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# DAUGAVPILS UNIVERSITĀTES 58. STARPTAUTISKĀS ZINĀTNISKĀS KONFERENCES RAKSTU KRĀJUMS

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Daugavpils Universitātē docētāju un studējošo zinātniskās konferences notiek kopš 1958. gada. Konferencēm ir starpdisciplinārs raksturs un tajās piedalās gan studējošie, gan docētāji, gan arī ievērojami zinātnieki no dažādām pasaules valstīm. Daugavpils Universitātes 58. starptautiskās zinātniskās konferences pētījumu tematika bija ļoti plaša – eksaktās, humanitārās, izglītības, mākslas un sociālo zinātņu jomās.

Zinātnisko rakstu krājumā ***Daugavpils Universitātes 58. starptautiskās zinātniskās konferences rakstu krājums = Proceedings of the 58th International Scientific Conference of Daugavpils University*** apkopoti 2016. gada 14.–15. aprīlī konferencē prezentētie materiāli.

*Daugavpils Universitātes 58. starptautiskās zinātniskās konferences rakstu krājums* tiek publicēts 3 daļās: A. daļa. *Dabaszinātnes*; B. daļa. *Sociālās zinātnes*; C. daļa. *Humanitārās zinātnes*.

The annual scientific conferences at Daugavpils University have been organized since 1958. The themes of research presented at the conferences cover all spheres of life. Due to the facts that the conference was of interdisciplinary character and that its participants were students and outstanding scientists from different countries, the subjects of scientific investigations were very varied – in the domains of exact sciences, the humanities, education, art and social sciences.

The results of scientific investigations presented during the conference are collected in the collection of scientific articles ***Proceedings of the 58th International Scientific Conference of Daugavpils University.***

*Proceedings of the 58th International Scientific Conference of Daugavpils University* are published in three parts: part A. *Natural sciences*; part B. *Social Sciences*; part C. *Humanities.*

# SATURS / CONTENTS

## EKONOMIKA / ECONOMY



## TIESĪBU ZINĀTNE / LAW



## PEDAGOĢIJA / PEDAGOGY

## PSIHOLOĢIJA / PSYCHOLOGY



## MENEDŽMENTS / MANAGEMANT

# EKONOMIKA / ECONOMY

# COMMERCIAL ROLE OF THE ROUND GOBY (NEOGOBIUS MELANOSTOMUS PALLAS) IN DIFFRENT COUNTRIES

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**Abstract**

**Commercial role of the round goby (Neogobius melanostomus Pallas) in diffrent countries**

***Key words:*** *commercial role, market, processing types, round goby*

So far there have been several studies on the round goby population and its influence on the ecosystem; however, there are no studies on its commercial role in different countries. The aim of the research is to find out the commercial role of the round goby in different countries. According to the information provided by researchers and experts as well as the information obtained in the field trips and internet resources, the author found out the types of use and processing of the round goby in different countries, and analyzed its markets. As a result of the analysis the author discovered that in separate countries the round goby has commercial role, and it is processed in several ways, nevertheless, there are also countries, where it has no commercial role. At the moment it is impossible to judge about the market potential of the round goby. The countries should solve ecological and economic issues related to the round goby fully in the framework of the EU, implementing a joined strategy. The results of the study can help the institutions involved in the fisheries policy-making working and improving the common policy of the sector more successfully.

**Kopsavilkums**

**Apaļā jūras grunduļa (Neogobius melanostomus Pallas) komerciālā nozīme dažādās valstīs**

***Atslēgas vārdi:*** *komerciālā nozīme, tirgus, apstrādes veidi, apaļais jūras grundulis*

Līdz šim ir veikti pētījumi par apaļā jūras grunduļa populāciju un tā ietekmi uz ekosistēmu - nav pētījumu par tā komerciālo nozīmi dažādās valstīs. Pētījuma mērķis ir noskaidrot apaļā jūras grunduļa komerciālo nozīmi dažādās valstīs. Pēc pētnieku un ekspertu sniegtās informācijas, kā arī izbraukumos un interneta resursos iegūtās informācijas tika noskaidroti apaļā jūras grunduļa izmantošanas un apstrādes veidi dažādās valstīs, un analizēti tā noieta tirgi. Analīzes rezultātā tika noskaidrots, ka atsevišķās valstīs apaļajam jūras grundulim ir komerciāla nozīme, un tas ir sastopams vairākos apstrādes veidos, taču ir arī valstis, kur tam nav komerciālas nozīmes. Spriest par apaļā jūras grunduļa tirgus potenciālu šobrīd nevar. Ekoloģiska un ekonomiska rakstura jautājumi par apaļo jūras grunduli valstīm būtu jārisina kompleksi ES mērogā, vienojoties kopīgā stratēģijā. Pētījuma rezultāti var palīdzēt zivsaimniecības politikas veidošanā iesaistītajām institūcijām veiksmīgāk izstrādāt un pilnveidot nozares kopējo politiku.

## Introduction

The round goby (Neogobius melanostomus Pallas) is an invasive fish, living on the bottom of a reservoir in a saltish-water or fresh water ecosystem, and is an omnivore (Campbell *et al.* 2012). The fish is of a small size – it may reach the length of 30 cm (usually up to 20 cm) and weight up to 250 grams with average lifespan of 3-4 years. It has a big head, and its body is covered with tiny scales. Its ventral fins are grown together and form a sucker, which the fish uses to suck to solid substrate (Ustups *et al.* 2016) (Figure 1).

Its natural habitat is the waters of the Sea of Marmara, the Black and Caspian Seas (Moran *et al.* 2013). It is considered to be one of the most successful invasive fish of the turn of the 20th and 21st century in North America (the Great Lakes), and in many places in Europe, too. The round goby has got into the waters of different countries, most likely through ballast waters of ships or due

to active migration through rivers and water bodies, and the frequency of their incidence is increasing (Hensler *et al.* 2007).

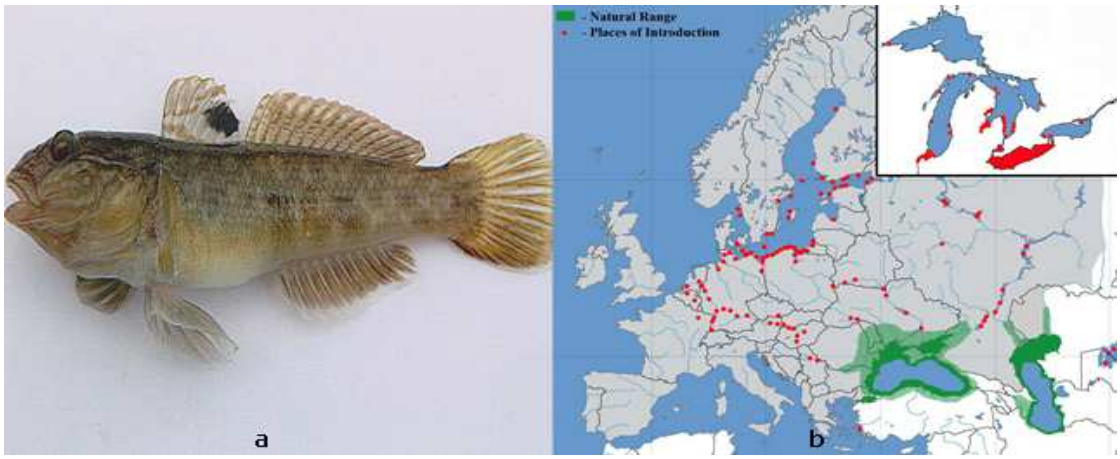


Figure 1. **The round goby and its spread in 2014 (author construction based on Sluijs 2014 (a); Kvach 2015 (b))**

The round goby might have a negative impact on the population of other fishes and mussels, and ecosystem, too (Charlebois *et al.* 2001; Minnesota Sea Grant 2011; Kornis *et al.* 2012). Usually after its population has consolidated, it is usually impossible to eliminate the round goby (Minnesota Sea Grant 2011). The author believes there are two ways of development or strategies: facilitation of the round goby's population and its integration in commercial processing or restriction of the round goby's population taking various measures. Before selecting any of the strategies, the countries should evaluate the ecological and economic benefits and losses from the population of the round goby. In this case, it is necessary to find out and assess the influence of the round goby on the population of fishes and mussels, and water ecosystem as well as its commercial role and potential.

