pod jačom zakonskom regulativom ili nadzorom, poput štedionica, kockarnica, osiguravajućih društava i mjenjačnica. Ukoliko su banke

umiješane u pranje novca narušava se povjerenje koje javnost ima u njih, slabi njihova stabilnost, uprkos kratkotrajnoj mogućoj dobiti, prijeti neposredna opasnost od gubitka

Evropska zajednica donijela je stroge propise po kojim se zahtjeva identifikacija stranke kod otvaranja računa i uplate, obavezno vođenje odgovarajuće evidencije o depozitima, te obavještanje nadležnih organa o sumnjivim finansijskim transakcijama. Finansijske ustanove zbog njihove jedinstvene zadaće u platnom sistemu zemlje u prikupljanju i transferu finansijskih sredstava, su sigurno ključni faktor u utvrđivanju slučajeva nelegalnih transakcija. Iako je pranje novca svjetski problem, postoje značajne razlike između pojedinih zemalja. Sprečavanje pranja novca nije samo borba protiv kriminala, već nastojanje da se očuva integritet finansijskih ustanova i finansijskog sistema u cjelini.

PRANJE NOVCA KAO KRIVIČNO DJELO U MEĐUNARODNOM PRAVU

Međunarodno pranje novca temelji se na razlikama finansijskih i bankovnih odredbi u zakonodavstvima pojedinih zemalja. Zbog toga je nužno što je više moguće smanjiti te razlike, ako se već one ne mogu u potpunosti ukloniti. Takođe je važno i iznalaženje novih zakonskih rješenja u borbi protiv pranja novca, stvaranje i razvoj novih specijalizovanih službi, kao i međunarodna saradnja uz korištenje modernih i učinkovitih metoda. Pojedinačni naponi donose slabe rezultate, te iziskuju velike troškove. U socijalne posljedice pranja novca spada i povećanje državnih troškova zbog izdvajanja većih sredstava za provedbu zakona, što smanjuje socijalne fondove, kao i prebacivanje ekonomske moći sa tržišta, vlada i građana na kriminalce. Pranje novca izaziva preobražaj postojeće socijalne startifikacije nastajanjem društvenih grupa novih bogataša, predstavlja prijetnju međunarodnom miru i bezbjednosti. Kako bi se sprečile ili barem ublažile ove

posljedice pranja novca, nužno je pronaći načine prevencije i otkrivanja takvih aktivnosti. U tu svrhu čini se neophodnim definisanje ključnih karika u borbi protiv legalizovanja nezakonito stečene imovine.

Prema Zakonu o sprečavanju pranja novca i finansiranju terorizma u BiH prilagođenom postojećim ekonomskim karakteristikama, utvrđeno je da se radnje za otkrivanje i spriječavanje pranja novca preduzimaju pri transakcijama: ulaganja novca, preuzimanja, zamjene, raspodjele i distribucije novca, sklapanja pravnih poslova kojima se stiče imovina i ostalim oblicima raspolaganja novcem i drugom imovinom što može poslužiti za pranje novca. Da bi se napred nedozvoljene djelatnosti suzbile, Međunarodna zajednica je pristupila normiranju adekvatnih mjera, sredstava i postupaka u pojedinim zemljama, a u cilju spriječavanja i suzbijanja ovakvih nedozvoljenih djelatnosti. Tako je donijeto više Međunarodnih pravnih akata kojima su precizirane nedozvoljene djelatnosti i pojedini oblici i vidovi pranja novca, kao i mjere kao i postupanja Nacionalnih zakonodavaca u pravcu suzbijanja ove pojave. Tako je i u Evropskom pravu pranje novca dobilo status samostalnog krivičnog djela, ali ovo djelo poznaje i niz Nacionalnih krivičnih zakonodavaca. Shvativši realnu opasnost od organizovanog kriminaliteta internacionalnog karaktera koji ne poznaje političke, državne i ideološke granice među narodima, državama i kontinentima.

Međunarodna zajednica počinje da radi na razvijanju i koncipiranju strategije opšte borbe protiv najopasnijih vidova kriminaliteta, trgovine opojnim drogama, bijelim robljem, oružjem itd, a sa čime je u nerazdvojivoj vezi i pranje novca. U tom smislu u poslednjih nekoliko godina je donijeto više Međunarodnih pravnih aktova, koji u ovu borbu unose nova sredstva, metode i postupke. To su:

- Konvencija OUN protiv nedozvoljene trgovine opojnim drogama i psihotičkim supstancama (donijeta 1988. godine u Bernu),
- Konvencija o pranju novca, istrage i u rješavanju zapljene konfiskacije

dobiti od kriminalaca (donijeta 1990. godine u Strazburu),

- Konvencija OUN protiv Transnacionalnog organizovanog kriminala (iz 1988. godine),
- Direktiva za sprečavanje korišćenja finansijskog sistema u cilju pranja novca (iz 1991. godine),
- Zvanični izvještaj OUN (donijet 1993. godine na Kipru).

Navedeni međunarodni pravni akti predstavljaju pravni osnov za regulisanje pojedinih inkriminiranih ponašanja u vezi sa pranjem novca u nacionalnom krivičnom zakonodavstvu, stoga je veoma značajno na koji način nacionalnog zakonodavstva uređuju krivično-pravni osnov pranja novca. Mnoga rješenja predviđena navedenim međunarodnim pravnim aktima nalaze svoje oživotvorenje i primjenu kroz rješenja u nacionalnom krivičnom zakonodavstvu.

Konvencija OUN protiv nedozvoljene trgovine, opojnim drogama i psihotičkim supstancama (Međunarodni ugovori SFRJ, 1990), poznata kao "Bečka konvencija", koju je prihvatilo više od 100 država, predviđa obavezu država potpisnica da u svom nacionalnom zakonodavstvu inkriminišu brojne aktivnosti vezane za trgovinu opojnim drogama, kao i da pranje ovako stečenog novca predvide kao krivično djelo. U članu 3. Konvencije predviđeno je da će sve neophodne mjere svaka stranka - potpisnica usvojiti kako bi se po njenom zakonu utvrdile kao krivični prekršaj određene aktivnosti, pod uslovom da se naravno čine namjerno, pa je tako predviđeno da se mora inkriminisati i konverzija ili transfer svojine, uz znanje da je takva svojina stečena trgovinom droga ili drugih psihotičnih supstanci, bilo da se radi o samom trgovcu ili o osobi koja je učestvovala u skrivanju ili prikrivanju nezakonitog porijekla svojine ili pomagala nekom licu koje je umješano u počinjenje takvog ili takvih prekršaja da bi izbjeglo zakonske posljedice svojih djela; isto tako inkriminišući i zavisno od ustavnih načela i osnovnih koncepcija pravnog sistema - sticanje, posjedovanje ili korišćenje svojine,

saznanjem, u vreme prijema, da je takva svojina stečena na osnovu jednog ili više prekršaja utvrđenih u skladu sa Konvencijom, ili učešće u takvom prekršaju ili prekršajima.

Takođe, Konvencija nepropisanog podrazumjeva da će svaka strana potpisnica usvojiti neophodne mjere da bi se omogućila zapljena prihoda koja potiče od trgovine droge ili svojina čija vrijednost odgovara vrijednosti takve dobiti, pored navedenog svaka strana potpisnica usvojiće i neophodne mjere da se njenim nadležnim organima omogući da identifikuju, otkriju, zamrzu ili zapljene dobit, odnosno svojinu, a radi konačne zapljene, s tim što će radi sprovođenja ovih mjera svaka strana potpisnica ovlastiti svoje sudove ili druge nadležne organe da nalože da bankarska, finansijska ili komercijalna evidencija bude stavljena na raspolaganje, zapljenjenje, kao i da strane potpisnice neće odbiti da deluju po odredbama ovog stava iz razloga bankarske tajne, dakle, Konvencijom je predviđeno da države potpisnice omogućavaju jedna drugoj uzajamnu pravnu pomoć. Dodajmo i to da je Bečkoj konvenciji pristupilo više od 190 država, među njima su i tzv. "finansijski rajevi" gdje se prihod stečen od droge legalizuje suprotno odredbama Konvencije, naime, služba (biro) Ujedinjenih Nacija za kontrolu droge i prevencije kriminaliteta (UN Office for Drug Control and Crime Prevention), je napravila listu "najvažnijih finansijskih rajeva", poznatih po pranju novca, gdje su zemlje raspoređene u određene geografske zone.

Drugi značajan akt iz ove oblasti jeste Konvencija o pranju novca, vođenju istrage i izvršavanju zapljene i konfiskacije dobiti od kriminala ili Evropska konvencija koju je donio Savjet Evrope 8. novembra 1990. godine u Strazburu. Ova konvencija takođe, propisuje obavezu država koje su je prihvatile da u svom nacionalnom zakonodavstvu predvide posebno krivično djelo pranja novca. Obilježja ovog djela su određena na identičan način kao i Bečkom konvencijom, s tom razlikom što se u ovom slučaju teži oduzimanju i konfiskaciji sve vrste imovinske dobiti koja

je stečena ne samo nezakonitim djelatnostima vezanim za opojne droge, već i za terorizam, trgovinu bijelim robljem, oružjem i krivičnim djelima kojima se ostvaruje veliki profit (Šikman, 2013).

Tako je u 6. članu ove konvencije određen pojam i obilježje krivičnog djela pranje novca koje se sastoji u umišljajnom preduzimanju jedne ili više od sljedećih djelatnosti:

- u konverziji ili transferu imovine uz znanje da takva imovina predstavlja prihod od kriminala s ciljem prikrivanja ili neistinitog prikazivanja nezakonitog porijekla imovine, ili pomaganju nekom licu koje je uključeno u činjenje predikatnog krivičnog djela, da bi se izbjegle zakonske posljedice svojih djela;
- u prikrivanju ili neistinitom prikazivanju pravne prirode izvora, mjesta, upotrebe, kretanja, prava ili svojine u odnosu na imovinu, znajući da ta imovina predstavlja prihod stečen činjenjem krivičnog djela;
- u sticanju, posedovanju ili korišćenju imovine sa znanjem u vreme prijema da takva imovina predstavlja prihod od krivičnog djela;
- u učestvovanju, određivanju ili zavjeri radi činjenja, pokušaju činjenja i pomaganja, posticanju ili olakšanju i savjetovanju u cilju činjenja bilo kog krivičnog djela.

Problematikom preduzimanja adekvatnih mjera za sprečavanje i suzbijanje pranja novca bavila se takođe i Konvencija OUN protiv transnacionalnog organizovanog kriminala s dva dopunska protokola, i to: protokolom za prevenciju, suzbijanje i kažnjavanje trgovine ljudskim bićima, naročito ženama i djecom i Protokolom protiv krijumčarenja migranata kopnom, morem i vazduhom. Ovi poslednji međunarodni pravni akti donijeti su na konferenciji pod okriljem Organizacije ujedinjenih nacija koja je održana decembra mjeseca 1998. godine u Palermu. Ovu konvenciju, sa dopunskim protokolima,

ratifikovala je Savezna skupština, a tekst konvencije i dopunskih protokola (Međunarodni ugovori SRJ, 2001).

Gotovo na istovjetan način kao i Evropska konvencija i ova konvencija u članu 6 utvrđuje da kriminalizacija pranja dobiti stečene kroz kriminal određuje pojam i karakteristike krivičnog djela pranje novca, koje su sve države potpisnice ove konvencije dužne da unesu u svoje nacionalno krivično zakonodavstvo, takođe su, u članu 7. ove konvencije predviđene i mere za borbu protiv pranja novca kojima su utvrđeni subjekti, aktivnosti i postupci nadležnih nacionalnih organa u sprečavanju i suzbijanju različitih oblika i vidova pranja novca.

Na osnovu ovih međunarodno-pravnih akata, posebno Evropske konvencije i Konvencije OUN protiv transnacionalnog organizovanog kriminala niz država je u svom nacionalnom zakonodavstvu predvidjelo krivično djelo pranje novca kao samostalno krivično djelo obezbjeđujući pri tom određenu vrstu kao i mjeru krivičnih sankcija. Jedna od takvih država je Bosna i Hercegovina.

KRIVIČNO DJELO PRANJA NOVCA U ZAKONODAVSTVU BOSNE I HERCEGOVINE

Krivično djelo pranja novca poznaju sva četiri krivična zakona u Bosni i Hercegovini. Propisivanjem ovog djela pruža se zaštita privrednom i monetarnom sistemu kao i stabilnosti svake zemlje. Kao bitan konstitutivni element ovog djela traži se postojanje znanja, svijesti, namjere ili cilja kao subjektivnih elemenata psihološke prirode na strani učinioca u vrijeme preduzimanja radnje izvršenja krivičnog djela (Cindori, 2007). Radnja izvršenja je na skoro istovjetan način inkriminisana u svim krivičnim zakonima. Krivični zakon BiH članom 209 predviđa krivično djelo *Pranje novca* (član 209 KZ BiH) koji čini onaj koji novac ili drugu imovinu za koje zna da su pribavljeni činjenjem krivičnog djela primi, zamijeni, drži, njome raspoláže, koristi u privrednom ili drugom poslovanju, vrši konverziju ili njihov prenos

ili na drugi način prikrije ili pokuša prikriti njihovu prirodu, izvor, lokaciju, raspolaganje, kretanje, vlasništvo ili drugo pravo, a takav novac ili imovinska korist su pribavljeni počinjenjem krivičnog djela (Krivični zakon Bosne i Hercegovine [KPZBiH], 2021).

Radnja izvršenja određena je alternativno, a u suštini radi se o različitim radnjama prikrivanja „prljavog“ novca i imovine odnosno imovine koja je pribavljena činjenjem krivičnog djela. Teži oblik osnovnog djela će postojati ukoliko vrijednost „prljavog“ novca i imovine prelazi iznos od 200.000 KM. Ista inkriminacija sadržana je u Krivičnom zakonu Republike Srpske u članu 263, kao krivično djelo *pranje novca* (Krivični zakonik Republike Srpske [KPZRS], 2021).

Jedan od glavnih problema koji je uticao na pojavu pranja novca u BiH je zakonsko rješenje o poslovanju firmi/preduzeća. Vlasnicima firmi je bitno samo da se roba plati, a nije im bitno ko je kupac. Sve što je potrebno za poslovanje je fotokopija o registraciji firme, koja je kupac bez ikakve obaveze utvrđivanja stvarnog identiteta. Poreske obaveze se prenose na kupca i tu je za prodavca sve završeno. Ovdje treba izvršiti određene korekcije u načinu poslovanja u pogledu utvrđivanja stvarnog identiteta svih koji učestvuju u poslovanju, kao i to da svaka firma koja posluje sa fiktivnom firmom trebalo bi da snosi posljedice takvog poslovanja, odnosno poreske obaveze koje su prebačene na kupca koji je fiktivan, vraćaju se prodavcu.