The aim of the research is to find out the commercial role of the round goby in different countries. To reach the aim, the author set the following tasks: 1) to find out the types of the round goby's using and processing; 2) to find out the types and prices of the round goby production as well as factors influencing the production price; 3) to provide proposals and recommendations.

In order to find out the amounts and value of the round goby haul, its using and processing types and sales (consumption) in different countries, the author sent an enquiry for information to the central statistical bureaus of 36 different countries and more than 27 research institutes related to fisheries as well as the Food and Agriculture Organization and EUROSTAT. It was impossible to get the necessary statistical data on the round goby, since such data are not being summarized. In the basis of the research lie several internationally recognized publications and articles, the Internet resources, the results of correspondence and telephone interviews with the researchers and experts of various countries, the information acquired during field trips and companies statistical data about the round goby production.

The author reflected the results of the research in the article. A more detailed analysis of the results is described in the research funded by the Ministry of Agriculture of the Republic of Latvia called 'Opportunities of the Round Goby Use in Latvia'.

In the course of the research development the author used the descriptive method, analysis of documents and statistical analysis method. The methods used in the elaboration of conclusions, proposals and recommendations are the methods of analysis and synthesis.

Types of using and processing

The round goby has been introduced into many ecosystems and continues to spread - now the round goby population have in 27 countries. In several countries the round goby is used as a commercial fish, and there are several different types it is processed and offered. However, in the countries, where the round goby has no commercial role (only in by-catch), it has no application or is used as fish food – bait (Table 1).

Table 1. **The commercial role of the round goby in different countries in 2015 (author construction based on Biuksane 2015; ISC 2016; Companies data 2016)**

| Country | Originating | Commercial role |
|---|---|---|
| Bulgaria, Ukraine | natural range | has commercial role |
| Russia (Central Russia/South Russia) | natural range/invasive | |
| Denmark, Latvia, Lithuania, Poland, Sweden | invasive | |
| Turkey | natural range | does not have commercial role |
| USA, Canada, Estonia, Slovakia, Finland, Germany | invasive | |
| Azerbaijan, Georgia, Iran, Turkmenistan, Romania | natural range | does not have information |
| Kazakhstan, Uzbekistan, Austria, Belarus, Netherlands, Serbia, Hungary | invasive | |

Turkey is one of natural habitats of the round goby. The researcher Ali Serhan Tarkan from the Mugla University in Turkey explained that there were continuous studies on the round goby in his country. It is one of the least caught fish in the common catch of Turkey, and consequently, such statistical data are not summarized. The professor explained that the round goby in Turkey was not a commercial fish – it is mostly used as bait to lure and catch bigger fish (Biuksane 2015).

The round goby appeared in the USA in 1990 (Moran *et al.* 2013). The expert P.M. Kocovsky from the Lake Erie Biological Field Station explained that the round goby in the Great Lakes of the USA for the first time was caught using bottom otter trawl and so far its population had only increased (Biuksane 2015). The research carried out in the USA has proved that the round goby has a negative impact on the ecosystem of the Great Lakes; thereby, the USA developed several state programmes and measures aimed at limitation and elimination of the round goby's population (Hensler *et al.* 2007). Originally there were attempts to limit its population by using electrofishing,

however, this kind appeared to be inefficient, as the round goby remained on the bottom after the electric impact. Currently, the round gobies are being caught by trap nets or fish-baskets. The government forbid the use of the round goby as bait to catch other fish and its distribution from one water body to another (Stewart 1990). The expert explained that the round goby was used neither in commercial fishing nor in recreational fishing – it had integrated in the food network of the ecosystem of the Great Lakes and become a raw material for several fishes having a commercial role (Biuksane 2015).

In Estonia, the data of monitoring programme showed the presence of the round goby from 2002 (Ustups *et al*. 2016). There was a study in Estonia to find out what factors influence the spread of the round goby. The study discovered 6 environmental factors, facilitating the spread of the round goby, namely: low exposure to waves, low distance to harbour, high maximum salinity, high total cargo, high mean temperature and high mixing intensity. The emergence of the round gobies is a set of human-caused factors (Behrnes 2014).

The expert Riikka Puntila from the Finnish Environment Institute explained that in Finland the round goby was caught and it was not popular, thus, fishermen were encouraged to catch the fish more. The expert explained that in Finland the round goby was not processed for commercial purposes, and there was no information if it was going to be (Biuksane 2015).

The expert explained that in Poland, in the Hel Marine Station there were attempts to process the round goby. To facilitate sales, the state also carries out marketing activities, such as posters with canned round goby (Biuksane 2015). At the Polish coast the round goby has spawned in considerable amounts, eating up some species of mussels and attracting gannets or cormorants which eat this fish (Behrnes 2014).

In the end of November 2015, the author of the research managed to visit the National Marine Fisheries Research Institute in Poland and meet the Head of the Institute Emil Kuzebski, who explained that there was no available to him information on the round goby. The author of this research had an opportunity to meet the fish traders from the local market in Kostrzhyn nad Odra in Poland – not far from Odra and Warta rivers at the border of Poland and Germany. The fish traders explained that in Poland the round goby was used in diet both in smoked way and in canned way, however, on the local market of the city it was not offered, as there was no demand for it. At the local market there is mostly the supply of smoked salmon and eel (Biuksane 2015). The round goby in Poland have since 1990 (Kornis *et al.* 2012).

In addition, the author of the research visited a small fish shop on the other coast of the Odra and Warta rivers – in the territory of Germany. In the assortment of the shop there dominated live carps, fresh and refrigerated pikes, zanders, tenches, catfish, perches, roaches and carps as well as smoked eels, trouts, redfish, halibuts, salmons, mackerels and herrings; and the target audience of

the production are the local inhabitants. The round goby was not available in the assortment of this shop.

Contacting the researcher Ronald Fricke from the State Museum of Natural History Stuttgart, he pointed that the round goby was rarely caught in Germany; it was mostly caught in by-catch and had no commercial role. German institutions do not summarize any statistical data on the round goby (Biuksane 2015).

The researcher Vladimir Kovac from the Comenius University explained that in Slovakia the round goby was used in recreational fishing but it was not one of the favourites of fishermen. There are no data on the catch of round goby, as Slovakian institutions do not summarize such information (Biuksane 2015).

In Sweden, the round goby appeared for the first time in 2008; it was at Karlskrona. In the years to come, the Swedish University of Agricultural Sciences carried out a study on the behaviour of the round goby. The researchers have calculated that the speed of the round goby distribution is around 30 km a year (Behrnes 2014).

In Denmark, the round goby was discovered in 2008 at Bornholm (Azour et al 2015), where its spread has rapidly increased – currently, the most affected area is the waters of Copenhagen. Although the influence of the round goby on the trophic dynamic systems in Denmark has not been established yet, the local coastal fishermen have already filed some complaints on the fact that the round gobies get into their fish-baskets and eat commercial shrimps and mussels. The government of Denmark has introduced several measures to limit the population of the round goby – using it as a source of food to other kinds of fish and implementing the marketing campaigns aimed at including it into a diet. In Denmark, the round goby is used as supplementary food for pigs, processed into fish meal and oil as well as exported to Italy. In the basis of successful sales lies well-developed logistics (Behrnes 2014).