Ovakav način bi trebalo da natjera sve one koji posluje nelegalno da odgovaraju za svoje postupke. Jedan od načina bi bio i taj da se u zakon ugrade instrumenti koji bi regulisali da firma koja uvozi određenu robu za nju odmah plati kako porez tako i carinu, a da kroz dalju prodaju robe ne plaća porez i carinu koju je već platilo. Ovakav način je jedino moguć ako se u okviru zakona regulišu sva pitanja oko registracije firmi koje se bave uvozom i izvozom tako da uslove za registraciju firmi ne mogu ispuniti svi, kao i to da se svi ne bi trebalo da bave istim poslovima, jer će

na takav način stvoriti situaciju da se ne zna ko je odgovoran za uvoz određene robe. U oba BiH entiteta dobro organizovane kriminalne grupe sa spregom u vladajućoj strukturi, politici, pravosuđu, policiji i drugim institucijama bi uradile falsifikate dokumentacije, isprava, žigova, pečata i ostale potrebne dokumentacije, te na osnovu toga registrovale različite firme sa mjestom sjedišta po čitavoj BiH.

Najjednostavniji opisan proces pranja novca, odnosno u našem okruženju je proces pranja poreza koji je jedan od osnovnih oblika pranja novca i kao takav odvija se na sljedeći način: legalno registrovana firma uvozi dogovorenu robu te je uredno skladišti ili je prodaje u transportu nekom od nelegalnih firmi, za navedenu transakciju sačinjava odgovarajuću dokumentaciju, koja je falsifikovana s obzirom na to da je firma koja kupuje robu nelegalna (ugovori, narudžbenice, računi, otpremnice, dokumentacija o registraciju firme i sl.). Posao se završava tako što se roba stvarno prodaje na malo, nekoj trećoj firmi sa kojom je izvršen dogovor prije nabave uvoza robe, a poreske obaveze s obzirom da se radi o daljnjoj prodaji prebacuju se na ilegalno-nepostojeću-fantomsko-fiktivnu firmu koja je položila potrebnu dokumentaciju o kupovini robe i izvršila plaćanje na žiro-račun firme nabavljača uvoznika te na taj način izbjegavaju se budžetske obaveze prema RS ili BiH.

Da bi posao u potpunosti bio okončan, neko stvarno mora i da položi novac na transakcioni račun firme-uvoznika, taj zadatak se obavlja u bankama odnosno putem kurira-nosača novac se polaže na račun firme-uvoznika, položeni novac odmah se skida sa računa - račun se prazni. Ovaj dio posla obavljaju službenici u bankama i tada se krug zatvara. Roba je prodana nepostojećoj firmi, sačinjena je odnosno falsifikovana poslovna dokumentacija o prodaji (obično na veliko, za koju se poreske, odnosno budžetske obaveze prebacuju na firmu koja kupuje robu, odnosno koja je u ovom slučaju krajnji kupac ili posrednik), a stvarno je prodana na malo trećoj firmi koja opet može

biti nepostojeća – ilegalno, odnosno iz drugog entiteta. Firma-uvoznik kada dođe do istrage prikazuje falsifikovanu dokumentaciju o transakciji te se brani da nije dužna da vodi računa da li su firme sa kojima posluje ilegalne ili nisu, iako je u velikoj većini slučajeva (iz mog iskustva) evidentno da iza cijelog posla stoje upravo ove firme uvoznici. Najzastupljeniji način za pranje novca koji potiče od poreskih i carinskih utaja, jeste putem prevare sa ličnim dokumentima i korupcijom, (Šikman, 2013). Ovaj metod podrazumijeva visok stepen vertikalne integracije u zakonite strukture, zahvaljujući tajnim dogovorima između političke i privredne elite.

Treba napomenuti da se ovo djelo najčešće vezuje za djelovanje organizovanih kriminalnih grupa, gdje profit kao osnovni cilj organizovanog kriminala potiče od prikrivanja nezakonitog porijekla novca ili imovine stečenih kriminalom.

Pranje novca kao oblik djelovanja organizovanog kriminaliteta je globalni problem koji ima povratne efekte na ekonomske, političke, bezbjednosne i socijalne strukture zemlje. Naime, ovo djelo je tipično za organizovani kriminalitet i onda kada svoj profit u legalne finansijske tokove ubacuju trgovci drogom, krijumčari oružja, „reketaši“ ili je on proistekao iz drugih aktivnosti organizovanog kriminaliteta. Najveći broj krivičnih djela sa elementima organizovanog kriminala izvršava se upravo i isključivo sa motivom sticanja imovinske koristi, pri čemu je pranje novca derivativan oblik kriminala, tj. prateće krivično djelo kod kojeg mjere prevencije i postupci otkrivanja zahtijevaju posebnu osposobljenost, stručnost, predanost, organizovanost i koordinaciju organa koji se bave njegovim suzbijanjem (Bjelajac, 2013). S obzirom da je finansijski sistem krvotok kriminala, subjekti i institucije uključene u pranje novca i finansiranje terorizma pokušavaju zloupotrijebiti upravo kretanje kapitala i pružanje finansijskih usluga, što predstavlja opasnost za stabilnost finansijskog sistema u cjelini. Međutim, sofisticiranost,

inventivnost i maštovitost različitih oblika pranja novca, obuhvaća i usluge raznih finansijskih stručnjaka (poreznih savjetnika), brokera, investicijskih kuća, konzultanata pravnika.

ZAKLJUČCI

Bosna i Hercegovina je ispunila zahtjeve Evropske unije o poštovanju kriterijuma o spriječavanju pranja novca te je stoga skinuta sa EU popisa trećih zemalja sa visokim rizikom za pranje novca. Veliki iskorak je postavljen i usvajanjem krovnog zakona na nivou BiH, Zakona o spriječavanju pranja novca i finansiranju terorističkih aktivnosti. Pranje novca ne predstavlja samo jednu uobičajenu frazu, nego njegovo značenje zalazi duboko u praksu poslovanja. Ono što je posebno otežano pri suzbijanju ove vrste kriminala jesu brojne i raznovrsne metode pranja novca, koje se iz dana u dan usavršavaju. Međunarodno pranje novca temelji se u razlikama u finansijskim i bankovnim odredbama u zakonodavstvima pojedinih zemalja, zbog toga je nužno smanjiti te razlike, kao i razviti međunarodnu saradnju uz korištenje savremenih i učinkovitih metoda. Može se reći da je pranje novca proces koji prolazi više faza, stoga bi trebalo da postoji obaveza svih organa koji učestvuju u tom procesu na poštovanje zakonskih procedura, sa ciljem prevencije, potrebna je kako kontinuirana saradnja svih organa koji učestvuju u procesu, tako i stalne provjere porijekla novca.

Pranje novca uvijek vodi kriminalizaciji društva, na početku se stvara utisak privida da zemlja napreduje, oni koji su nelegalno došli do značajnih suma novca brzo stiču ugled, bogatstvo i moć te pokušavaju da preuzmu kontrolu cjelokupnog kako finansijskog tako i privrednog sistema sa ciljem kontrole i same države. Da bi borba protiv krivičnog djela pranja novca bila bolja i efikasnija trebalo bi angažovanje svih društvenih činioaca, jer ovo krivično djelo ugrožava ne samo ekonomske već političke, pravne, kulturne i sve druge značajne vrijednosti jednog društva i države. Oblici ove organizovane

Stojanović, J., & Malešić, S. (2022). Money laundering as a destabilizing factor of a society. *Sted Journal*, 4(1), 154-173.

kriminalne djelatnosti nisu uvijek uočljivi i prepoznatljivi, te svakako otežavaju blagovremeno preduzimanje efikasnih mjera za njihovo sprječavanje i suzbijanje. Ovo krivično djelo teško se otkriva a još teže dokazuje, negativni ishodi dejstva organizovanih kriminalnih grupa razorno djeluju na sve zemlje u svijetu, bez obzira na politički sistem i stepen njihovog razvoja.

U proteklim godinama, evidentan je značajan porast broja krivičnih djela organizovanog kriminala u svim zemljama, pa samim tim i u Bosni i Hercegovini. Takođe mora se istaći da je pranje novca posljedica neefikasnog funkcionisanja institucijalnog sistema, tako da borba protiv ove društveno negativne pojave predstavlja i borbu za reformu institucija, jer boljim i efikasnijim institucijama možemo se suprotstaviti pranju novca i samim tim podići životni standard građana na viši nivo, a to ćemo učiniti prije svega dosljednim sprovođenjem Zakona o pranju novca i finansiranju terorizma, te što efikasnijim radom policijskih organa, kao i primjenom kaznene politike u našem sudstvu.

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MONEY LAUNDERING AS A DESTABILIZING FACTOR OF A SOCIETY

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ABSTRACT

As a potential candidate for membership in the European Union and Bosnia and Herzegovina, a country committed to the Euro-Atlantic integration process has committed itself to strengthening the rule of law and

strengthening institutions in the field of justice and home affairs. One of the important activities in this process is the adoption and implementation of public policies in the field of combating money laundering, bearing in mind that this social scourge in its manifestations is the greatest threat to the stability and smooth functioning of a country. Money laundering is a global problem of the twenty-first century. As a form of economic crime, the money laundering process is represented both nationally and internationally.

Although there are a large number of definitions of money laundering, it can be said that it consists of shorter or longer movements of funds acquired through illegal activities, in order to obtain seemingly legal means through the cycle of transformation. The complexity of the fight against money laundering and the problems of combating various forms of money laundering go beyond the possibilities and efforts undertaken by the competent authorities and government institutions. All countries should go ahead of money launderers, that is, they should go ahead in designing and prescribing methods and ways of fighting, but they should also not allow criminals to use a corrupt and unregulated institutional framework and gain lucrative money laundering income.

Keywords: money laundering, organized crime, crime, stages, methods.

OPŠTA NAČELA UGOVORNOG PRAVA I UPRAVNI UGOVOR

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APSTRAKT

Upravni ugovor je specifičan ugovor sa posebnim pravnim režimom, subjektima i karakteristikama koji ga svrstavaju u institut koji se po svojoj pravnoj prirodi nalazi između privatnog i javnog prava. U radu je izvršena uporedna analiza opštih načela ugovornog prava, a prije svega ugovora privatnog prava, građanskopravnog ugovora i upravnog ugovora. Ova analiza treba da dá odgovore na pitanja osnova ugovornog obvezivanja, odnosno osnovnih elemenata koji stvaraju ugovornu obavezu. U radu su navedeni najznačajniji principi, kao i opšti elementi ugovora, posebno

građanskopravnog ugovora sa jedne i osnovne karakteristike upravnog ugovora sa druge strane, kako bi se bolje razumjela njihova pravna priroda, sličnosti i razlike, a posebno pravna priroda upravnog ugovora i njegovog mjesta u ugovornom pravu.

Ključne riječi: građanskopravni ugovor, upravni ugovor, opšta načela ugovornog prava.

UVOD

Ugovorno pravo u svom najopštijem značenju je pojam koji obuhvata širok korpus teorijskih pojmova i praktičnih normativnih rješenja koji za predmet imaju oblast ugovora. Ovaj pojam je više proizvod teorijske konstrukcije i praktične potrebe da se njime prije svega obuhvate mnogobrojni i raznovrsni oblici ugovaranja, pravila i odnosa koji nastaju na osnovu i povodom ugovora. Njegovi sadržajni elementi nalaze se u brojnim pravnim institutima i normama široko rasprostranjenim u različitim pravnim granama. Ugovorno pravo se naročito u domaćem pravu vezuje prije svega za propise, institute i pravne odnose privrednog (trgovačkog) prava. U praksi su najprisutniji privatnopravni ugovori, kojima se dosta bavila i pravna teorija. Istovremeno, naročito u domaćem pravu su neopravdano zanemareni ugovorni odnosi koji su takođe česti, a ne mogu se svrstati u navedene kategorije. To je slučaj i sa ugovorima kojima se regulišu odnosi između ugovornih strana koji imaju za cilj vršenje javnih službi kao djelatnosti od najvećeg značaja za društvenu zajednicu (npr. usluge javnog prevoza, komunalne usluge, usluge vodosnabdijevanja, snabdijevanja električnom energijom,

gasom i dr.). Osim toga država i jedinice lokalne samouprave, u okvirima svoje nadležnosti zaključuju različite ugovore uključujući i ugovore o koncesiji i javno-privatnom partnerstvu. Dakle, pored privatnopravnih lica koja se vrlo često javljaju kao subjekti ugovora, i javnopravna tijela međusobno ili sa privatnopravnim subjektima stupaju u različite vrste ugovornih odnosa.

Ugovorno pravo u širem smislu obuhvata teorijski i praktični korpus pravnih instituta, načela, normi i odnosa koji se tim normama uređuju, a koje se mogu svrstati u oblast ugovora. Te norme koje regulišu ugovorne odnose javljaju se kako u građanskom tako i u porodičnom, upravnom, radnom, socijalnom i međunarodnom pravu. Njihova zajednička karakteristika je da se sve zasnivaju na nekim temeljnim opštim pravnim načelima, ali i nekim posebnim principima koji se svi skupa mogu primijeniti na isti pravni institut - ugovor. O pojmu pravnih načela, postoje različita mišljenja pravnih teoretičara, čija bi šira analiza prevazišla opseg i cilj ovog rada. Pravno načelo je izvedeni pravni pojam koji služi kao izvor prava obuhvatajući pri tom sve one društvene činioce iz kojih pravo može da nastane i koji predstavljaju aksiološki i sociološki sadržaj prava, kao i ostvarenju prava u cjelini. Pravna načela jesu i trebaju biti trajan, dragocijen sadržaj svijesti o pravu koja svjedoči posebno o onim načelima u pravu koja su sveopšta, sveprisutna i trajna (Miličić, 1997). Osnovna načela su u normativnom smislu najopštija pravna pravila, ali to su i vrhovni principi, ideje vodilje i najviši pravni standardi u određenoj pravnoj oblasti. Ona predstavljaju i opšte uputstvo za orijentaciju pa i tumačenje nekih ustanova i konkretnih pravnih odnosa.

U radu se kroz osvrt na opšta načela ugovora kao pravnog instituta u njegovom izvornom značenju, vrši komparacija i utvrđuju zajednički elementi, ali i specifičnosti prije svega ugovora građanskog prava sa jedne, te osnovni principi i karakteristike upravnih ugovora, sa druge strane. Ovakav pristup trebalo bi

da doprinose jasnijem određenju pravne prirode upravnog ugovaranja, preciznijem normiranju upravnog ugovora u pozitivnom zakonodavstvu, a samim tim i njegovoj uspješnijoj primjeni u praksi.

OPŠTI POJAM UGOVORA I UPRAVNI UGOVOR

Najopštiji pojam „ugovor“ (lat. *contractus*), definiše se kao sporazum, saglasno očitovanje volja dva ili više subjekata usmjereno na postizanje dopuštenih pravnih učinaka, a koji se sastoje u postanku, prestanku ili promjeni pravnog odnosa. Ugovori građanskog prava, iako različiti i raznovrsni po svom sadržaju, imaju neke zajedničke karakteristike. Suština ugovora je sporazum ugovornih subjekata. Temelji se na slobodi ugovaranja, koja znači da ugovorni subjekti slobodno odlučuju o nastanku, promjeni ili prestanku ugovornog odnosa, ali je njihova volja ipak ograničena mogućnošću i dopuštenošću sadržaja ugovora. Budući da ugovor nastaje sporazumom ugovornih strana, on u pravilu proizvodi pravne učinke samo za ugovorne strane (načelo relativnog djelovanja ugovora, *inter partes*), jer ugovaranje na teret trećih ne obavezuje. Moderno ugovorno pravo prihvata načelo neformalnosti, koje znači da ugovor nastaje čim su strane postigle saglasnost o njegovim bitnim elementima, bez obzira na to u kojem su obliku očitovale svoju volju, osim kod onih za čiji nastanak zakon izričito predviđa posebnu formu.

Pravni teoretičari pri poređenju upravnog i građanskog prava, posebno ističu razliku u njihovom „predmetu izučavanja“ kada se radi o naučnoj disciplini, kao i u metodu regulacije kada je riječ o pozitivnopravnim propisima. Naglašavaju da se radi o sasvim različitim pravnim granama, ali da se ipak određena veza može uspostaviti među njima (Davitkovski, Davitkovska i Gocevski, 2013). Tako se navodi da se određeni svojinski odnosi građana zasnivaju na autonomiji volje, a ipak, dio njih je regulisan odredbama upravnog prava (npr. eksproprijacija, državljanstvo). Osnovni

predmet regulisanja građanskog prava, predstavljaju vlasnički odnosi, dok upravno pravo, u izvesnim situacijama, reguliše i vlasničke odnose koji nisu njegov glavni predmet uređenja.

„Pa čak i tada, kada se predmet regulisanja poklopi kod ovih dviju pravnih disciplina, metod regulacije se u potpunosti razlikuje. U najvećem broju slučajeva, svojinski odnosi su regulisani građanskopravnim normama i zasnivaju se na principu autonomije volje stranaka, za razliku od svojinskih odnosa obuhvaćenih upravnim pravom, u kojima se jedna strana (država odnosno javna uprava) uvijek nalazi u nadređenom položaju [...]. Ipak, ove razlike između građanskog i upravnog prava ne predstavljaju „nepremostivo razilaženje i dijametralnu suprotstavljenost, već se u određenoj mjeri te dvije grane čak i dopunjavaju“ (Davitkovski, et al., 2013).

U pravnim sistemima koji teže reformisanoj i efikasnijoj javnoj upravi, proširenje obima ugovornih formi koje se zasnivaju na principima saglasnosti i slobode volje je najvažniji zadatak. Demokratizacija društvenih odnosa, podrazumijeva prije svega stvaranje uslova za dostojanstven život i slobodan razvoj građana i njihovo aktivno učešće u društvenim i ekonomskim procesima. Neizbježni element ovog procesa je obogaćivanje funkcionalne uloge države i oštra redukcija primjene klasičnih metoda upravljanja. Ugovorne forme u odnosu između javne uprave i građana predstavljaju novi način funkcionisanja uprave i put ka njenoj liberalizaciji, a protiv njene klasične autoritativne uloge. Kvalitetna javna uprava podrazumijeva precizno određene neophodnog minimuma njenog jednostranog djelovanja i rješavanje svih značajnih pitanja sporazumom. Ipak, upravni ugovor je samo jedna vrsta ugovora, a ugovor je kao što je već rečeno, prisutan kako u građanskom, odnosno privatnom pravu, tako i u javnom pravu, što podrazumijeva da opšti pojam ugovora obuhvata materiju privatnog i javnog prava. Pojedini autori smatraju da nije moguća neka uopštena definicija ugovora jer taj pojam obuhvata tri različita značenja:

ugovor kao pravni akt, ugovor kao pravni odnos i ugovor kao pravni dokument, isprava. Autori sa prostora država ex Jugoslavije, očekivano definišu ugovor na sličan način. Prema tim stavovima ugovor kao pravni akt je razmjena saglasnih izjava volje između dva ili više lica, kojom se zasniva, mijenja ili ukida određeni pravni odnos. Ugovor je uvijek dvostrani pravni posao jer je za njegovu punovažnost za razliku od jednostranih pravnih poslova, gdje samo izjava jedne volje ima pravno dejstvo, neophodno prisustvo najmanje dvije volje (Antić, 2008, str. 196). Ugovor se definiše i kao obligacionopravni odnos koji predstavlja saglasnu izjavu volja dvije strane za nastanak, izmjenu ili prestanak obligacionih odnosa. Ipak, prevladava mišljenje da se pojam ugovora najsažetije može definisati kao saglasnost volje dva ili više lica kojom se postiže neko pravno dejstvo.

Upravni ugovor je međutim, proizvod praktične potrebe da se ublaži prenaplašeni uticaj i jednostranost upravnog akta, sa jedne strane i primjena klasičnog građanskog ugovora u ostvarenju prije svega privrednih oblika saradnje građana i javne uprave sa druge strane. Građanima se preko ovog instituta omogućava da učestvuju u vršenju najvažnijih poslova javne uprave koji su od opšteg, javnog interesa, kao što je obavljanje javne službe. „Savremena prospektivana uprava izlazi iz pozicije pasivne birokratske sluškinje i postaje odgovorni pokretač društvenih tokova baš u cilju očuvanja sopstvenog legitimiteta“ (Mescheriahoff, 1990). Upravni ugovor je prije svega proizvod kontinentalno pravne teorije i prakse, ali i u anglosaksonskom pravnom sistemu je prisutan u različitim formama, naročito kroz primjenu modela tzv. „novog javnog menadžmenta“ (New Public Management). Upravni ugovori imaju značajnu ulogu za privredu, ali i društvo u cjelini, jer se ovim ugovorima često uređuju ugovorni odnosi između javne uprave sa jedne i privrednih subjekata sa druge strane u najznačajnijim investicijama kao što su ulaganja kroz javno-privatna partnerstva ili ugovore o koncesijama javnih službi ili koncesijama

za prirodna bogatstva i prirodne resurse jedne zemlje. Rodonačelnik instituta upravnog ugovora je francuski upravno-pravni sistem u kome je on nastao prije više od dva vijeka, da bi danas upravni ugovor zauzimao svoje mjesto u pozitivnom zakonodavstvu većine razvijenih evropskih država, a u svom modifikovanom obliku zastupljen je i u zemljama anglosaksonskog pravnog sistema. U skladu s tim i značajan broj autora iz ovih zemalja javnu upravu posmatraju u znatno širem kontekstu i to kao korišćenje menadžerskih, političkih i pravnih teorija i procesa vršenja zakonodavne, izvršne i sudske vlasti za obezbjeđenje regulativne i servisne funkcije društva u cjelini ili nekih njegovih dijelova (Rosenbloom, Kravchuk, & Clerkin, 2009). Na tim principima se zasniva i reforma javne uprave, koja prema stavovima pravnih teoretičara ima za osnovni cilj da se strateški, taktički i operativno formuliše planiranje, organizovanje, usmjeravanje, kontrola i koordinisanje aktivnosti organa javne uprave i javnog sektora uopšte. Izvršavanje navedenih aktivnosti povjereno je rukovodiocima ili javnim menadžerima koji su neposredno odgovorni za sprovođenje upravnih ciljeva i upravne politike (Farnham, Horton, Barlow, & Hondeghem, 1996). Analiziraju se efekti uključivanja privatnog sektora u izvršenje javnih usluga, te se konstatuje da je postignuta veća efikasnost, efektivnost, podignut kvalitet uz smanjenje cijena za korisnike. Naglašava se da „javne vlasti“ putem mnogobrojnih ugovora obezbjeđuju brojne usluge od javnog interesa, te da su se država i drugi nivoi vlasti povukli iz mnogih sfera u kojima su monopolski obezbjeđivali usluge i robe ostavljajući taj prostor privatnim i drugim javnim subjektima (Kelman, 2002).

Upravni ugovor je nastao, razvijao se i dostigao svoju punu afirmaciju prije svega zahvaljujući dugogodišnjoj praksi Državnog savjeta Francuske (Conseil d'Etat) koji je uspio da svojim odlukama da nemjerljiv doprinos razvoju upravnog ugovora kao instrumenta specifične upravne djelatnosti koja se ne zasniva na funkciji

uprave kao nosioca vlasti, nego na sporazumnoj relaciji javne uprave i privrednih subjekata. U francuskoj pravnoj doktrini i u sudskoj praksi koja se razvijala kako je navedeno preko dvjesto godina, sklapanje upravnih ugovora je postala uobičajena praksa u nizu upravnih područja.

Prema njemačkoj pravnoj teoriji, koja ima nešto drugačiji pristup upravnom ugovaranju, upravni ugovor uvijek stvara, menja ili ukida pravni odnos „u području javnoga prava“, dok drugi ugovori imaju jednake učinke, ali u sferi privatnog prava. Prema tome, ako se pravni odnos koji ugovor stvara, menja ili ukida nalazi u području javnog prava, ugovor će prema pravnoj prirodi biti upravni ugovor (Aviani, 2013). Ovo je npr. slučaj kada govorimo o ugovoru o koncesiji kao pravnom odnosu koji se zasniva između države (koncedenta) i pravnog ili fizičkog lica (koncesionara) u kom država ustupa pravnom ili fizičkom licu pravo iskorišćavanja nekog prirodnog bogatstva ili obavljanje neke javne službe (Šikić, & Staničić, 2011).

Francuski autori kao jednu od specifičnosti upravnih ugovora navode da se radi o ugovorima između nejednakih strana, jer tijelo javne vlasti nastupa s jačom pravnom voljom, te pri izvršavanju ugovora raspolaže nekim javnim ovlaštenjima (Rowan, 2017). Ovaj ugovor odlikuje i niz drugih specifičnosti koje ga razlikuju od ugovora privatnog prava, sa jedne, ali i upravnog akta, sa druge strane. Jedna od najznačajnijih osobina upravnog ugovora je obaveza da je jedan subjekat upravnog ugovora javnopravno tijelo, što ovom institutu daje karakter javnog ugovora. Ipak u pravnoj teoriji su prisutna suprostavljena shvatanja pravne prirode upravnih ugovora. Postoji i shvatanje da je upravni ugovor uvek samo ugovor, bilo kao običan građanskopravni ugovor, ili kao specifičan pravni institut za koji važi poseban pravni režim javnog prava koji ga izdvaja iz kategorije običnih privatnopravnih ugovora. U savremenoj pravnoj teoriji je uglavnom prihvaćen stav da sve upravne ugovore određuje nekoliko osnovnih obilježja koji se odnose na: subjekte ugovora, cilj ugovora i derogativnost odredaba, na

poseban postupak i posebne uslove za zaključenje upravnih ugovora i specifičan način realizacije prava i obaveza ugovornih strana.

NAČELA UGOVORA GRAĐANSKOG PRAVA I NJIHOVA (NE)PRIMJENJIVOST NA UPRAVNI UGOVOR

Već je navedeno da su osnovna načela najopštija pravna pravila, vrhovni principi, ideje vodilje i najviši pravni standardi u određenoj pravnoj oblasti. Tako su osnovni principi zakonodavstva Evropske Unije: zaštita osnovnih ljudskih prava, proporcionalnost, pravna sigurnost, jednakost pred zakonom i subsidijarnost. Principi su zajednički zakonodavstvima svake članice Evropske Unije. Osnovna načela ugovornog prava proizilaze iz načela obligacionog prava, i predstavljaju prihvaćen metod i filozofiju ovog prava u datoj državi. Ona pored toga što daju daju teorijski jasniju i precizniju sliku nekog pravnog instituta, imaju i svoju praktičnu ulogu; predstavljaju uputstvo za tumačenje i za praktičnu primjenu nekih ustanova i konkretnih pravnih odnosa. Ugovor ima neposredno dejstvo na obligaciju u smislu njenog stvaranja, izmjene ili prestanka, pa su pravne osobine obligacije uključene u osnovne pravne osobine ugovora. Ovo se odnosi i na osnovna načela obligacija, odnosno ugovora. U radu se analiziraju osnovna načela obligacija (Zakon o obligacionim odnosima Srbije [ZOO], 2003) koja su u nešto izmijenjenom obliku prisutna u pozitivnim zakonodavstvu i država regiona. Ova analiza izvršena je prije svega u svhu ocjene njihove primjenjivosti na upravne ugovore. Pri tome su kao polazna osnova uzeta načela privatne autonomije i načelo savjesnosti i poštenja kao dva najopštija i najznačajnija principa građanskog prava, a samim tim i obligacija.

Osnovna načela građanskog prava

Dva temeljna načela građanskog prava su načelo privatne autonomije (autonomije volje) i načelo savjesnosti i poštenja. Osnovna načela, ujedno otkrivaju glavne

ciljeve koje jedno društvo želi da postigne u određenoj pravnoj oblasti i zato su veoma značajna. Ona mogu biti razrađena sa više ili manje užitih, posebnih načela. Ova dva najznačajnija načela građanskog prava, sadržana u ZOO, predstavljaju supstituciju za opšti dio građanskog zakonika. Osnovna načela su u zakonu razrađena kroz niz posebnih načela. Usko vezana za načelo privatne autonomije je i sloboda ugovaranja putem koje se realizuje načelo privatne autonomije u ugovornom pravu.

Načelo privatne autonomije

Korijeni načela privatne autonomije (autonomije volje) sežu u daleku prošlost. Smatralo se da je volja izvan pojedinaca, da je ona božanskog porijekla, te da je treba spoznati i djelovati u skladu sa njom. Tek u antičkoj Grčkoj se ovaj stav postepeno mijenja te se volja sve više vezuje za pojedinca, da bi Aristotel to uobličio u teorijski koncept u kome se sazajni odnos upravlja prema ljudskom etičkom sistemu, a vrijednosni sistem polazi od volje pojedinca, slobode izbora, dakle, slobodne volje. Naravno ova koncepcija i praktični odnosi u sistemu ugovaranja su imali vrlo ograničen domet s obzirom da je riječ o robovlasničkom i kasnije srednjovjekovnom feudalnom sistemu u kojima je ogromna većina stanovništva bila potpuno obespravljena. U XVII vijeku, pojavom škole prirodnog prava umjesto prirodnih božanskih prava, ističu se subjektivna ljudska prava kao izvorište same čovjekove prirode.