In Latvia, the round goby was initially discovered in 2004 (Ustups *et al.* 2016). The round goby is offered in fresh/refrigerated, frozen, fried, cured-dried, smoked way as well as canned and processed into fish meal. The frozen round goby is exported to Bulgaria. During telephone interviews the fishermen of the Latvian coastline admitted that the taste of the round goby is similar to the taste of cod, and it is not very difficult to sell it on the local market, although it is not very known to the consumers. The researcher Ilze Gramatina from Latvia University of Agriculture explained that so far the round goby had not had any economic role in Latvia. The researcher believes that there should be carried out research tests to find the most successful type and recipe of the fish processing (Biuksane 2015).

Bulgaria is one of the natural habitats of the round goby (Kornis *et al.* 2012). The expert Mario Lepage from the National Research Institute of Science and Technology for Environment

and Agriculture participated in the European project called "WISER" aimed at development of methods for assessment and restoration of an aquatic ecosystem. He explained that the natural habitat of the round goby was Lake Varna, which was extremely polluted – the local people used the round gobies, caught in this water body, in their diet mostly in fried and smoked way. The expert has obtained several samples of the round goby also from the Lake Lesina in the South of Italy (Biuksane 2015).

In Lithuania, the round goby was discovered in 2002 (Ustups *et al.* 2016); its main food source were mussels. Lithuania has developed a modelling approach allowing predicting the future tendencies of the round goby (Behrnes 2014). The researcher Linas Lozys from the Nature Research Centre in Lithuania explained that at the seacoast of the country in 2014 fishermen caught 2.85 tons of the round goby, which was not much in comparison with the amounts of fish consumed by cormorants (in average 60 tons a year). Although in Lithuania the round goby has no commercial role when processed, it is nevertheless used in small amounts when fried and smoked; in addition, it is possible to buy fresh round goby on the fish market in Klaipeda. Lithuania also exports the round goby to Latvia. The expert Riikka Puntila from the Finnish Environment Institute in Finland explained that Lithuania exported the round goby also to the countries located in the territory of the Caspian Sea (Biuksane 2015).

In Russia and Ukraine (the natural habitats of the round goby) (Moran *et al.* 2013), the round goby is available in fresh/refrigerated, frozen, fried and cured-dried way as well as smoked and canned way. In Ukraine, a popular type of processing is cured-dried round goby for eating it with beer – one can find dried round goby in Odessa. In Ukraine, the round goby is also used in fish meal; whereas in Sweden, the round goby is available in cured-dried and canned way (Biuksane 2015).

Currently, from the information available it is evident that the round goby has commercial role in Latvia, Bulgaria, Lithuania, Poland, Russia, Ukraine, Sweden and Denmark – in these countries the round goby can be found processed in several ways: fresh/refrigerated, frozen, fried, cured-dried, smoked and canned way as well as completely processed into fish meal; whereas, in Turkey, the USA, Estonia, Finland, Germany and Slovakia the round goby plays no commercial role, although it is established in the territorial waters of these countries.

The round goby production

The price of the round goby production types in various countries differs. Fresh/refrigerated round goby may be purchased not only in Latvia but also in Lithuania, Russia and Ukraine. For instance, in Russia different companies offer to purchase the round goby in fresh/refrigerated way: 0.29 EUR/kg per 10 kg briquette, 0.72 EUR/kg per 10-11 kg briquette (size of fish 14-16 cm) and 1.31 EUR/kg per 20 kg briquette (size of fish 14 cm). The price of the round goby depends on its size and weight – bigger fish are sold for higher price than smaller fish (Table 2).

Frozen round goby is available in Latvia, Bulgaria, Russia and Ukraine, where its price depends on the type: whether it has been frozen whole or only its fillet (per single piece or per block). The price of production is also influenced by the size and weight of the fish which was frozen. For instance, in Ukraine the frozen fillet of the round goby can be purchased for: 0.04 EUR/kg per 10 kg box and better quality product – 1.35 EUR/kg per 5 kg box.

One of the natural habitats of the round goby is the Black Sea, the coastal massif of which borders on the area of Bulgaria. The author has no information, if the round goby is available in Bulgaria in fresh/refrigerated and frozen way – it is known that this country consumes fried round goby. However, during telephone interviews with the Latvian coastal fishermen the author obtained information that the frozen round goby is exported from Latvia to Bulgaria. Consequently, it is possible that the round goby is available in Bulgaria in fresh/refrigerated and frozen way as well.

Table 2. **Types and prices of the round goby production in different countries in 2015 (EUR) (author calculations based on Companies data 2016)**

| Product types/Country | | | Latvia | Bulgaria | Lithuania | Poland | Russia | Ukraine | Sweden |
|---|---|---|---|---|---|---|---|---|---|
| Fresh/Chilled (EUR/kg) | | | 0.10-1.20 | | x | | 0.29-1.31 | 0.04-0.39 | |
| Frozen (EUR/kg) | | Piece | x | x | | | 0.30-2.13 | 0.16-0.62 | |
| | | Fillet | | | | | x | 0.40-1.35 | |
| Fried (EUR/porco) | | | | 6.14 | x | | x | 2.54-5.27 | |
| Cured-dried (EUR/kg) | | Piece | | | | | 2.63 | 1.56-4.49 | 2.93 EUR/75 g package |
| | | Fillet | | | | | | 5.47 | |
| | | Skeleton | | | | | 9.69 | 4.10 | |
| Smoked (EUR/kg) | Cold smoked | Piece | | x | x | x | x | 1.17-2.62 | |
| | | Fillet | | | | | | 4.15 | |
| | Hot smoked | Piece | 2.50-5.00 | | | | | 1.85-10.65 | |
| | | Fillet | | | | | | 10.98 | |
| Canned (EUR/cans) | | Fried in tomato sauce | > 1 EUR | | | x | 0.25-0.42 EUR/240 g | 0.21 EUR/250 g; 0.58 EUR/240 g | 3.25 EUR/280 g |
| | | Smoked in oil | | | | | 0.57 EUR/175 g | 1.09 EUR/240 g; 2.09 EUR/150 g | |
| Fish meal (EUR/kg) | | | 1.2-1.4 | | | | | x | |

Note: Prices are summarized on separate random companies – these are not the average prices of the year. "X" – the type of the round goby production is established, however, its sale price is unknown.

Fried round goby is available not only in Bulgaria but also in Lithuania, Russia and Ukraine. In Lithuania, the fried round goby is mostly consumed by the people living and fishing at the seacoast. However, in the Internet sources of Russia there are several recipes available how to cook the round goby at home. In Russia, Ukraine and Sweden one can buy cured-dried whole round goby (with/without head and with/without skin). In addition, in Ukraine a client can choose the kind of technology used in the process of curing-drying – unprocessed, mechanically or manually processed round goby, what also influences the price. For instance the manually processed round goby are more expensive (4.49 EUR/kg) than the unprocessed (1.56 EUR/kg) or mechanically processed (3.71 EUR/kg) round goby.

From the available information it is possible to draw a conclusion that cured-dried fillet of the round goby is available only in Ukraine. A particular fish processing company from Ukraine sells cured-dried fillet of the round goby packed in a box of 3.5 kg. The deal conditions are: price 5.47 EUR/kg, minimum order of 500 kg. There is no information on the offers of other companies. Considering the fact that the round goby is popular food in combination with beer, one can buy also smaller amounts of its cured-dried fillet – at 0.23 EUR per 40 g package.