Daljim istorijskim razvojem ovih principa, čovjek kao slobodno misaono biće i njegova autonomna postaju ishodište i osnov prava. Kako se ljudi, po samoj prirodi stvari rađaju slobodni i jednaki, tako je osnov svakog društva i prava, saglasnost volja pojedinaca, autonomna volja. Iz toga slijedi zaključak da je i sama država kao organizacioni oblik društva, nastala na saglasnosti volja pojedinaca, te je i sama osnova države i prava ugovor, društveni ugovor. Tako volja pojedinca postaje suština prava, a ograničavanje slobode pojedinca putem pravnih obaveza moguće je samo na osnovu njegove slobodne volje.

Opšte granice slobode pojedinca su slobode drugih pojedinaca. Stoga je volja pojedinca odlučujući element za nastanak ugovora, njegovu formu, sadržinu, tumačenje, izmjenu i prestanak. Međutim, kao i svaka druga i ova teorija shvaćena u apsolutnom smislu, imala je niz nedostataka. Ugovor i njegovo poštivanje se smatra neprikosnovenim, bez obzira na moguću povredu niza drugih pravila i principa kao što su pravičnost, savjesnost i poštenje, promjena okolnosti pod kojim je ugovor zaključen i drugo. Autonomija volje polazi od interesa pojedinca, individualnih interesa i zanemaruje interes zajednice bez koje ni pojedinac ne može funkcionisati. Ove i druge argumentovane kritike ova teorija nije mogla izdržati. Vremenom se u zakonodavstvo i praksu ugovornog prava uvode novi instituti i pravila: imperativne norme, javni poredak, pravila morala, dobri običaji, promijenjene okolnosti kao razlog izmjene ili prestanka ugovora, zabrana zloupotrebe prava i sl. Postepeno njihov značaj raste, a autonomija volje u svom izvornom obliku sve više slabi, da bi na kraju bila u potpunosti napuštena. Savremena pravna nauka je načelo autonomije volje modifikovala u načelo „privatne autonomije“. Ovo načelo ima univerzalan karakter, jer je njegovo postojanje preduslov za postojanje modernog obligacionog prava, savremene tržišne privrede i razvijenog društva.

Kod upravnih ugovora potpuna primjena načela privatne autonomije nije moguća. Naime, ugovorne strane nisu potpuno samostalne i ravnopravne u ugovornom odnosu. Privatnopravna ugovorna strana je u tom odnosu slabiji subjekt, jer javnopravni subjekt zbog javnog interesa kao osnovnog cilja upravnog ugovora određuje uslove ugovornog odnosa. Ipak, privatna autonomija kao načelo prisutna je kroz slobodnu volju privatnopravne strane da zaključi ugovor sa javnopravnim tijelom, bez obzira što ugovorne strane u ovom ugovornom odnosu nisu u nekim segmentima potpuno ravnopravne jer privatnopravna strana dobrovoljno prihvata takav odnos. Ovo načelo je izričito

navedeno u pozitivnom zakonodavstvu. (Zakonu o javno-privatnom partnerstvu i koncesijama Srbije [ZJPPK], 2011, 2016), pod njegovim izvornim nazivom „autonomija volje“. Član 6. ZJPPK definiše da načelo autonomije volje obuhvata slobodu ugovornih strana da u skladu sa ovim zakonom, kojim se uređuju obligacioni odnosi i drugim propisima i dobrim poslovnim običajima, međusobna prava i obaveze urede po svojoj volji. Osim toga zakon predviđa privatnopravnu stranu kao inicijatora i predlagača za zaključenje javnog (upravnog) ugovora. I u pravu Bosne i Hercegovine kao i drugim zemljama regiona, kad inicijativu za zaključenje koncesionog ugovora ne pokreće nadležni organ uprave, nego ponuđač, on prilaže dokumentaciju koja predstavlja dokaz o ispunjenju zakonskih uslova za zaključenje ugovora, i predstavlja osnov za određivanje prava i obaveza u koncesionom ugovoru. Isto tako zaključenju ugovora o koncesiji i javno-privatnom partnerstvu prethode radnje i postupci ili pregovori koji direktno ili indirektno (ne/prihvatanjem predloženih odredaba ugovora), predstavljaju faktički usaglašavanje sadržaja ugovora između koncedenta i koncesionara. Svi navedeni postupci su izraz volje subjekata za zaključenje, odnosno izmjenu ili prestanak ugovora. Ipak, ova volja je u odnosu na volju kod ugovora privatnog prava ograničena širim interesom zajednice, te se načelo privatne autonomije na upravne ugovore može primijeniti samo u okvirima koji ne prelaze granice omeđene javnim interesom.

Načelo savjesnosti i poštenja

Načelo savjesnosti i poštenja je nastalo kao protivteža individualističkom stavu autonomije volje. Naime, za razliku od autonomije volje koja isključivo štiti interese pojedinca odnosno egoističkog principa u pravu, načelo savjesnosti i poštenja polazi od zaštite etičkog, socijalnog i kolektivnog (zajedničkog). Ovo načelo je uvek bilo prisutno, samo u različitim oblicima i nazivima. Tako je poznato i kao *bona fides* (dobra vjera),

poštovanje preuzetih obaveza, uvažavanje promijenjenih okolnosti i dr. Ovo načelo je od najvećeg značaja u ugovornom pravu. Savjesnost i poštenje su, naime takva obaveza koja prethodi svim drugim obavezama iz obligacije i vezana je za nju od njenog nastanka do njenog prestanka. ZOO obavezuje ugovorne strane na savjesnost i poštenje već u fazi pregovora u vidu tzv. predugovorne odgovornosti. Tako se obavezuju pregovarači prije zaključenja ugovora da ukoliko neko od njih vodi pregovore bez ozbiljne namjere da zaključi ugovor, ili odustane od zaključenja ugovora u podmakloj fazi, pa time nanese drugoj strani štetu, dužan je da je nadoknadi. Zakon načelo savjesnosti i poštenja štiti imperativnom normom. Strane su dužne da se pridržavaju ovog načela. Antić navodi da načelo savjesnosti i poštenja prožima cijeli zakon, a u pojedinim njegovim odredbama neposrednim navođenjem ovog načela povodom konkretnog odnosa, daje mu uže značenje. Ako pravno lice zaključi ugovor izvan okvira svoje (specijalne) pravne sposobnosti takav je ugovor ništav, a druga strana može zahtijevati naknadu pretrpljene štete, ako je bila savjesna. Ako je jedna ugovorna strana prilikom zaključenja ugovora, bila u zabludi o bitnim svojstvima predmeta, u pogledu lica, ili okolnosti koje su u konkretnom slučaju odlučujuće, ona je ovlaštena da traži poništenje ugovora zbog bitne zablude. U slučaju poništenja ugovora iz navedenih razloga, druga strana ima pravo na naknadu pretrpljene štete, ali pod uslovom da je bila savjesna. Strana koja je u zabludi, ne može se na nju pozivati, ako je druga strana spremna da izvrši ugovor kao da zablude nije bilo. Takođe, prividan (fiktivni) ugovor je nevažeći posao, bez dejstva među učesnicima, jer strane nisu imale namjeru da stvore obligaciju, već samo njen privid, lažnu predstavu kod trećih lica da je ugovor nastao. Međutim, ako prividan ugovor prikriva neki drugi ugovor, taj drugi ugovor će važiti ako su ispunjeni uslovi za njegovu pravnu valjanost. Odredbama ZOO definiše se da je ugovor zaključen pod uslovom, kada njegov nastanak ili prestanak zavisi od neizvesne činjenice, ali ako strana, na čiji je teret

uslov određen, protivno načelu savjesnosti i poštenja spriječi njegovo ostvarenje, smatraće se da je uslov ostvaren. Ako ostvarenje uslova protivno načelu savjesnosti i poštenja, prouzrokuje strana u čiju je korist on određen, smatraće se, da uslov nije ostvaren. Zakonom se regulišu i posljedice ništavosti u vezi sa savjesnošću ugovornih strana. U slučaju ništavosti stranke su dužne da izvrše naturalnu ili novčanu restituciju. Međutim, ako je ugovor ništav zbog toga što je po svojoj sadržini ili cilju protivan prinudnim propisima, javnom poretku ili dobrim običajima, sud može odbiti, u cjelini ili djelimično, zahtjev nesavjesne strane za vraćanje onog što je drugoj strani dala. Takođe, data je mogućnost ugovaračima da se mogu svojim ugovorom unaprijed odreći pozivanja na određene promijenjene okolnosti, osim ako je to u suprotnosti sa načelom savjesnosti i poštenja. Povjerilac u obligacionom odnosu je ovlašten da od dužnika zahtijeva ispunjenje obaveze, a dužnik je dužan ispuniti je savjesno u svemu kako ona glasi, u suprotnom, dužan je povjeriocu da naknadi štetu. Zakonom su regulisani i uslovi za proširenje odgovornosti dužnika. Tako je predviđeno da se ugovorom može proširiti odgovornost dužnika i na slučaj za koji on inače ne odgovara, ali samo ako je to u skladu s načelom savjesnosti i poštenja. Zakonom je omogućeno nalagodavcu da ne pristupi pregovorima za zaključenje ugovora sa licem koje je posrednik našao, kao ni da zaključi s njim ugovor, pod uslovima koje je saopštio posredniku, ali će odgovarati za štetu ako je postupio nesavjesno. Kao što se vidi, načelo zaštite savjesnosti i poštenja široko je zastupljeno u ZOO i veoma je važno za ugovore građanskog prava. Ovo načelo je svakako jedno od osnovnih načela i u upravnim ugovorima, i kada kao takvo nije izričito navedeno u zakonu. Primjer ovoga nalazimo u uporednom pravu. Tako *presudom Saveznog upravnog suda Njemačke od 18. decembra 1973. godine*, utvrđuje se da vrijeđa savjesnost i poštenje kada jedna ugovorna strana traži povraćaj svoje sopstvene činidbe, a pritom zadržava protivčinidbu.

Načelo slobode ugovaranja

Kao što je navedeno privatna autonomija se u materiji ugovora ostvaruje preko načela slobode ugovaranja. Sloboda ugovaranja podrazumijeva pravo subjekata na izbor da li će zaključiti ugovor ili ne. Ipak, i od ovog osnovnog načela postoje izuzetci, a odnose se na: a) obavezno zaključenje ugovora, b) saglasnost trećeg i v) izbor saugovarača. Ovi izuzeci: predstavljaju ograničenje slobode ugovaranja koja se odnose na akt zaključenja ugovora. Obavezno zaključenje ugovora se prije svega odnosi na obavezno osiguranje koje je regulisano posebnim propisima prema kojima postoji zakonska obaveza da određena lica stupe u ugovorni odnos s nekim osiguravajućim društvom i da se osiguraju od zakonom određenih rizika. Primjer tih ugovora su obavezno osiguranje vozila, javnog prevoza putnika i dr. Istovremeno se mogu obavezati na zaključenje ugovora i pravna lica koja se bave pružanjem javnih usluga. Tako su, npr. javna preduzeća koja se bave distribucijom električne energije ili vodosnabdijevanjem dužna da zakluče odgovarajući ugovor sa fizičkim ili pravnim licem kao potrošačem ukoliko su ispunjeni zakonski uslovi. Saglasnost trećeg može biti uslov za zaključenje ugovora. Jedan aspekt je zaštita javnog interesa, dakle javnopravni, a drugi je zaštita privatnopravnih interesa. Ta saglasnost se mora dobiti od javnog organa u upravnom postupku. Forma dozvole, odobrenja, odnosno saglasnosti, moraju odgovarati formi ugovora za koji se izdaju. Kod izbora saugovarača mogu postojati razna ograničenja, slobode izbora druge ugovorne strane. Ovo se može odnositi na, npr. određene privilegije u korist kolektivnih oblika svojine, ili državne svojine ili pravo preče kupovine. Sloboda ugovaranja kod ugovora javne uprave, uključujući i upravne ugovore, podliježe različitim ograničenjima. Njihovom zaključenju po pravilu prethodi postupak izbora najpovoljnijeg ponuđača. Ovo je slučaj i kod ugovora o javnim nabavkama, ugovora o koncesiji, kao i ugovora o javno-privatnom partnerstvu. Najčešće je nadležni organ dužan da

provode postupak javnog nadmetanja predviđenog zakonom koji se završava donošenjem upravnog akta nadležnog organa o izboru napovoljnijeg ponuđača. Javnopravni organ je dužan ugovor zaključiti u skladu sa aktom kojim je određen ponuđač koji je u postupku javnog oglašavanja dao najpovoljniju ponudu i ne može ga zaključiti s drugim licem. U uporednom pravu uglavnom, za zaključenje upravnog ugovora je neophodno da određeno, najčešće, specijalizovano, javnopravno tijelo dá saglasnost na zaključenje ugovora. Obično je to posebno regulatorno tijelo (npr. komisija ili agencija za koncesije i javno-privatna partnerstva i sl).

Načela obligacionog prava prema ZOO

Načelo privatne autonomije u ugovornom pravu se ostvaruje preko načela slobode ugovaranja. Načelo savjesnosti i poštenja kao opšte načelo obligacionog prava, takođe je izričito regulisano zakonom. Iz ovih opštih načela proizilaze posebna (uža) načela obligacionog prava: načelo opštosti i dispozitivnosti; načelo ravnopravnosti strana; načelo zabrane stvaranja i iskorišćavanja monopolskog položaja; načelo neformalnosti (konsenzualizma); načelo zabrane zloupotrebe prava; načelo jednake vrijednosti davanja; načelo zabrane prouzrokovanja štete; načelo dužnosti ispunjavanja obaveza; načelo određene pažnje u izvršavanju obaveza i ostvarivanju prava; načelo poštovanja dobrih poslovnih običaja; načelo postupanja pravnih lica u skladu sa opšim aktima i načelo mirnog rešavanja sporova. Analizi karakterističnih načela ZOO upućuje na odnos, zajedničke osobine, ali i razlike između ugovora privatnog prava i upravnih ugovora.

Načelo opštosti i dispozitivnosti

Odredbe ZOO su opšta pravila u odnosu na druge propise, te se primjenjuju u svim slučajevima u kojima posebni zakoni nisu predvidjeli šta drugo, ali strane mogu u skladu sa svojom privatnom autonomijom, svoj obligacioni odnos da uredi i drugačije nego što je to ovim

zakonom propisano, ako iz pojedine odredbe ovog zakona ili njenog smisla ne proizilazi nešto drugo. Dispozitivnost podrazumijeva da stranke imaju pravo svoje odnose urediti i drugačije nego što je to predviđeno opšim normama. Kada se to primijeni na ugovor, možemo zaključiti da stranke svojim saglasnim voljama mogu dispozitivne norme primijeniti bez promjena ili ih izmijeniti. Takođe, one, dispozitivne norme mogu, ukoliko se o tome usaglase, u potpunosti isključiti. Dispozitivnost je derivat načela privatne autonomije i karakteristika je privatnog prava. O dispozitivnosti kod upravnih ugovora možemo govoriti samo u dijelu koji se odnosi na pojedina pitanja koja zakonom ili upravnim aktom koji prethodi zaključenju upravnog ugovora, nisu decidno regulisana, pa je ugovornim stranama ostavljena mogućnost da ih drugačije urede, ali ne preko granica imperativnih normi.

Načelo ravnopravnosti strana

ZOO definiše da su strane u obligacionom odnosu ravnopravne. Ravnopravnost ugovornih strana je jedan od ključnih uslova za ostvarenje načela privatne autonomije. Kao što je ranije navedeno, autonomija volje je u antičkom i feudalnom društveno-ekonomskom sistemu bila privilegija vrlo uskog socijalnog sloja. Nakon buržuaskih revolucija i proklamovanja principa jednakosti i građanskih sloboda te afirmacije privatnog vlasništva, načelo ravnopravnosti ugovornih strana je postalo temeljni princip privatnog ugovornog prava. Pojedinačna volja postaje izvor subjektivnih građanskih prava, tako da individualne volje moraju biti ravnopravne kako bi mogle zasnovati međusobna prava i obaveze. Ugovorne strane u toku čitavog postupka zaključenja ugovora, od pregovora, ponude, zaključenja ugovora, pa do njegovog izvršavanja i prestanka su ravnopravne. Princip ravnopravnosti je proklamovan u većini zakona koji uređuju ugovornu materiju, privatnih, ali i javnih ugovora. Tako ZJPPK definiše da načelo ravnopravnosti ugovornih strana, podrazumijeva da se

uzajamni odnosi subjekata u javnom ugovoru zasnivaju na njihovoj jednakosti i ravnopravnosti njihovih volja. Ipak, kod upravnih ugovora uglavnom ne postoji ravnopravnost strana. Naime, pošto se upravni ugovor zaključuje prije svega u javnom interesu, to je i javnopravno tijelo kao strana u tom postupku u privilegovanom položaju. Ovo se manifestuje kroz niz posebnih odredaba koje regulišu upravni ugovor. Tako, na primjer, kod ugovora o koncesiji javne službe javnopravna strana nakon provedenog postupka donosi upravni akt koji prethodi zaključenju ugovora. Ugovor koji se nakon toga zaključuje ne smije odstupati od sadržaja tog upravnog akta. Takođe javna uprava kao strana u upravnom ugovoru može samostalno mijenjati uslove ugovora ukoliko to zahtijeva javni interes i bez saglasnosti druge ugovorne strane. Pri tome druga ugovorna strana ne može u tom slučaju raskinuti ugovor nego je dužna izvršavati ugovorne obaveze, uz obavezu javnopravnog tijela da joj nadoknadi štetu, ali ne i izgublenu dobit. Zaključenju upravnog ugovora kod javnih nabavki, prethodi postupak javne nabavke koji se pokreće odlukom javnopravnog organa u kome javnopravno tijelo, jednostrano, u skladu sa javnim interesom, precizno definiše uslove i elemente budućeg upravnog ugovora.

Upravne ugovore karakterišu i druge klauzule koje daju veća ovlašćenja javnoj upravi u tom ugovornom odnosu. U njemačkom pravu postoje tzv. koordinacioni javnopravni ugovori koje zaključuju dvije javnopravne ugovorne strane i koje karakteriše ravnopravnost. Međutim, neki autori ravnopravnost ugovornih strana upravo smatraju dokazom da se ne radi o upravnim nego o privatnopravnim ugovorima. Pojedini autori za koordinacione ugovore ističu da kod tih ugovora izostaje subordinacija tj. jača pravna volja jedne ugovorne strane, što je karakteristika upravnih ugovora, te zaključuju da se na osnovu toga mogu svrstati u privatnopravne ugovore (Ljubanović, 2010). Dakle, da u upravnom ugovoru za razliku od građanskog ugovora,

ugovorne strane nisu ravnopravne, jer je upravo dominantniji položaj javnopravnog subjekta jedna od karakteristika upravnog ugovora.

Načelo zabrane stvaranja i iskorišćavanja monopolskog položaja

Ovo načelo takođe proizilazi iz načela privatne autonomije. Naime, monopol nekog učesnika na tržištu roba i usluga u direktnoj je suprotnosti sa načelom ravnopravnosti stranaka i njihovih volja. Član 14. ZOO predviđa da u zasnivanju obligacionih odnosa strane ne mogu da ustanovljavaju prava i obaveze kojim se za bilo koga stvara ili iskorišćava monopolski položaj na tržištu. Ovo načelo se primjenjuje i na upravne ugovore. Javna uprava je prilikom zaključenja upravnog ugovora o obavljanju javnih službi dužna da vodi računa o tome da ugovorna strana koja obavlja javnu službu ne povećava cijenu usluga građanima bez saglasnosti javne uprave. Građani se štite od monopolističkog ponašanja davaoca usluga kao subjekta upravnog ugovora i time što im se omogućava zaštita njihovih prava u upravnom postupku pred javnom upravom ukoliko smatraju da je davalac usluga prekršio svoje obaveze prema njima. Osim toga u svim savremenim pravnim sistemima, između ostalog, pozitivnim pravnim propisima se uređuju način za sprečavanje monopolskog položaja u određenom sektoru. Tako je u Republici Srpskoj, Dokumentom o politici dodjele koncesije predviđeno da Komisija za koncesije donosi pravila o koncentraciji vlasništva, čiji je cilj da omogućući rast konkurencije u određenom sektoru i spriječi uspostavljanje monopola nad javnim dobrima. Dakle, možemo zaključiti da, iako je česta situacija da pri zaključenju upravnog ugovora za obavljanje neke javne službe kojom se vrše određene javne usluge, davalac usluga bude jedini ovlašćen za njihovo vršenje (npr. komunalne usluge, usluge linijskog prevoza i dr.), javna uprava je dužna da onemogućući monopolističko ponašanje davaoca usluga tako što ga ugovorom obavezuje na određeni nivo kvaliteta i kvantiteta usluga, te obavezne

saglasnosti javne uprave kod određivanja ili eventualne promjene cijena usluga, kao i da pravilima o koncentraciji vlasništva spriječi uspostavljanje monopola.

Načelo konsenzualizma (neformalnosti)

Načelo konsenzualizma ili neformalnosti je opšte pravilo koje predviđa izuzetke samo ako ih zakon propiše. Tako je propisano da zasnivanje ugovornih odnosa ne podliježe nikakvoj formi, osim ako je zakonom drugačije određeno. Čak i kada zakon predviđa određenu formu, punovažne su neformalne izmjene i dopune o sporednim tačkama o kojima u formalnom ugovoru nije ništa rečeno, ukoliko to nije protivno cilju radi kojeg je forma propisana, a punovažne su docnije neformalne pogodbe kojim se smanjuju ili olakšavaju obaveze jedne ili druge strane, ako je posebna forma propisana samo u interesu ugovornih strana. Učesnici u obligacionom odnosu u skladu sa načelom privatne autonomije, mogu ugovoriti formu pravnog posla. Načelo neformalnosti nije primjenjivo na upravni ugovor. Naime, upravni ugovor je formalni ugovor koji se obavezno zaključuje u pismenoj (pisanoj) formi. Ugovor o koncesiji, u uporednoj pravnoj teoriji se smatra ili kao upravni ugovor, ili javnopravni ugovor sa dominantim elementima upravnog ugovora. Borković navodi da se ugovor o koncesiji uvek sklapa u pismenoj formi, te da je ta forma, ujedno i bitan uslov punovažnosti ugovora o koncesiji, forma „ad solemnitatem“, tj. konstitutivni sastojak ugovora, bez ispunjenja kojeg ugovor o koncesiji ne proizvodi pravni učinak.

Načelo zabrane zloupotrebe prava

Pravilo iz rimskog prava je da titular prava koji svoje pravo vrši ne može postupati zlonamerno niti drugome nanositi štetu. Međutim, razvojem pravnog iskustva pojavile su se situacije kada titular, koji određeno subjektivno pravo nesumnjivo ima, u konkretnom slučaju to pravo vrši na način kojim ometa uživanje, ostvarivanje nekih drugih prava, drugih titulara. Apsolutna sloboda jednog subjekta značila bi neslobodu, ropstvo drugog, što se u

savremenim pravima, naravno još manje može tolerisati nego što je to bio slučaj u starim pravima. Zato je i „najsavremenije od svih prava“, pravo svojine, u svim modernim pravima ograničeno: ono se vrši u granicama određenim pozitivnim propisima. Ti propisi ponekad obavezuju na nečinjenje, npr. propisi o poljoprivrednom zemljištu. Ograničenja se odnose i na apsolutna i na relativna prava, jer bi se njihovom zloupotrebom negiralo načelo savjesnosti i poštenja. ZOO predviđena je zabrana vršenja prava iz obligacionog odnosa, protivno cilju zbog koga je takvo pravo zakonom ustanovljeno ili priznato. Antić praveći paralelu između zahtjeva i odgovornosti navodi da između njih postoji korelacija, ali da se to ne odnosi na etički odnos te da je zlupotreba prava dodirna tačka između prava i etike (Antić, 2008). Načelo zabrane zloupotrebe prava primjenjivo je i na upravni ugovor. Ovo je najbolje vidljivo u dijelu o sudskoj zaštiti prava ugovornih strana u francuskom pravu. Tako francuski zakon predviđa da se može voditi postupak protiv javnopravnog tijela zbog zloupotrebe prava iz upravnog ugovora. U Hrvatskoj je poreskim propisima (Zakonom o opštem poreskom postupku [ZOPP], 2016, 2018, 2019. i 2020) regulisano da se upravni ugovor ne može zaključiti s poreskim obveznikom protiv kog se provodi postupak utvrđivanja zloupotrebe prava u poresko-dužničkom odnosu, za poreski dug koji je već bio predmetom raskinutog upravnog ugovora, za dug za koji je *sklopljen upravni ugovor*, ili za dug koji je obuhvaćen reprogramom.

Načelo jednake vrijednosti davanja

Dvostrani ugovori (s naknadom, teretni) zasnivaju se na ideji razmjene (*do ut des*): razlog, osnov, kauza činidbe jedne strane je protivčinidba druge. Otuda pretpostavka da u zasnivanju dvostranih ugovora strane polaze od načela jednake vrijednosti uzajamnih davanja (ekvivalencije prestacija), ali kako je jednaka vrijednost uzajamnih davanja u doslovnom smislu, po pravilu nemoguća i fizički nedokaziva, zakonom se određuje u kojim slučajevima narušavanje toga načela

povlači pravne posljedice. Dvostrano obavezni ugovori podrazumijevaju jednakost uzajamnih davanja. Razuman subjekt se, u teretnim poslovima, neće obavezati tako da po realizaciji ugovora suprotna strana znatno uveća svoju imovinu tako da se njegova znatno umanjuje. Otuda pravo predviđa nekoliko konkretnih instrumenata zaštite ovog načela: a) odgovornost za materijalne nedostatke, b) odgovornost za pravne nedostatke, c) prekomjerno oštećenje, d) promijenjene okolnosti.

Odgovornost za materijalne nedostatke. U ugovorima s naknadom svaki ugovarač odgovara za materijalne nedostatke svog ispunjenja, pri čemu se shodno primjenjuju pravila ugovora o prodaji (kupoprodaja), odnosno pravila o obavezama prodavca. Materijalni nedostaci postoje: ako stvar nije imala svojstva za redovnu upotrebu ili promet; ako nije imala potrebna svojstva za naročitu upotrebu u pogledu svrhe nabavke, a koja je bila ili je morala biti poznata prodavcu; ako stvar nema svojstva i odlike koji su izričito ili prećutno ugovorene odnosno propisane; kada je prodavac predao stvar koja ne odgovara uzorku ili modelu, osim ako uzorak ili model nisu pokazani samo radi obavještavanja.

Odgovornost za pravne nedostatke. – Ukoliko neko lice vrši faktičko uznemiravanje titulara prava, titularu stoji na raspolaganju tužba zbog smetanja posjeda, državinska tužba (posesorna zaštita). Međutim, pravno uznemiravanje je nešto sasvim drugo. Prodavac, naime, odgovara ako na prodajnoj stvari postoji pravo trećeg koje isključuje, umanjuje ili ograničava kupčevo pravo, a o čijem postojanju kupac nije obaviješten, niti je pristao da uzme stvar opterećenu tim pravom (zaštita od evikcije). Ukoliko je u pitanju prenos nekog drugog prava (npr. autorskog prava ili prava industrijske svojine), prodavac garantuje da ono postoji (veritet) i da nema pravnih smetnji za njegovo ostvarenje.

Prekomjerno oštećenje. Ugovarač, u dvostranom ugovoru, koji u vreme zaključenja ugovora, za pravu vrijednost

obaveza nije znao, niti je morao znati, pa je na svoju štetu zaključio ugovor u kojem postoji očigledna nesrazmjerna činidbi, ima pravo da u roku od jedne godine zahtijeva poništenje takvog ugovora. Druga strana, pri tom, ima mogućnost ponuditi dopunu do prave vrijednosti, čime će ugovor ostati na snazi.

Promijenjene okolnosti. Ukoliko posle zaključenja ugovora nastupe takve okolnosti koje otežavaju ispunjenje obaveza jedne strane, ili se zbog tih okolnosti ne može ostvariti svrha ugovora, a sve u toj meri da je očigledno da ugovor više ne odgovara očekivanju ugovornih strana i da bi ga po opštem mišljenju bilo nepravično održati, strana kojoj je otežano ispunjenje, odnosno koja ne može da ispuni svrhu ugovora, može zahtijevati raskid takvog ugovora. Ipak, ugovor se neće raskinuti ukoliko druga strana ponudi ili pristane da se ugovor pravično izmijeni. U slučaju raskida, na zahtjev druge strane sud će obavezati drugu stranu koja je raskid zahtijevala da drugom naknadi pravičan iznos štete koju zbog raskida trpi. Odgovornost za pravne nedostatke, prekomjerno oštećenje i promijenjene okolnosti, može biti prisutna u svom modifikovanom obliku i kod upravnih ugovora. Tako, npr. javnopravno tijelo prilikom zaključenja ugovora o javno-privatnom partnerstvu u kome privatnom partneru ustupa određene nekretnine ili postrojenje, odgovara za materijalne i pravne nedostatke u vezi sa tim postrojenjem ili nekretninama (npr. postojanje određenog založnog prava, ili sudskog spora, za koje privatni partner nije mogao znati u momentu zaključenja ugovora). Prekomjerno oštećenje, teško da može biti razlog pobijanja upravnog ugovora, jer i jedna i druga ugovorna strana u postupku koji prethodi zaključenju, kao i pri zaključenju i realizaciji ugovora, zbog značaja ovih ugovora i propisane procedure, imaju na raspolaganju sve informacije koje su neophodne za odluku o zaključenju ugovora. Promijenjene okolnosti, pak ne mogu biti razlog za jednostran raskid ugovora od strane privatnog partnera, ako javni interes to ne dozvoljava. U

francuskom pravu zaštita prava saugovarača javne uprave, ostvaruje se između ostalog u skladu sa doktrinom *imprévision*. U skladu sa ovom doktrinom stranka nema pravo insistirati na jednostranom raskidu ugovora, već, ako javnopravno tijelo smatra da je to u javnom interesu, mora nastaviti izvršavati svoje ugovorne obaveze, a ako druga ugovorna strana praktično prestane izvršavati ugovorne obaveze, javnopravno tijelo može tu javnu uslugu nastaviti pružati u vlastitoj režiji. Pri tome je potrebno razgraničiti doktrinu *imprévision* i slučaj više sile (franc. *force majeure*). U doktrini *imprévision* nema nemogućnosti izvršavanja ugovorne obaveze zbog činjeničnog ili pravnog osnova, već druga ugovorna strana, dokazuje narušavanje „finansijske ravnoteže ugovora“ kako bi ostvarila pravo na naknadu nepredviđenih troškova.