Cold and hot smoked round goby is available as well. Using the cold smoking technology, the round goby is smoked for a long time at low temperature, resulting in very salty, fatty production which may be kept for a long time. Cold-smoked round goby is available in Russia and Ukraine.

For instance, one can buy cold-smoked round goby (whole, without head, skin and viscera) in Ukraine at 2.58 EUR/kg in amount up to 10 kg and at 2.38 EUR/kg starting from 10 kg. But another company in Ukraine offers to purchase cold-smoked round goby (whole, without head, skin and viscera) at 2.07 EUR/kg per amount of 3-5 kg and at 1.17 EUR/kg starting from 6 kg.

In contrast, applying hot smoking technology the round goby is smoked for a short time at high temperature, resulting in lightly salted, juicy and aromatic production. Hot-smoked round goby is available not only in Latvia but also in Ukraine.

Smoked round goby is available also in Bulgaria, Lithuania and Poland. Currently, there is no information on the smoking process and the final product types as well as the prices in particular countries, only facts have been established. The price of production depends on the used smoking technology, fish size and amounts as well as the expected final production – whole (without head, skin and viscera) fish or fillet, and the amount of the order itself.

The round goby is also available as canned product – fried round goby in tomato sauce and smoked round goby in oil. Canned fried round goby in tomato sauce is available in Poland, Russia, Ukraine and Sweden. For example, a Russian company offers canned round goby in tomato sauce at the wholesale price of 0.24 EUR/240 g tin, providing that delivery is in Bryansk, and in Moscow one can buy it at the wholesale price of 0.25 EUR/240 g tin. Another Russian company offers canned round goby in tomato sauce at 0.42 EUR/240 g tin, providing that minimum order is 48 tins. A Ukrainian company sells such canned fish at 0.58 EUR/240 g tin.

From the summarized information it is evident that the most expensive canned fish is the smoked round goby in oil available in Russia and Ukraine. For example, offer of a particular Russian company is: price – 0.57 EUR/175 g tin, minimum order – 84 tins, delivery region – Russia and the CIS countries.

The round goby is also available for processing as fish meal. The Latvian coastline fishermen told that the purchasing price of the round goby for processing into fish meal varied from 0.10 to 0.15 EUR/kg. Contacting a representative of the company producing fish meal in Latvia, the author

found out that the price of fish meal varies from 1.2-1.4 EUR/kg. There is no information about the fish meal price in Ukraine. Sales price of the round goby production depends not only on the demand for a specific type of production and the invested into it production resources (used technologies, labour etc.) but also the size and weight of the used raw material (round goby), and trade conditions.

Although the author summarized information on the types of using and processing of the round goby in different countries, the countries of production, produced amounts and average prices as well as consumption are unknown. It is impossible to judge about the market potential of the round goby basing on the prices of the round goby production types and its delivery conditions, provided by separate companies, since the statistical data required for such analysis are not being integrated. So far, only separate facts have been established.

**Conclusions, proposals, recommendations**

The round goby is an invasive fish, living on the bottom of a reservoir in both the salt water and fresh water ecosystem, and is an omnivore. It might negatively influence the population of other fishes and mussels as well as ecosystem. Usually after its population has consolidated, it is usually impossible to eliminate the round goby.

In some countries the round goby plays a commercial role, and it can be found processed several ways: fresh/refrigerated, frozen, fried, cured-dried, smoked, canned as well as processed into fish meal and in oil. However, there are such countries, where the round goby has no commercial role – it is used as a source of food or bait for other fishes.

Sales price of the round goby's production depends on the demand for a specific type of production and the invested into it production resources, quality of the used raw material and trade conditions. It is impossible to judge about the market potential of the round goby, as the statistical data required for such analysis are not being integrated.

There are two ways of development or strategies: facilitation of the round goby's population and its integration in commercial processing or restriction of the round goby's population taking various measures. Facilitation of the round goby's use in commercial processing might be a good solution in case of both the strategies. The countries should view the ecological and economic issues related to the round goby fully in the framework of the EU, implementing a joined strategy.

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# INNOVATION: PROBLEMS OF DEFINITION

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**Abstract**

**Innovation: problems of definition**

***Key words:*** *innovation determination, new products, production processes, services, market, competitiveness*

Innovation concept provides a broad set of measures which in any way can speed up and improve those aspects which can be used to develop and produce new products,improve production processes and services.All of these changes would result in creating new jobs, improving people's overall living standards and would encourage "green" growth and social progress.

Innovation concept explained and defined in Latvian Republicby a document approved by the Cabinet of Ministers - Business Competitiveness and Innovation Promotion Programme 2007 -2013. The definitions mentioned in this documentcorresponding to Latvian and European Union common understanding of the innovation and its related concepts:innovation is the process by which new scientific, technical, social, cultural or any other field of ideas, developments and technologies are implemented in competitive and market demanded product or service.

Understanding the concept of innovation is very diverse.There are a lot of explanations of the concept of innovation in the world to express the essence of innovation. Each of them is expressed in a variety of aspects of innovation.

The Scientific Activity Law of the Republic of Latvia defines that innovation is an implementation of a new scientific, technical, social, cultural or any other field of ideas, design and technology of the product or service.

There are different definitions of innovation in the world.The author analyses thediversity of broad innovation determination optionsand offers its own definition of innovation in the article.

**Kopsavilkums**

**Inovācijas: definīcijas problēmas**

***Atslēgvārdi:*** *inovācijas noteikšana, jauni produkti, ražošanas procesi, pakalpojumi, tirgus, konkurētspēja*

Inovācijas jēdziens paredz plašu pasākumu kopumu, kas jebkādā veidā var paātrināt un uzlabot tos aspektus, kurus var izmantot jaunu produktu izstrādē, attīstībā un ražošanā, uzlabot ražošanas procesus un pakalpojumus. Visu šo izmaiņu rezultātā tiktu radītas jaunas darba vietas, uzlabotos iedzīvotāju kopējais dzīves līmenis un tiktu veicināta „zaļā" izaugsme un sociālais progress.

Latvijā inovācijas jēdzienu skaidro un definē MK apstiprināts dokuments – Komercdarbības konkurētspējas un inovācijas veicināšanas programma 2007.-2013.gadam. Šajā dokumentā minētās definīcijas atbilst Latvijā un Eiropas Savienībā vienotajai izpratnei par inovāciju un ar to saistītajiem jēdzieniem: inovācija ir process, kurā jaunas zinātniskās, tehniskās, sociālās, kultūras vai citas jomas idejas, izstrādnes un tehnoloģijas tiek īstenotas tirgū pieprasītā un konkurētspējīgā produktā vai pakalpojumā.

Inovācijas jēdziena izpratne ir ļoti daudzveidīga. Lai izteiktu inovācijas būtību, pasaulē eksistē ļoti daudz inovācijas jēdziena skaidrojumu. Katrs no tiem izsaka kādu no inovācijas daudzveidīgajiem aspektiem.

Inovācija ir viens no jaunas, efektīvas un uz zināšanām virzītas ekonomikas galvenajiem dzinējspēkiem.

LR Zinātniskās darbības likums definē - inovācija ir jaunu zinātniskās, tehniskās, sociālās, kultūras vai citas jomas ideju, izstrādņu un tehnoloģiju īstenošana produktā vai pakalpojumā.

Pasaulē tiek izmantotas dažādas inovācijas definīcijas. Piemēram, Lielbritānijas valdība izmanto sekojošo definīciju - inovācija ir veiksmīga jaunu ideju ieviešana jaunās tehnoloģijās, dizainā un citās praksēs, kas ir galvenais veiksmes faktors biznesa procesa attīstībā.

Rakstā autors analizē plašo inovāciju noteikšanas variantu daudzveidību un piedāvā savu inovācijas definīciju.