Načelo dužnosti ispunjavanja obaveza

Strane u obligacionom odnosu su dužne da izvrše svoju obavezu i odgovorne su za njeno ispunjenje, a obaveza se može ugasiti samo saglasnošću volja strana u obligacionom odnosu ili na osnovu zakona. Kad je upravni ugovor u pitanju, ukoliko uprava kao ugovorna strana ne poštuje svoje obaveze, saugovarač nema mogućnost iskoristiti pravo da odstupi i sam od obavljanja svojih ugovornih obaveza. Ugovorna obaveza privatne ugovorne strane i dalje ostaje na snazi, pri čemu se može od nadležnog suda tražiti nadoknada štete. Na taj način, princip *pacta sunt servanda* upotrebljava se u zaštiti javnog interesa, a koja ipak vodi ka faktičkoj nejednakosti ugovornih strana.

Načelo određene pažnje u izvršavanju obaveza i ostvarivanju prava

Strana u obligacionom odnosu dužna je da u izvršavanju svoje obaveze postupa sa pažnjom koja se u pravnom prometu zahtijeva u odgovarajućoj vrsti obligacionih odnosa (pažnja dobrog privrednika, odnosno pažnja dobrog domaćina). Kad je u pitanju strana u obligacionom (ugovornom) odnosu koja izvršava obaveze iz svoje profesionalne djelatnosti, ona je dužna da

postupa sa povećanom pažnjom prema pravilima struke i običajima (s pažnjom dobrog stručnjaka). Primjena ovog načela u upravnim ugovorima je kod ugovora o koncesiji javnih službi kad javna uprava daje dio javnih resursa na upravljanje koncesionaru koji se redovno obavezuje da prema javnoj imovini koja je predmet koncesije postupa sa pažnjom dobrog privrednika. Takođe se koncesionar obavezuje da po isteku koncesionog perioda, vrati koncedentu koncesiono dobro u ispravnom stanju.

Načelo mirnog rješavanja sporova

Strane u obligacionom odnosu nastojeće da sporove rješavaju usaglašavanjem, posredovanjem ili na drugi miran način. U obligacionom pravu, domaćem i uporednom, uglavnom je prihvaćeno opšte pravilo da organ pred kojim se vodi spor između dvije ugovorne strane, uvek nastoji prvo da se strane u sporu sporazumiju, odnosno mirno riješe nastali spor, a i same ugovorne strane mogu ugovoriti, ili naknadno predložiti neko arbitražno tijelo koje bi rješavalo nastali spor. Francusko pravo u vezi sa sporovima iz upravnih ugovora predviđa nekoliko modaliteta njihovog rješavanja mirnim putem. Tako se za mirno rješavanje sporova nastalih u postupcima javne nabavke predviđaju razna „ad hoc“ tijela, „savjetodavni komiteti za mirno rješavanje nesaglasnosti ili sporova u vezi sa javnim nabavkama“ i sl. U domaćem pravu u sporovima nastalim u vezi sa ugovorima javne uprave, (uključujući i latentne oblike upravnog ugovora), ugovorne strane mogu ugovoriti njihovo arbitražno rješavanje pred domaćom ili stranom arbitražom. Tako u pozitivnom pravu Republike Srpske (Zakon o koncesijama Republike Srpske [ZOK RS], 2013) za rešavanje sporova proisteklih iz ugovora o koncesiji ugovorne strane mogu ugovoriti arbitražu. Ako se ugovorne strane saglase, Komisija za koncesije može vršiti posredovanje u mirnom rješavanju sporova koji nastanu iz koncesionih ugovora.

Završna razmatranja o karakteristikama i pravnoj prirodi upravnog ugovora

U pravnoj teoriji i uporednom pravu, naročito onih država koje se oslanjaju na bogatu francusku teoriju i praksu upravnih ugovora, utvrđene su određene pecifične karakteristike ovog instituta: 1) najmanje jedna ugovorna strana je uvek subjekt javnog prava (javnopravno tijelo); 2) svrha i cilj upravnog ugovora je ispunjenje nekog šireg društvenog interesa; 3) prema kriterijumu „posebnih ovlašćenja“ javnopravno tijelo kao ugovorna strana ima posebna, veća ovlašćenja; 4) upravni ugovori sadrže derogativne odredbe, tj. odredbe kojima se odstupa od opšteg režima privatnog prava u korist režima upravnog prava, (*clauses exorbitantes du droit commun*) čija je svrha obezbjeđenje javnog interesa u postupku zaključenja, načina izvršenja, raskida ugovora i rješavanja sporova u vezi sa tim ugovorom. Postupak i uslovi zaključenja upravnog ugovora su specifični i njihovom zaključenju uglavnom prethodi postupak javnog konkursa ili poziv za dostavljanje ponuda, a u pojedinim pravnim sistemima sporove koji proizlaze iz upravnih ugovora rješavaju specijalizovani upravni sudovi ili nezavisna upravna tijela. Prema francuskom upravnom pravu cilj zaključenja ovog ugovora prevashodno je vezan za obezbjeđenje funkcionisanja određene javne službe, kao što je: nabavka određenih dobara, izvođenje radova, usluga, ustupanje javne službe (koncesionirana javna služba).

Komparativna analiza primjenjivosti osnovnih načela ugovora obligacionog prava koja je prikazana u radu takođe pokazuje da postoje sličnosti, ali i brojna odstupanja u karakteristikama upravnog ugovora u odnosu na ugovore privatnog prava. Ova odstupanja ukazuju na njihovu specifičnost i samostalnost, iako se u nedostatku odredaba koje izričito regulišu upravni ugovor, supsidijarno mogu primjenjivati odredbe privatnog, obligacionog prava. Dakle, upravni ugovor svakako pripada kategoriji ugovora, ali ipak se radi o ugovoru *sui generis*, posebnoj vrsti ugovora koji ima elemente klasičnog građanskog ugovora, ali i niz karakteristika

koje ga čine specifičnim. Na kraju možemo upravni ugovor definisati kao posebnu vrstu dvostranog pravnog posla koji se zaključuje u pisanoj formi, između javnopravnog tijela sa jedne i privatnopravnog ili javnopravnog lica sa druge strane, sa ciljem obavljanja neke djelatnosti ili aktivnosti od javnog interesa i koji podliježe posebnom pravnom režimu.

ZAKLJUČCI

Ugovorno pravo kao generički pojam obuhvata širok spektar teorijskih pojmova i praktičnih normativnih rješenja koji za predmet imaju oblast ugovora. Njegovi sadržajni elementi nalaze se u brojnim pravnim institutima i normama široko rasprostranjenim u različitim pravnim granama. Pored privatnopravnih lica koja se vrlo često javljaju kao subjekti ugovora, i javnopravna tijela međusobno ili sa privatnopravnim subjektima stupaju u različite vrste ugovornih odnosa. Dodirne tačke javnopravnog i privatnopravnog odnosa najvidljivije su u njihovim ugovornim formama. Ugovorne forme u odnosu između javne uprave i građana predstavljaju novi način funkcionisanja uprave i put ka njenoj liberalizaciji, a protiv njene klasične autoritativne uloge. Kvalitetna javna uprava podrazumijeva precizno određenje neophodnog minimuma njenog jednostranog djelovanja i rješavanje svih značajnih pitanja sporazumom. Upravni ugovor je proizvod praktične potrebe da se ublaži prenaplašeni uticaj i jednostranost upravnog akta, sa jedne strane i primjena klasičnog građanskog ugovora u ostvarenju prije svega privrednih oblika saradnje građana i javne uprave sa druge strane. Građanima se preko ovog instituta omogućava da učestvuju u vršenju najvažnijih poslova javne uprave koji su od opšteg, javnog interesa, kao što je obavljanje javne službe. Osim toga upravni ugovori imaju značajnu ulogu i za privredu jer se ovim ugovorima često uređuju ugovorni odnosi u najznačajnijim investicijama i racionalnom korišćenju prirodnih bogatstava i resursa jedne zemlje. Osnovna načela ugovornog prava proizilaze

iz načela obligacionog prava, i predstavljaju prihvaćen metod i filozofiju ugovornog prava u datoj državi. Ona daju kako opštu sliku, tako i opšte uputstvo za tumačenje nekih ustanova i konkretnih pravnih odnosa. Kod upravnih ugovora potpuna primjena načela privatne autonomije nije moguća. Naime, ugovorne strane nisu potpuno samostalne i ravnopravne u ugovornom odnosu. Privatnopravna ugovorna strana je u tom odnosu slabiji subjekt, jer javnopravni subjekt zbog javnog interesa kao osnovnog cilja upravnog ugovora uglavnom određuje uslove ugovornog odnosa. Načelo zaštite savjesnosti i poštenja široko je zastupljeno u ZOO i veoma je važno za ugovore građanskog prava. Ovo načelo je svakako jedno od osnovnih načela i u upravnim ugovorima, i kada kao takvo nije izričito navedeno u zakonu. Kad govorimo o slobodi ugovaranja, pri zaključenju ugovora javne uprave, uključujući i upravne ugovore, ovo načelo ima niz ograničenja, jer njihovom zaključenju po pravilu prethodi poseban postupak izbora najpovoljnijeg ponuđača. O dispozitivnosti kod upravnih ugovora možemo govoriti samo u dijelu koji se odnosi na pojedina pitanja koja nisu decidno regulisana zakonom ili upravnim aktom koji prethodi zaključenju upravnog ugovora, pa je ugovornim stranama ostavljena mogućnost da ih drugačije urede, ali ne preko granica imperativnih normi. Ipak, kod upravnih ugovora uglavnom ne postoji ravnopravnost strana. Naime, pošto se upravni ugovor zaključuje prije svega u javnom interesu, to je i javnopravno tijelo kao strana u tom postupku u privilegovanom položaju. Ovo se manifestuje kroz niz posebnih odredaba koje regulišu upravni ugovor. Javna uprava je dužna da onemogućiti monopolističko ponašanje davaoca usluga tako što ga ugovorom obavezuje na određeni nivo kvaliteta i kvantiteta usluga, te obavezne saglasnosti javne uprave za eventualnu promjenu cijene usluga, kao i da pravilima o koncentraciji vlasništva spriječi uspostavljanje monopola. Načelo zabrane zloupotrebe prava primjenjivo je i na upravni ugovor. Odgovornost za pravne

Filipović, Z. (2021). General principles of contract law and administrative contracts. *STED Journal*, 4(1), 174-189.

nedostatke, prekomjerno oštećenje i promijenjene okolnosti, može biti prisutna u svom modifikovanom obliku i kod upravnih ugovora. Kad je upravni ugovor u pitanju, ukoliko uprava kao ugovorna strana ne poštuje svoje obaveze, saugovarač nema mogućnost iskoristiti pravo da i sam odstupi od izvršenja svojih ugovornih obaveza. Ugovorna obaveza privatne ugovorne strane i dalje ostaje na snazi, pri čemu se može tražiti preko nadležnog suda nadoknada štete. Ugovori o kocesijama redovno sadrže odredbe kojima se koncesionar obavezuje da se prema javnoj imovini koja je predmet koncesije postupa sa pažnjom dobrog privrednika. Takođe se koncesionar obavezuje da po isteku koncesionog perioda, vrati koncedentu koncesiono dobro u ispravnom stanju. Francusko pravo u vezi sa sporovima iz upravnih ugovora predviđa nekoliko modaliteta njihovog rješavanja mirnim putem. Tako se za mirno rješavanje sporova nastalih u postupcima javne nabavke predviđaju razna „ad hoc“ tijela, „savjetodavni komiteti za mirno rješavanje nesaglasnosti ili sporova u vezi sa javnim nabavkama“ i sl. U domaćem pravu za sporove u vezi sa ugovorima javne uprave, (uključujući i latentne oblike upravnih ugovora), ugovorne strane mogu ugovoriti njihovo arbitražno rješavanje pred domaćom ili stranom arbitražom. Dakle, upravni ugovor svakako pripada kategoriji ugovora, ali ipak se radi o ugovoru o posebnoj vrsti ugovora koji ima elemente klasičnog građanskog ugovora, ali i niz karakteristika koje ga čine specifičnim.

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GENERAL PRINCIPLES OF CONTRACT LAW AND ADMINISTRATIVE CONTRACT

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ABSTRACT

An administrative contract is a specific contract with a special legal regime, subjects and characteristics that classify it as an institute between private and public law. The paper presents a comparative analysis of the general principles of contract law, and above all civil (private) law and administrative contract. This analysis should answer the questions of the basis of the contractual obligation, ie the basic elements that create a contractual obligation. The paper presents the most important principles, as well as general elements of the contract on the one hand and basic characteristics of the administrative contract on the other, in order to better understand their legal nature, similarities and differences, especially the legal nature of the administrative contract and its place in contract law.

Keywords: civil law contract, administrative contract, public and private law, general principles of contract law.

Prikaz slučaja

PSIHODINAMSKA ANALIZA SLUČAJA UBISTVA SA INCESTUOZNOM POZADINOM

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APSTRAKT

Incest kao seksualno ponašanje psihijatrija posmatra isključivo kao psihopatološku pojavu. Suština incesta je u seksualnom kontaktu među bliskim srodnicima, a uzroci njegove pojave leže kako u ličnosti samih izvršilaca, tako i u sredini u kojoj su se oni razvijali. Prema Freudu, incest tabu je jedna od najjačih zabrana čovečanstva, koja karakteriše svaku kulturu. U svetu shizofrenih, incest koji počinje (ili od koga se brane) je obično onaj koji se u narodu smatra težim grehom i koji je među zdravom populacijom redak, a to je: incest majke sa sinom i brata sa sestrom. Dosadašnja istraživanja ističu da incest uvek izaziva jaku emocionalnu traumu iz

koje se kasnije mogu razviti fobije, depresije, anksiozna stanja i drugi psihijatrijski poremećaji. U ovom radu analizira se slučaj ubistva u porodici. Incestni odnosi determinirali su oblik i sadržaje kliničke slike pacijenta, koja je bila opterećena dubokim osećajem krivice, anksioznosti, straha i depresije, sa homicidalnim i suicidalnim ponašanjem.