The governments of different countries invest enormous funds on research and innovation in modern conditions. For example, Germany spends about 2.7% of GDP (gross domestic product) on research and development, USA - 2.8%, Japan - about 3.5%; the transition countries spend significantly less: Belarus - 0.74% of GDP, Russia - 1.04% (The Word Bank database). However, the task of improving the efficiency of use the funds allocated to enterprises and research teams comes to the forefront in conditions of crisis of the global economy. Therefore it is formed a close relationship between innovation and economic efficiency. "European innovation scoreboard" (EIS)

published annually for this purpose in the European Union (Inn). Indicators of technical efficiency for a number of European Union (EU) countries were calculated in 2007 on the basis of the operational environment analysis method. Based on these results, all the countries have been grouped into 4 groups:

- innovative leaders;
- innovation followers;
- countries - moderate innovators;
- "catching up" countries (Hugo Hollanders, Funda Celikel Esser 2007).

On the basis of the operational environment analysis method it was carried out the analysis of competitiveness of the Belarusian economy and the impact of innovative activity on this indicator (Громеко 1977). The author uses 43 countries, 3 input parameters in this study (research intensity of GDP, the number of scientists per one million people, spending on education as % of GDP) and 3 output variables (the number of national patent applications, high-tech exports as% of industrial exports, exports of ICT (information and communication technologies) as% of total export).The results clearly show that the best results in the conversion of costs in innovation activities are in countries such as the US, Japan, South Korea, Germany, at the same time, the Republic of Belarus, the Russian Federation and other countries with transition economy use funds inefficiently.

Innovative competitiveness of the region is determined by the competitiveness of the enterprises located in its territory, the activity of which depends on economic performance (institutes, institutions, effective economic structures), and is determined by the rational use of regional resources, a developed institutional environment, creating favourable conditions for competitive producers in both domestic as well as foreign markets. Therefore, the formation of an effective internal regional institutional environment is one of the main regional priorities (Дейнеко и др. 2013).

The concept of innovation was born in the nineteenth century, during the second scientific and technological revolution.

After the invention of the steam engine, many enterprising people have realized that science can bring substantial income, and have invested in it considerable funds. The work of scientists was paid well, they were provided with all conditions for productive work, and the result was not long in coming: just in a few decades it have been invented steamship and railway, electric and gasoline engine, the phonograph and the photo ...At the same time, it was invented hundreds of other less significant inventions, many of which received a start in life (Innovation theory website).

The big industrialists, bankers and wealthy people simply contained the entire laboratories where the best scientists worked to achieve a particular result, some just sponsored scientists without immediate goals, in the hope that they eventually will be able to invent something useful.

Making investments in science became fashionable, because the money invested in the renovation and improvement of production capacity, often returning back a hundredfold. So the word “innovation” has appeared, because in Latin “In novatio” literally means "toward the renovation" (Innovation theory website).

The term "innovation" comes from the Latin “novatio”, which means “renewal” (or “change”), and prefix “in”, which translates from the Latin as “in the direction”, so if translated literally “Innovation” – “in the direction of change”. The concept of innovation first appeared in the scientific research literature of the XIX century (Базилевич 2006). The term innovation still has no clear interpretation, although with each passing day this concept is becoming increasingly important in the global and regional economy.The poll, carried out by RPORC (Russian Public Opinion Research Centre) showed that 47% of respondents interpreted the term in different ways, and 53% did not know - what it is in Russia (Азгальдов и др. 2009).

As an economic category of the term innovation is introduced into a scientific turnover by turn Austrian and American economist Joseph Schumpeter in his work “The Theory of Economic Development” (1911), where he considered the issues of “new combinations” of changes in the development and gave a full description of the innovation process (Шумпетер 1995).

Worth noting that the definition of Schumpeter is not exhaustive. There are many interpretations of the concept of innovation in the economic literature that indicates the absence of generally accepted terminology in this field (Шишкина 2014).

The aim of theresearch - to study the existing definitions of innovation, analyze them and create its own, a refined, definition of innovation in the regional aspect.

There are many definitions of innovation offered by different authors. Schumpeter interprets innovation as any possible change that occurs due to the use of new or improvement of technical solutions, technological and organizational processes in the production, supply, marketing, after-sales service, etc. (Климанова 2014; Шумпетер 1982). He singled out five common changes:

- the use of new technology, new processes or new market providing production (purchase - sale);
- the introduction of products with new properties;
- the use of new raw materials;
- changes in production technology and logistics;
- the emergence of new markets.

These positions are formulated by Joseph Schumpeter in 1911. He introduced the concept of innovation later, in 1930s, treating it as a change in the purpose of implementation and use of new types of consumer products, new production facilities and means of transport, markets and forms of organization in the industry (Агарков и др. 2011).

Another similar version of this definition is given by G. Krajukhin and L. Shcherbakova *(Г. А. Краюхин и Л.Ф. Щербакова)* – implementation of changes of something new (Краюхин и др. 1995).

Further development of an innovative perspective gets in the scientific and economic environment. Among its representatives should be mentioned such as G. Mensch, A. Klayhneht, K. Freeman, J. Zaltmen, P. Drucker, B. Santo, La Pierre, R. Greminger, B. Chakrovorti.Innovations are identified as any technology (technical or managerial) invention or invention in the structure of production that brings economic benefits in the works of mentioned researchers.

The Russian science discourse on issues of innovation develops in the late XX century. Taking into consideration the experience of different research, innovation is currently receiving its greater interpretation in applied economics and scientific thought, especially, in management, sociology of organizations, etc. (Шишкина 2014).G. Krajukhin *(Г. А. Краюхин)*, L. Shaybakova *(Л. Ф. Шайбакова)*, V. Tsirenschikov *(В. С. Циренщиков)*, A. Meshkov *(А. А. Мешков)*, Y. Yakovets *(Ю. С. Яковец)*, D. Ilyenkova *(Д. Ильенкова)*, L. Golhberg *(Л. М. Голхберг)*, S. Yagudin *(С. Ю. Ягудин)*, S. Ildemenov *(С. В. Ильдеменов)*, V. Vorob'ev *(В. П. Воробьев)*, V. Gromeka *(В. И. Громека)*, I. Balabanov *(И. Т. Балабанов)*, A. Prigogiy *(А. И. Пригожий)* have devoted their works for the study of innovation in the given aspect.

In the English economic literature, where the term "innovation" has a long tradition of daily use, there are well-established expressions, emphasizing the breakthrough, particularly important nature of the innovations, for example (Англо-русский словарь по экономике и финансам):

- capital-saving innovation;
- design innovation;
- factor-saving innovation;
- financial innovation;
- manufacturing innovation;
- product innovation.

Innovation is one of the new, efficient and knowledge-driven main economy driving forces. Innovation concept provides a broad set of measures which in any way can speed up and improve those aspects which can be used to develop and produce new products, improve production processes and services. All of these changes would result in creating new jobs, improving people's overall living standards and would encourage “green” growth and social progress.

There are different definitions of innovation in the world. For example, the British government uses the following definition: “Innovation is the successful introduction of new ideas in new technologies, design and other practices, which is a key success factor in the development of the business process ...” (Innovation support website 2016).Vice President of the European

Commission Antonio Tajani emphasizes: “Innovation in its broadest sense is a new thinking that provides value.” (Volkova 2013).

Innovation concept explained and defined in Latvian Republic by a document approved by the Cabinet of Ministers - Business Competitiveness and Innovation Promotion Programme 2007 - 2013. The definitions mentioned in this document corresponding to Latvian and European Union common understanding of the innovation and its related concepts: innovation is the process by which new scientific, technical, social, cultural or any other field of ideas, developments and technologies are implemented in competitive and market demanded product or service (Komercdarbības konkurētspējas un inovācijas... 2007).