Ključne reči: ubistvo, porodica, zabrane, incest.

UVOD

Jedan od bazičnih postulata psihodinamske teorije je saznanje da ljudsko biće nije uvek svesno motiva i ciljeva svoga ponašanja, te da i svesni i nesvesni delovi psihe podstiču čoveka na akciju, s tim što je svesni deo vođen principom zadovoljstva i sigurnosti, dok akcije nesvesnog dela mogu da budu razumljive, ali i da slede neku svoju logiku i svrsishodnost. Po Greifu (2004), ljudsko ponašanje je često motivisano sadržajima, koji nisu odmah očigledni, ali se mogu dešifrovati razmatranjem nesvesnih i internalizovanih značenja iskustva same osobe.

Prema strukturalnoj teoriji Freuda, ličnost sačinjavaju tri instance: Id, Ego i Superego. Id je sastavljen od bazičnih instiktivnih impulsa i strasti, Ego je deo ličnosti koji je u sadejstvu sa okolinom, dok je Superego sistem vrednosti i sadrži restrikcije instiktivnog ponašanja nastale socijalnim zabranama ili identifikacijom sa roditeljima i njihovim zabranama iz ranog detinjstva (Frojd, 2016). Freud (2009) nalazi da je prvi izbor seksualnog objekta kod dečaka incestuozan, usmeren na zabranjene objekte - majku i/ili sestru. Po njemu, kod dečaka se, ulaskom u falusnu

fazu razvoja, intenziviranjem genitalne masturbacije i pojačavanjem seksualne radoznalosti, javlja se i strah da će se nešto desiti sa njegovim penisom (kastriacioni strah), usled čega dolazi do odustajanja i potiskivanja erotskih želja prema zabranjenim objektima, okretanja ocu i identifikacije sa njim. Ova identifikacija sa ocem čini jezgro Superega, koje u sebi sadrži zabranu incesta (Jovanović-Dunjić, 2004). Dakle, po Frojdu (Phillips, 2015), Superego je produžetak Ega koji generiše pravila, koja postaju diktum savesti, a savest igra veliki značaj u ljudskom razvoju i ponašanju.

U principu, incest se odvija u kontekstu disfunkcionalnih porodica (Laviola, 1992; Tidefors, Arvidsson, Ingevaldson, & Larsson, 2010), koje ne obezbeđuju bezbedno okruženje za svoje članove (DiGiorgio-Miller, 1998). Kada porodična struktura podržava neravnotežu moći i rigidnost rodni uloga, i kada postoji različit tretman braće i sestara i nema dovoljnog roditeljskog nadzora povećava se rizik od incestuoznog ponašanja i seksualnog zlostavljanja među sibličima (Morrill, 2014). U slučajevima trauma koje sežu u područje seksualnosti (kakva je upravo trauma incesta), seksualnost postaje mesto najzaoštrenije napetosti između normi i želja, ponašanja i fantazija (Theunissen, 2005; Samardžić, 2005).

Za incest se smatra da, i sa psihološke i sa sociološke tačke gledišta, ostavlja štetne posledice na participante. Prema Hendersonu (1983) osobe koji su uključene u incestuozno ponašanje često su psihički oštećene, a incestuozno ponašanje se može smatrati uzrokom naknadne psihopatologije. Većina istraživanja ukazuje da incestna aktivnost izaziva snažnu emocionalnu traumu i neminovno dovodi do značajnih poremećaja u ličnosti učesnika, izazivajući često psihotičnu negaciju spoljašnjeg sveta (Trbović, 1986; Milovanović i Nenadović, 2001). Incest između sibličima je povezan sa kasnijom depresijom, anksioznošću, narušenim samopoštovanjem i seksualnim funkcionisanjem (Bertele i Talmon, 2021),

a neka istraživanja pokazuju i pojavu poremećaja u ishrani, izliva besa, samopovređivanja, somatskih pritužbi i suicidalnih ideja (Morrill, 2014). Monahan (2010, prema Morrill, 2014) otkriva da se negativni emocionalni uticaj seksualnog kontakta braće i sestara pojavljivao i kasnije u životu participanata, kada su se pojavila druga životna pitanja (kao što su smrtna bolest ili briga za umirućeg roditelja). Steiner (prema Despotović 2004) iznosi mišljenje da se edipalna situacija i njeno prevladavanje nikada ne završavaju već se prorađuju i obnavljaju ne samo u svim stadijumima razvoja, kako je to smatrao Freud, nego i u svim novim iskustvima i saznanjima tokom života odraslih ljudi.

PRIKAZ SLUČAJA

Ispitanik, P.F, star 34 godine, medicinski tehničar, odslužio vojsku, neosudivan. Živeo u vanbračnoj zajednici oko dve godine, a iz ove veze imao petomesečnu kćerku. Supruga sa detetom često boravila kod svojih roditelja zbog loših odnosa u vezi (česti sukobi i konflikti, koji su rezultirali i njenim pokušajem suicida).

Iz istorije bolesti: Raspoloživi heteropodaci ukazuju da su se još u detinjstvu ispitanika javile izrazite neurotske smetnje anksiozno-fobičnog tipa, koje nisu adekvatno tretirane, ali ih je on od 14-te godine života nastojao ublažiti prekomernim konzumiranjem alkohola, kao i tableta za smirenje. Postoje podaci o incestuoznim odnosima sa mlađom sestrom u preadolescentnom periodu, koje on negira i odbija da govori o tome. Porodica takođe čuti o ovome. Tokom redovnog služenja vojske je, u saobraćajnoj nesreći, zadobio potres mozga, a godinu dana kasnije još jednu povredu glave (takođe u saobraćajnoj nesreći). Nekoliko meseci pre počinjenja dela (ubistvo nevenčane supruge i kćerke) došlo je do promena u njegovom ponašanju koje su se ispoljile kroz strah od ljudi, vezivanje za krevet (jer ga je prozor „vukao“ da skoči sa 8. sprata), te optička i akustička halucinatorna doživljavanja. Navedenom psihotičnom ispoljavanju

prethodilo je saznanje o mogućoj teškoj bolesti sestre (u odnosu na koju su postojala incestuoza događanja); dodatna trauma bila je činjenica da je bolest vezana upravo za genitalnu zonu.

Opis dela: Ubistvo se odigralo u jednom planinskom hotelu, gde je došao sa suprugom i maloletnim detetom, a gde je supruga, inače, radila pre rođenja deteta. S obzirom da su bili jedini gosti u hotelu i da se niko iz sobe nije pojavljivao čitav dan, recepcionar je postao sumnjičav pa je rezervnim ključem otvorio sobu. Tamo je zatekao leševe žene i deteta. Ispitanik je, posle počinjenja dela, pokušao suicid sečenjem vena, a zatim je izašao kroz prozor i nastavio da luta šumom i livadama; krvave odecé i izuven legao je na put, dok je na pitanja prolaznika odgovarao konfuzno. Po hapšenju je evidentirano postojanje potpune amnezije na događaj, tako da se na pitanje motivacije ovog zločina u prvi mah nije mogao dati odgovor. Očigledno je da je postojalo dezorganizovano ponašanje ispitanika, koje su opisali i svedoci, kao i konfuzne vizije (koje sam opisuje) u koje su uključeni i fragmeni realnosti. Sve ovo govori o psihotičnom doživljavanju koje se poklapa sa periodom višesatne amnezije. Ne postoje podaci o tome šta se događalo u hotelskoj sobi između samih supružnika.

Struktura i dinamika ličnosti: Na psihološku eksploraciju dolazi posle završenog veštačenja njegovog psihičkog zdravlja u trenutku počinjenja dela: veštaci su utvrdili da se nalazio u stanju koje je imalo karakteristike psihotične reakcije, usled čega nije mogao da shvati značaj dela i upravlja svojim postupcima. Ispitanik je, inače, solidnog intelektualnog potencijala i dobre edukativne nadgradnje. Ne seća se i potpuno negira mogućnost da je počinio delo koje mu se stavlja na teret, idealizujući svoje porodične odnose. Pri tom je afektivno udaljen i o realno traumatskom događaju, kakva je njihova smrt, govori bez ikakvih emocija. Iz ovoga vidimo da su na snazi regresivni mehanizmi odbrane: negacija, potiskivanje i izolacija, što govori o oslabljenom egu. Da bismo razumeli pojavu ovakvog odbrambenog reagovanja i,

uopšte, motivaciju za ovako strašan zločin, pokušali smo se dotaći njegovog ranog razvoja, porodične klime i odnosa među njenim članovima. Ispitanik, međutim, ne može da se „otvori“, pa su podaci koje nudi siromašni, nepouzđani i sa tendencijom idealizacije. Stoga nemamo pravu sliku roditeljskih figura i opšte porodične dinamike. Heteropodaci govore da je otac ispitanika bio alkoholičar. Da nešto nije bilo u redu na ovom planu sugerišu i podaci o anksiozno-fobičnom neurotskom ispoljavanju u ranom detinjstvu. Možemo pretpostaviti, zasnovano na dosadašnjim istraživanjima (Laviola, 1992; DiGiorgio-Miller, 1998; Tidefors i sar. 2010; Ballantine, 2012; Morrill, 2014), da se ipak radilo o nefunkcionalnoj porodici, u kojoj je komunikacija među članovima bila defektna i neadekvatna, a odnosi među supružnicima verovatno loši, mada je mogao postojati i privid bračnog sklada.

Doticanje teme seksualnosti, vidna neprijatnost i crvenilo pri razgovoru o prvom seksualnom kontaktu, i insistiranje pacijenta da ne priča o tome, te njegova duboka vezanost za mlađu sestru, pobuđuju sumnju na nerazrešenost psihoseksualnih konflikata i postojanje incestuoznih želja (prema podacima, verovatno realizovanih) prema sestri. Ovo naročito dobija na značaju kada se zna da je nekoliko meseci pre pojave prvih simptoma bolesti, pacijent saznao za sumnju da sestra ima rak *na materici*. Ballantine (2012) tvrdi da, ostavljeni neotkriveni i nelečeni, nerešeni problemi vezani za incest, kao i posledični stid i krivica, mogu dovesti do doživotnih emocionalnih problema i disfunkcionalnih obrazaca ponašanja koje je teško popraviti.

S obzirom da u ličnosti pacijenta naziremo fiksaciju za oralni stadijum psihoseksualnog razvoja, što govori o njegovoj dubokoj zavisnosti od primarnih objekata (i što takođe objašnjava njegovu sklonost konzumiranju alkohola), u analizi strukture ličnosti i njene dinamike pošli smo upravo od događaja koji za njega ima dvoznačan traumatski karakter: može dovesti do gubitka objekta (sestra možda *ima rak*) što izaziva separacioni strah, i s druge strane aktivira nerazrešen Edipov

kompleks (sestra možda ima rak *na materici*), aktualizirajući neprijatno osećanje krivice zbog incestuoznih želja prema sestri.

Pacijent je, u svom dosadašnjem funkcionisanju izbegavao emotivno vezivanje za druge: nije imao značajnijih heteroseksualnih veza, a i u svojoj vanbračnoj vezi bio je distanciran (česte svađe i sukobi, opijanje van kuće, supruga više vremena provodila kod svojih roditelja). Zapravo, u svom socijalnom funkcionisanju pokazivao je odlike shizoidnosti (dominacija emotivne hladnoće, introvertnosti i nesigurnosti), a svoju unutrašnju napetost redukovao je alkoholom i tabletama za smirenje. Na sklonost učesnika u incestu samolečenju alkoholom i drogama ukazivali su Combs-Lane i Smith (2002).

Mehanizmi odbrane koje ličnost koristi imaju funkciju smanjenja anksioznosti, zaštite ega i podržavanja potiskivanja. Stoga, kada je iznenada, sa saznanjem za bolest sestre, ispitanik bio gurnut natrag, u incestuoznu traumu u detinjstvu, u pokušaju da se reši starih, „povampirenih“ konflikata, on pribegava daljem potiskivanju. Ali, potiskivanje kao odbrana zahteva stalni utrošak velike količine psihičke energije: tako njegov prag frustrativne tolerancije biva snižen a ego oslabljen. Navala zabranjenog i potisnutog sadržaja iz nesvesnog (usled popuštanja cenzure) uvodi pacijenta u regresiju na infantilna ponašanja: udruženi su anksiozni (napetost, pritisak u grudima, znojenje, osećaj da se asfalt diže) i fobični simptomi (strah od ljudi, koji se difuzno širi na strah od visine, strah od prozora i – na kraju – **strah od kreveta** – sa očiglednom simbolikom).

Fobični simptom straha od ljudi razvija se sa prisilnim okretanjem glave ka ramenu, uz konstataciju pacijenta: „Nisam smeo da im pogledam u oči“, nagoveštavajući tako vezivanje za psihotičnu strukturu i paranoidni odnos. Jer, slom neurotskih odbrana istovremeno je i uvod u psihotičnu epizodu: pacijent ima osećaj da ga neko zove, neka sila ga vuče prema prozoru, vidi đavola sa **oštrim**

zubima (kastracioni strah), vidi **krevete** po šumi, iz kojih iskaču ljudi u kojima prepoznaje **sestru i zeta**.

Po Freudu, paranoidni poremećaji nastaju mehanizmom potiskivanja i projekcije. On ističe da ideja o progonjenosti od strane drugih ima osnovu u potisnutim i projektovanim konfliktima nastalim na seksualnim iskustvima iz detinjstva (Frojd, 2016). Savremeni psihoanalitičari proširuju ovu tezu, navodeći da se konflikt javlja ne samo zato što realnost ne odgovara bolesnikovim željama i potrebama, već i zato što su i njemu samom neki sopstveni impulsi neprihvatljivi (Arlow, & Brenner, 1964).

Šta se dogodilo u hotelskoj sobi?

Ne postoji siguran odgovor na ovo pitanje. Mogu se pretpostaviti mogući provokativni faktori: eventualno nova konfliktna situacija sa suprugom, moguće delovanje psihofarmaka koje je okrivljeni možda uzeo tog dana u većoj količini, itd. Mi ovde iznosimo jedan drugačiji mogući pogled na ovaj događaj.