The Scientific Activity Law of the Republic of Latvia defines that innovation is an implementation of a new scientific, technical, social, cultural or any other field of ideas, design and technology of the product or service (Zinātniskās darbības likums).

Latvian National Innovation Programme 2003–2006 uses the following definition of innovation:"Innovation - the process by which new scientific, technical, social, cultural or any other field of ideas, developments and technologies are implemented in competitive and market demanded product or service." (Nacionālā inovāciju programma 2003.–2006. gadam).

Understanding the concept of innovation is very diverse. There are a lot of explanations of the concept of innovation in the world to express the essence of innovation. Each of them is expressed in a variety of aspects of innovation. In modern scientific literature, affecting an innovative perspective there are several approaches to the definition of innovation.

The first approach defines innovation as the final result, which is associated with the improvement of product or service on the market, the improvement of the manufacturing process or the use of a new approach in dealing with various industrial and social problems.

Understanding of innovation as the end result is typical for the works of many authors: J. Allen *(Й. Ален)*, B. Santo *(Б. Санто)*, V. Gromeko *(В. И. Громеко)*, L. Loikaw *(Л. В. Лойко)*, A. Levinson *(А. Левинсон)*, S. Beshelev *(С. Д. Бешелев)*, F. Gurvich *(Ф. Г. Гурвич)*, D. Sokolov *(Д. В. Соколов)*, A. Titov *(А. Б. Титов)*, M. Shabanova *(М. М. Шабанова)*, D. Kokurin *(Д. И. Кокурин)*, N. Avsyannikov *(Н. М. Авсянников)*, V. Medynskiy *(В. Г. Медынский)*, B. Raizberg *(Б. А. Райзберг)*, L. Lozovsky *(Л. Ш. Лозовский)*, R. Fatkhutdinov *(Р. А. Фатхутдинов)* and others (see Table 1).

Table 1. **Researchers – proponents of narrow focus on the definition of innovation**

| Author | Definition |
|---|---|
| B. Santo | Innovation - is a social, technical, economic process which, through the practical application of ideas and inventions leads to the creation of the best on the properties of products, technologies (Агарков и др. 2011) |
| F. Nixon | Innovation - a set of technical, industrial and commercial activities, leading to the emergence of new and improved industrial processes and equipment on the market (Агарков и др. 2011) |
| E. Utkin, N. Morozova, G. Morozova | innovation usually refers to an object that is embedded in the production as a result of the research or of the discovery, qualitatively different from the previous analogue (Уткин и др. 1996) |
| J. Allen | innovation is the introduction and mass consumption of new products, processes and ways of behavior (Allen 1966) |
| P. Drucker | "... innovation - is the development and introduction of new, not previously existed, by which the old, well-known elements give the new shape of the business economy ... The essence of innovation more conceptual than technical or scientific" (Беляева 2006) |
| V. Gromeko | defines innovation as a process in which a technical invention or a scientific idea must be brought to the stage of practical application and should provide economic effect (Громеко 1977) |
| A. Kulagin | Innovation - new or improved products (goods, works, services), the method (technology) of its production or use, innovation or improvement in the organization and (or) manufacturing economy, and (or) sale of products, providing an economic benefit, creating the conditions for such benefit or improve consumer properties of products (goods, works, services) (Мезенина 2012) |
| R. Fatkhutdinov | Innovation - is the final result of the implementation of innovations in order to change the control object and produce economic, social, environmental, scientific, technical or other type of effect (Агарков и др. 2011) |

Source: the elaboration by author.

This approach focuses on the scientific-technical stage of the innovation process and is associated with a narrow understanding of innovation, often accentuates its market relevance (Теркина 2006).

The second approach expands the semantic concept of innovation, and defines it as a process.

This approach considers the innovation as the transformation of creative ideas into a finished product, an increment of knowledge, with its subsequent implementation, the real breakthrough in the way of thinking, etc. (Теркина 2006). Supporters of this approach are La Pierre *(ЛаПьерре)*, P. Whitfield *(П. Витфилд)*, V. Solomatenko *(В. Н. Соломатенко)*, R. Greminger *(Р. Гремингер)*, N. Volynkina *(Н.В.Волынкина)* (see Table 2).

Table 2. **Researchers - supporters of a broad approach in determining the innovation**

| Author | Definition |
|---|---|
| P. Whitfield | innovation is the development of creative thinking and its transformation into the finished product, process or system (Воронов 2005) |

| | |
|---|---|
| V. Solomatenko | innovation is "the increase and implementation of knowledge" (Васильева 1998) |
| La Pierre | any change in the internal structure of the economic organism by transition from the original to a new state (Воронов 2005) |
| N. Volynkina | involvement of results of intellectual activity in economic turnover, containing new, including scientific, knowledge in order to meet public needs and (or) profit (Волынкина 2006) |

Source: the elaboration by author.

F. Valenta *(Ф. Валента)*, Y. Yakovets *(Ю.В. Яковец)*, L. Vodachek *(Л. Водачек)* defining innovation, argue that the most important are changes in various processes (see Table 3).

Table 3. **The researchers, emphasizing changes in determining innovation**

| Author | Definition |
|---|---|
| F. Valenta | classifies innovative changes, including multiple levels (hierarchy) of a different order (Афоничкин 2007) |
| Y. Yakovets | qualitative changes in production (Яковец 1988); he identifies four types of innovation in terms of the cyclical development of technology :<br>• the largest basic innovations;<br>• large innovations;<br>• middle innovations;<br>• small innovations (Мюллер 2012) |
| L. Vodachek, O. Vodachkova | target change in the functioning of the enterprise as a system (Водачек и др. 1989) |

Source: the elaboration by author.

The author is a supporter of the narrow approach in determining the innovation. As a result of analyzing the literature, he defines innovation in the framework of the research as the end product of research and practice, which differs significantly from its predecessors in its properties, created with the purpose of obtaining an economic, administrative, environmental, scientific, technical or other type of effect.

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# INNOVATIVE DEVELOPMENT PROBLEMS NOWADAYS

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**Abstract**

**Innovative development problems nowadays**

***Key words:*** *world economic,investments, high risks, domestic market, global markets, institutional intermediation*

The main trend of the world economic development is its innovative nature nowadays. Fundamental condition for the successful development of a company is its competitive products not only in domestic market but also in global markets. Twenty-first century has been marked as a rapid development era that increases competition not only between companies but also between countries. The state must enhance its innovative economic policies carefully and thoughtfully in order to withstand the increasing competition fights. Innovation policy successful implementation requires a number of conditions to comply with.

The aim of the research - to identify the main problems of innovative development and suggest ways to solve them. There are used the following methods in the study: logical analysis and synthesis methods, international economic theory and empirical sources monographic and analytical research methods, statistical analysis techniques.

Innovation development requires huge financial investment, which is quite hard to find. This situation very significantly impedes the implementation of innovative policies in the country. In addition, investments in innovation are related to high risks – the possibility of losing financial investments, if the demand of an innovative product will not be sufficient, is particularly high.

Given the above, it becomes clear why the innovative actions are realized with certain institutional intermediation in the world. Resources are accumulated in the stock markets and concentrated in the specialized financial institutions - different funds, investment banks, etc. Risks are provided with specialized financial authorities.

Innovation development is a natural process of development of private business in a market economy. There are more than 60% of the total cost of research and innovation funded by private business funds in economically developed countries.

Innovation development requires the replacement of an old production infrastructure. When a company develops innovative, products or services output reduction occurs periodically, because innovation does not give the immediate economic effect.

Innovation requires incentives.It is a windfall profits a bonus for the product or service average quality level exceeding in the market economy.

Thereshould build infrastructure in the country, aimed at providing financial support to innovation, for example, specialized innovative development banks. One of the main problems is the lack of financial support for non-bank financial sphere: need for specialized guarantee funds that are established with state participation.

**Kopsavilkums**

**Inovatīvās attīstības problemātika mūsdienās**

***Atslēgvārdi*****:** *pasaules ekonomika, investīcijas, augstie riski, vietējais tirgus, globālie tirgi, institucionālā pavadība*

Par pasaules ekonomikas attīstības galveno tendenci mūsdienās kļūst tās inovatīvs raksturs. Uzņēmumu veiksmīgas attīstības pamatnosacījums ir konkurētspējīga produkcija ne tikai vietējā tirgū, bet arī pasaules tirgos. Divdesmit pirmais gadsimts ir iezīmēts kā straujās attīstības laikmets, kas saasina konkurenci ne tikai starp uzņēmumiem, bet arī valstu starpā. Lai varētu izturēt šo arvien pieaugošu konkurences cīņu, valstij rūpīgi un pārdomāti jāveido sava inovatīvās ekonomikas politika, kuras veiksmīga īstenošana prasa vairāku nosacījumu ievērošanu.

Pētījuma mērķis - noteikt inovatīvās attīstības galvenās problēmas un ieteikt to risināšanas ceļus. Pētījumā ir izmantotas šādas metodes: loģiskās analīzes un sintēzes metodes, starptautiska līmeņa ekonomisko teorētisko un empīrisko avotu izpētes monogrāfiskā un analītiskā metode, statistiskās analīzes metodes.

Inovāciju attīstība prasa lielus finansu ieguldījumus, kurus rast ir samērā grūti, kas ļoti būtiski kavē inovatīvās politikas realizēšanas iespējas valstī. Turklāt, investīcijas inovācijās atšķiras no citiem ar augstiem riskiem – iespēja zaudēt finansu ieguldījumus gadījumā, ja inovatīva produkta pieprasījums tirgū nebūs pietiekams, ir īpaši liela.

Ņemot vērā augstākminēto, kļūst skaidrs, kāpēc inovatīvā darbība pasaulē tiek realizēta ar noteiktu institucionālo pavadību. Resursi tiek akumulēti fondu tirgos un koncentrēti specializētās finansu iestādēs – venčurfondos, investīciju bankās, u. c. Riski tiek nodrošināti ar specializēto finansu iestāžu palīdzību.

Tirgus ekonomikas apstākļos inovāciju attīstība ir dabisks privātās uzņēmējdarbības attīstības process. Ekonomiski attīstītās valstīs vairāk nekā 60 % no kopējām izmaksām pētniecībai un inovācijām tiek finansēti ar privātās uzņēmējdarbības līdzekļiem.

Inovāciju attīstība prasa vecas ražošanas infrastruktūras nomaiņu. Uzņēmumam, inovatīvi attīstoties, periodiski notiek produkcijas vai pakalpojumu ražošanas apjomu samazināšanās, jo inovācijas nedod tūlītējo ekonomisko efektu.

Inovāciju attīstībai nepieciešami stimuli. Tirgus ekonomikā tā ir virspeļņa, kā bonuss par produkta vai pakalpojuma vidējās kvalitātes līmeņa pārsniegšanu.

Valstī jāveido infrastruktūra, kuras mērķis ir inovāciju finansiāla atbalsta sniegšana, piemēram, specializētie inovatīvās attīstības bankas. Finansu sfērā viena no galvenajām problēmām ir ārpusbanku finansu atbalsta trūkums: nepieciešami specializētie garantijas fondi, kuri ir dibināti ar valsts līdzdalību.

The main trend of the world economic development gets its innovative character nowadays.Successful business development is fundamental to competitive products not only in domestic market but also in global markets.Twenty-first century has been marked as a rapid development era, which is exacerbated by competition not only between companies but also between countries. In order to withstand the increasing competition, the countries should build their own innovative economic policies thoroughly and carefully that successful implementation requires a number of conditions are met.

The aim of the research - to identify the main problems of innovative development and suggest ways to solve them.

The objectives of the study are the following: to study the methodological and theoretical aspects of the problems of innovative development, to suggest ways to solve them, to find out the statistical data.

There are used the following methods in the study: logical analysis and synthesis methods, international economic theory and empirical sources monographic and analytical research methods, statistical analysis techniques.

Belarusian State Economic University docent A. Yegorov focuses on the following key aspects of national innovative development: funding need, excessively high risks, the existence of institutional infrastructure (Егоров 2010). Each of them is being considered and determined its role in the national innovation economy formation in the article.

The success of innovation is largely determined by the shape of its organization and methods of financial support.The sources of innovation financing may be enterprises, financial-industrial groups, small innovative business, investment and innovation funds, local governments, private individuals, etc.All of them are involved in the economic process, and one way or another contribute to the development of innovation.

Financing of innovative activity is carried out both from public and private sources in developed countries.It is typical approximately the equal distribution of financial resources for research and development between the public and private capital for most countries of Western Europe and the United States of America (Portal of remote consultation of small businesses.).

The principles of funding organizations should be focused on the multiplicity of sources of financing and to assume a quick and efficient implementation of innovations and their commercialization, providing increased financial returns from innovation.

Unfortunately, the current state of innovation and investment climate is far from ideal in Latvia.Reducing the volume of state funding, the lack of own capital and the lack of strategic thinking among their leaders is not compensated by the influx of private capital today.

Sources of financing are divided by type of property into (Portal of remote consultation of small businesses):

- state investment resources (budget funds, non-budgetary funds, government borrowings, blocks of shares, state ownership of property);
- investments, including financial resources of economic entities, as well as non-governmental organizations, individuals, etc.

This is about investment resources of institutional investors, including insurance companies, investment funds and companies, private pension funds. This also includes the own funds of enterprises, as well as credit resources of commercial banks, other financial institutions and specially authorized government investment banks.

Funding sources at the state level are (Portal of remote consultation of small businesses):

- own resources budgets and off-budget funds,
- the funds raised from public credit - banking and insurance systems,
- borrowed funds in the form of external (international borrowing) and domestic government debt (government bonds and other loans).

Funding sources at the enterprise level are:

- own funds (profit, depreciation, insurance compensation, intangible assets, temporarily idle assets and capital);
- the funds raised from the sale of shares, as well as contributions earmarked receipts, etc.;
- borrowed funds in the form of budget, banking and commercial loans (Portal of remote consultation of small businesses).

As a rule, it is very difficult to choose an option from the proposed innovative projects for the investor. Therefore, it is the most widely used portfolio approach to minimize project risks and optimizing the parameters of success of the project.

The portfolio of innovations must contain a variety of projects, large and small, far and near on terms, different in purpose and principles of implementation.It is necessary for the optimal implementation of innovations with high productivity of financial and economic indicators, as well as for the company's successful strategy of competition.The content of the portfolio should be audited quite frequently, as well as revised and updated.

Careful and comprehensive analysis and selection of innovative projects allow optimizing the portfolio.Analysis and selection of innovative projects are carried out on the basis of set of methods

and ways to predict costs for all stages of the innovation life cycle, taking into consideration a variety of technical solutions, financial and economic factors.

Innovation development requires huge financial investments, which is relatively difficult to find.There are not a lot of industrial giants in Latvia, who could order the creation of innovative products and invest in their implementation.Lack of financial support very significantly impedes innovation policy implementation.In addition, investment in innovation is different from other risks that largely exceed the average - losing the financial investments in the case of an innovative product demand on the market will not be sufficient, is particularly high.

As a result of the adverse manifestations of the risks of innovation, as a rule, five innovations are unprofitable of ten attempts to innovate.There are only three innovations, which can achieve the "break even" of the remaining five innovative products.The remaining two innovations provide a profit that is distributed to all ten innovative products of not less than 40% (Ряховский 2008).