Čini se da je sve počelo u detinjstvu, kršenjem jedne od najstarijih i najvažnijih tabu-zabrana, zabrane vezane za incest. Jakoj incestuoznoj želji i radnjama koje su se kod ispitanika javile u detinjstvu uskoro se suprotstavila zabrana, koja je imala oslonac u spoljašnjoj sredini i važećim propisima. Po Freudu, dejstvo zabrane se (zbog primitivne psihičke konstitucije deteta) ogleda u potiskivanju nagona u nesvesno, čime su i zabrana i nagon očuvani (Frojd, 2009). Na ovaj način je postignuta „neresena situacija“, a iz neprekidnog konflikta između zabrane i nagona održava se ambivalencija ispitanika prema sopstvenim radnjama. Ovaj konflikt i kočenje sukobljenih strana stvaraju potrebu za smanjenjem postojeće napetosti, tako da se pojava anksiozno-fobičnih radnji kod ispitanika u detinjstvu može shvatiti kao kompromisna akcija, a kada ona postane nedovoljna, ispitanik pribegava i alkoholu. Freud smatra da su ova neurotska ispoljavanja s jedne strane dokaz kajanja i pokušaj ispaštanja, ali s druge strane mogu se posmatrati i kao nagonske radnje koje nagonu nadoknađuju zabranjeno.

Dakle, tokom daljeg života ispitanika, zabrana ostaje jasno svesna, a incestuozne težnje, usled postojećeg potiskivanja koje je povezano sa zaboravom, ostaju nesvesne. Sasvim je sigurno da je pacijent, neposredno pre dela, imao psihičkih smetnji psihotičnog tipa. Jasno je da je već duže vremena potiskivao izrazito uznemiravajuće sadržaje, što je oslabilo njegov ego. Njegovo aktuelno psihofizičko stanje (verovatna alkoholisanost, upotreba psihofarmaka) činilo je postojeće mehanizme neefikasnijim: stoga je potiskivanje u jednom trenutku postalo nedovoljno, a navala zabranjenog sadržaja iz nesvesnih delova njegove psihe mogla je dovesti do akutne konfuznosti, sa aktiviranjem snažnog osećaja krivice zbog incestuoznih želja i sa pomeranjem - zamenom objekta sa kojim se instiktivni seksualni i agresivni impulsi zadovoljavaju - sa sestre na suprugu. U ovom procesu, ambivalencija između ljubavi i mržnje nestaje, jer se ljubav pretvara u mržnju, pri čemu dolazi do prenošenja energije iz erotičnog u jedan drugi, neprijateljski impuls. Pretpostavljamo da se na ovaj način incestuozna ljubav pretvorila u agresiju.

Ostaje nejasna psihodinamika ubistva sopstvene kćerke. Postavlja se pitanje da li se ispitanik bojao nekih budućih incestuoznih fantazija i prema svom detetu? Sudeći prema nekim ranijim psihodinamski orijentisanim autorima, osećanja incestuoznih očeva prema kćerkama su seksualna, davanje i primanje ljubavi se često oseća kao glavna potreba, a očinska i polna ljubav se mešaju (Cormier, Kennedy, & Sangowicz, 1962). Ipak, žrtva je ovde bila previše mala da bismo razmatrali ovakvu insinuciju, a odgovor na postavljeno pitanje ostaće nedostupan.

U situaciji suočavanja sa istinom (u ovom slučaju - sa realnošću sopstvenog dela) brani se persekucijom, odbacuje istinu i gradi neku drugu realnost na psihotičnom nivou. Aktuelna situacija posle počinjenog dela (negiranje da su žrtve mrtve, ukazivanje na navodne pretnje od strane službenih lica i lekara, negiranje saznanja o tome zbog čega mu se sudi) ukazuje na

masivnu amneziju, afektivnu izolaciju i paranoidnu elaboraciju.

Pacijent je shvaćen kao shizoidni poremećaj ličnosti, koji je u trenutku počinjenja dela bio psihotično dekompenzovan. I sa povlačenjem psihotičnih simptoma, evidentira se prisustvo snažnog potiskivanja koje ne dozvoljava projekciju konflikata.

U analizi njegovih snova, jedan je posebno interesantan, gde pacijent sanja da iznad bistre vode lovi ribu, ali se udica stalno zapetljava i ne može da je zabaci. Voda je ovde simbol nesvesnih energija i krije sadržaje »duše« koje »ribar« nastoji dovesti na površinu i koji bi ga trebali »nahraniti«, međutim, udica se stalno zapetljava....

ZAKLJUČCI

Može se reći da je zabrana incesta univerzalno pravilo koje karakteriše svaku kulturu, ali se ipak sporadično pojavljuje. Pri tom se koreni tabua incesta mogu shvatiti na osnovu dosadašnjih socioloških studija, ali se razlozi koji navode na incest mogu razumeti samo upoznavanjem ličnosti počinitelja i okolnosti u kojima on živi. Istraživanja su pokazala da je dinamika incestuoznih odnosa braće i sestara složena, da je karakteriše rani početak, produženo trajanje i veća učestalost u odnosu na druge incestuozne odnose, te da se najčešće razvija u ozbiljno disfunkcionalnim porodicama.

Prikazani slučaj potvrđuje da su efekti participiranja incesta štetni i dugotrajni i na fizičkom i na psihičkom planu, te da posledice vremenom postaju sve teže i utiču na društvene interakcije, posao, porodični život. Kod našeg ispitanika, kao particpanta incesta u ranoj životnoj dobi, evidentirane su duboke psihopatološke promene, praćene osećajem krivice, smanjenjem samopoštovanja, odbrambenim naporom da se izbegne opasnost prožimajuće anksioznosti i kazne, i ambivalentnom transformacijom ljubavi u mržnju, što je na kraju rezultiralo psihotičnom dekompenzacijom praćenom homicidalnim i suicidalnim radnjama.

Samardžić, S. (2022). Psychodynamic analysis of murder with incestuous background. *Sted Journal*, 4(1), 190-196.

Pitanja koja zahtevaju neko dalje proučavanje mogla bi se odnositi na to - kako otkrivanje incesta utiče na njegove participante i da li određene pravosudne kaznene mere mogu da minimiziraju krivicu i stid kod oba participanta, bez obzira na to ko je od njih inicijator, a ko žrtva incesta.

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PSYCHODYNAMIC ANALYSIS OF MURDER WITH INCESTIOUS BACKGROUND

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ABSTRACT

Incest as a sexual behavior psychiatry observes solely as a psychopathological

phenomenon. The essence of incest is in sexual contact between close relatives, and the causes of its occurrence are in a personality of sex offenders and also in an environment in which they grew up. According to Freud, the incest taboo is one of the strongest prohibitions of the mankind, which characterize every culture. In the world of schizophrenic, incest which is committed (or from which they defend themselves) is usually that is considered a serious sin by people and which is rare among healthy population, and that is: incest between mother and son, and between brother and sister. So far researches emphasize that incest usually causes strong emotional trauma from which some phobias, depression, anxious states can be developed and other psychiatric disorders. The case of murder in family is analyzed in this task. Incestuous relationships determined a form and content of the patient's clinical picture which was burdened with deep feelings of guilt, anxiousness, fear and depression, with homicide and suicide behavior.

Keywords: homicide, family, injunctions, incest.

GUIDELINES TO AUTHORS FOR WRITING PAPERS

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ABSTRACT

Guidelines to the authors on the manner of preparation of the article are designed in accordance with the best world publishing practice and the Rulebook on publishing scientific publications (Official Gazette of the Republic of Srpska, No. 77/17). The instruction was created in order to unify the style of publishing articles in all issues and editions of the scientific magazine "STED JOURNAL". The magazine is published semi-annually (May-November) in printed versions, with a circulation of 200 copies, and the electronic version of the issue is published at <https://stedj-univerzitetpim.com/>. All articles must be formatted in accordance with this Instruction and delivered to the email address of the journal. Each paper undergoes a preliminary elimination review, after which it is rejected or referred to the blind review process by two independent reviewers. Papers that have at least two positive reviews are published in the journal. The list of reviewers is adopted by the Editorial Board of the journal. The identity of the reviewer is not revealed to the authors and vice versa.

Keywords: STED Journal, review, publication, scientific publications

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Tables should be prepared in the WORD, graphics in the EXCEL, except for some special cases when it is not possible technically. Tables and graphics should be clear, as simple as possible and transparent. The title, heading (text) and subtext in tables and graphics should be written in Times New Roman – normal, Font Size 10 pt. Tables should be placed at a certain place in the text. Tables should not include more than ten columns and more than fifteen rows. If the author assumes that data should be presented in a larger number of columns and rows, it is necessary to split the content of the table into two or more smaller tables or deliver it as a special attachment. They have to be drawn according to the computer template (Insert Table), and not using the spacing, dots and tabs. When citing tables and graphics, we write the title of the table or graphic in the initial capital letter and then we specify its ordinal number (e.g. as it is shown in Table 9 and Figure 6, the lowest value was...).

A table example:

Table 1 The curing data for NR/CSM rubber blend compounds with different content of waste rubber powder

WRP content (phr)	Curing characteristics					
	M_l , dNm	M_h , dNm	$\square M$, dNm	t_{s2} , min	t_{c90} , min	CRI
0	4	40	36	6	15	11.0
20	5	42	37	8	16	12.5
40	5	45	40	9	16	14.3
60	7	46	39	9	17	12.5
80	7	47	40	10	17	14.3
100	7	47	40	10	17	14.3

A chart example:

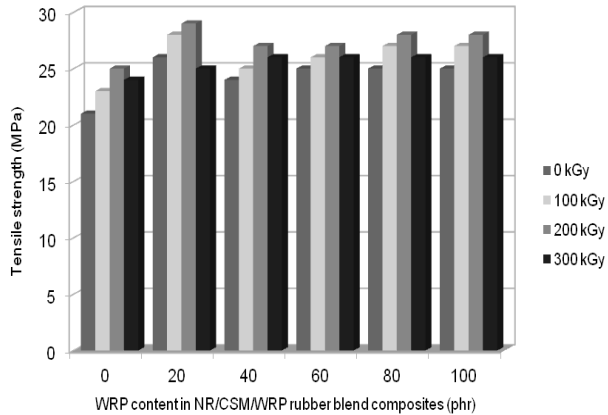


Figure 1 The effect of waste rubber powder content on tensile strength for the NR/CSM/WRP composites irradiated with different doses.

Equation

Equations should be written in the graphic editor for equations, specifically in the Microsoft Equation and they should be placed at the beginning of the text. On the right edge of the text in the row in which the equation is written one should indicate its number in parentheses beginning with number 1.

$$m_r = m_s \left(1 - e^{k_s t_{maks}}\right) - m_d \left(1 - e^{-k_d (t - t_{maks})}\right) \quad \text{za } t > t_{maks} \quad (1)$$

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Figures have to be prepared for black-and-white printing, that is, if the original figure is in colours which cannot be distinguished in black-and-white printing, the colours have to be replaced by "raster", that is, different graphic signs which need to be explained in the legend. We insert in figures only the most essential text necessary for understanding, such as measure variables with their dimensions, short explanation on curves and similar. The rest is stated in the legend under the figure (Figure 2). The maximum size of a figure is 13 cm x 17 cm.



Figure 2 The SEM micrograph of NR/CSM/WRP composites filled with 20 phr waste rubber powder at 7500X magnification.

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- six and more authors: (Kojić et al., 2019).

In the reference list:

Grgurević, N. (2014). Kuba i Nikaragva (Revolucija i postrevolucionarni period). U M. Žiravac-Mladenović (Eds.), *Conference proceedings, International Scientific Conference on Social and Technological Development* (pp. 124-131). Banja Luka, B&H: University of Business Engineering and Management.

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An example of citing a master thesis or PhD thesis in the text:

- (Petrović, 2001)
- (Žiravac-Mladenović, 2009)

In the reference list:

Petrović, R. (2001). *Dehidracija etera na mordenitnim katalizatorima*. Magistarski rad. Univerzitet u Banjoj Luci, Tehnološki fakultet, Banja Luka, BiH.
Žiravac-Mladenović M. (2009). *Bankarski nadzor i regulative zemalja u tranziciji na Balkanu – globalizacija bankarskog sektora*. Alfa Univerzitet, Beograd, Srbija.

An example of citing a publication of an institution as the author, downloaded from the Internet and citing a text from the web site

Citing internet sites should be avoided, but if it is necessary, then they should include names of the authors, if they are available, the title, internet site and access date.

In the text:

- institution: first citing in text (Zavod za statistiku Republike Srpske [ZSRS], 2009); second and every next citing (ZSRS, 2009);
- call to authors: (Degelman, 2000); - unknown author: (Compiere, 2017) (Purdue University, n.d)

In the reference list:

Zavod za statistiku Republike Srpske. (2009). Saopštenja. Preuzeto 10.02.2009. sa <http://www.rzs.rs.ba/SaopstenjaRadLAT.htm>
Degelman, D. (2000). APA Style Essentials. Retrieved May 18, 2000 from: <http://www.vanguard.edu/psychology/apa.pdf>
Compiere, (2017). Products. Preuzeto 11.10.2018. sa <http://www.compiere.com/products/>
Purdue University Writing Lab [Facebook page]. (n.d). Retrieved January 22, 2019, from <https://www.facebook.com/PurdueUniversityWritingLab/>

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Zakonik o krivičnom postupku, Službeni glasnik RS, 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, i 55/2014; Regulation (EU) No. 1052/2013 establishing the European Border Surveillance System (Eurosur), OJ L 295 of 6/11/2013, 1; Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast), OJ L 180 of 29/6/2013, 60.

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CONCLUSION

The papers not written strictly according to these guidelines shall not be accepted.

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2. ĐURIĆ DŽAKIĆ, Manja. Bosnia and Herzegovina and the European Union – still far away from integration. *STED journal : journal of social and technological development*. [Štampano izd.]. 2021, vol. 3, no. 2, pp. 31-40. ISSN 2637-2150. <http://dx.doi.org/10.7251/STED2102031D>. [COBISS.RS-ID [136230401](#)]

3. GRGUREVIĆ, Nikša, MITRIĆ, Saša. Konstitucija kao stimulacioni faktor izgradnje sociokulturnog kapitala. *STED journal : journal of social and technological development*. [Štampano izd.]. 2021, vol. 3, no. 2, pp. 95-101. ISSN 2637-2150. <http://dx.doi.org/10.7251/STED2102095G>. [COBISS.RS-ID [136233729](#)]

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7. MITRIĆ, Saša. Stanje marketinga bezbjednosti u Bosni i Hercegovini i reperkusije na poslovni ambijent, imidž i stakeholdere. *STED journal : journal of social and technological development*. [Štampano izd.]. 2021, vol. 3, no. 2, pp. 73-82. ISSN 2637-2150. <http://dx.doi.org/10.7251/STED2102073M>. [COBISS.RS-ID [136231681](#)]

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