In general terms, the risk in innovation activity can be defined as the probability of losses arising from the investing by organization in the production of new goods and services, the development of new techniques and technologies that may not find the expected demand in the market, as well as investing in the development of management innovations that will not bring the desired effect.

Innovative risk occurs when the following situations take place:

1. implementation of a cheaper method of production of goods or provision of services as compared to the already in use.Such investments bring the organization a temporary excess profit as long as the organization is the sole owner of the technology. The organization is faced with one type of risk - a possible misjudgement of demand for manufactured goods in this situation;
2. creating a new product or the provision of services on older hardware.In this case, the risk of incorrect assessment of the demand for a new product or service is augmented by risk of non-compliance quality of the goods or services in connection with the use of the equipment, which does not allow to ensure the necessary quality;
3. in the manufacture of a new product or service using new technology. In this situation, an innovative risk includes the risk that a new product or service cannot find a buyer, the risk of mismatch of the new equipment and the requirements of the technology needed for the production of new goods or services, the risk of inability to sell created equipment, because it does not correspond to the technical level required for the production of new goods (see Table 1).

Table 1. **Types of innovative risks in depending on the stage of the innovation process**

| The stage of the innovation process | Types of innovation risks |
|---|---|
| Risks at the stage of creation | • the risk of improper registration application materials to obtain protective documents;<br>• recognition of the risk if the result obtained is not subject to legal protection;<br>• the risk of imitation objects of competitive innovation;<br>• risks associated with the acquisition of property rights;<br>• the risk of disclosure of confidential information;<br>• the risk of default by counterparties according to author's contract, contract of commercial concession;<br>• the risks associated with errors and omission of the appraisers. |
| Risks at the development stage | • the risk of the impossibility of the result implementation at the technological level;<br>• the risk of obsolescence of the object of innovation;<br>• the risk of imitation objects of competitive innovation;<br>• the risks associated with errors and omission of the appraisers. |
| Risks at the dissemination stage | • the risk of mismatch of requirements of patent documents;<br>• the analogues risk;<br>• the risk of objection of patents;<br>• the imitation risk of patented objects by competitors;<br>• the risks associated with errors and omission of the appraisers;<br>• the redundancy risk of new facilities of innovation;<br>• the risk of pricing. |

Source: (Акулов 2012)

Innovative development is associated with the risk much more than other activities. There are many ways to reduce innovative risks and methods to manage them:

1. group of risks compensation methods:
    a. strategic planning of the organization;
    b. active marketing;
    c. Prediction of the environment;
    d. Monitoring the socio-economic and legal environment;
    e. e. provisioning system;
2. group risk-sharing methods:
    a. diversification of activities;
    b. diversification of sales and deliveries;
    c. diversification of accounts payable;
    d. diversification of investments;
    e. e. distribution of responsibilities between the parties;

f.risk distribution in time;

3. group of risk localization methods:
    a. the creation of organizations using venture financing;
    b. the creation of special units to carry out risky projects;
4. group of methods avoiding the risks:
    a. rejection of unreliable partners;
    b. abandonment of risky projects;
    c. different types of insurance risks;
    d. search for guarantors.

Trends in the formation and development of innovative economy require modern scientific and methodological consideration of the interaction of institutions, project financing and budgeting of expenditure at the level of the state, region and individual enterprise.

The process of formation and development of innovative economy must proceed in parallel with the creation and development of the system of institutions. This institutional environment determines the type of economic growth, its quality and efficiency, is the basis of the conditions that determine the sustainable socio-economic development of the country.

The modern significance of the institutional approach to innovation development of economy defines the need for new mechanisms and methods of interaction of all participants in the innovation process, creating favourable conditions for development of the existing institutional framework to ensure the competitiveness and sustainability of innovation subjects (Никулина 2015).

A new institutional approach should provide the ability to determine the essential functional characteristics that allow developing economic relations by creating a base to form the successfully innovative competitive environment.

According to this concept, it is necessary to implement the mechanism of state regulation and self-regulation of innovation, the subjects of which are the institutions of the state, business and society.

The state, as an entity with significant power and very significant resources, has great opportunities to participate in the formation of an innovative economy, and acts as a regulator of the institutional environment coordinator of innovative economy development.

The direct participation of the state in the development of innovative economy can be carried out as a result of taxation, stimulating innovation; financing various innovative projects and developments, issuing grants on a competitive basis (Крутчанкова и др. 2013).

Direct and indirect state regulation of innovation provides a balance of the interests of economic entities, the creation and maintenance of innovative infrastructure, creating innovative climate.

The state creates favorable macroeconomic and institutional conditions, and the exact specification of the protection of intellectual and other property rights in the implementation of institutional aspects for the development of innovative economy.

In contrast to the private sector, the state has a direct impact on the formation of an innovative economy in two ways: firstly, carrying out the necessary research and work on improving manufacturing production technology underlying the innovation; secondly, carrying out their practical implementation in economic practice (Крутчанкова и др. 2013).

Increase of business innovation activity allows intensifying the development of regional innovation economy. Influence of society manifests itself in self-organization of innovation activity of economic entities in the implementation of the most important functions (informational, coordinating, serving).

The main objective of the functioning of the innovation infrastructure institutions is to ensure the continuity of the innovation process. There is developing cooperation between the enterprises belonging to innovation clusters; due to their there is an innovation activity in the agro-industrial complex of the regions.

In order to achieve a competitive type of reproduction the emerging institutional infrastructure should include:

- development of advisory and information network linking federal and regional authorities and business, science, consumers and non-governmental organizations;
- establishment of associations, unions, communities and other organizations with the participation of authorities to resolve environmental, innovative, systemic problems;
- a system for collecting and providing businesses with the information they need for the development of administrative decisions;
- the material conditions for the functioning of economic activities (fairs, exhibitions);
- regulation and business support institutions (foundations, associations, committees).

High efficiency in decision-making in market conditions, susceptibility to innovations in production and management, rapid adaptation to external influences, high turnover funds and small bills have small innovative enterprises based on university business incubators designed to be market generator of innovative ideas.

Entrepreneurship is a connecting mechanism that causes the transition from one stage to another in the innovation process. That is why small innovative business, as part of an innovative infrastructure, is a kind of clipboard that can be responsive for changes in market demand.

Great attention is paid to the support of small innovative business organizations, because of the limitations of all types of resources a small business interested in accelerating the development and use of new technologies, new products, bringing to the stage of industrial design innovations, which are transmitted on a commercial basis for the use of large enterprises.

Global institutional transformation allows to provide the development of new progressive forms of innovation, one of which are small businesses, combined in a cluster, which enhances the competitiveness and the ability to respond to changes in market demand.

A cluster is a complete innovation system, opening opportunities for effective dialogue between government and business. Clusters of innovation create a new product or service by the efforts of several firms or research institutions, allowing them to accelerate the spread of the network of business relationships.

The innovative structure of the cluster helps to reduce the total costs of the innovative research and development and their subsequent commercialization due to the high efficiency of production and technological cluster structure that allows the participants of cluster consistently to innovate in the long term.

Applying of the institutional approach to innovative development allows not only to establish the normative relationship between the different economic institutions, but also to implement a number of important problems of their functioning:

- identify and update all kinds of cooperation (political, economic, social) aimed at promoting the effective development;
- indirect impact on the economy through the creation of the necessary conditions for technological and industrial transformations, creating a platform to ensure continuous generation of innovations, advanced technologies and their implementation in the various spheres of activity;
- show the dialectic of relationship on different levels;
- create a model-theoretic conception of the relationship between the essence of innovative development, economic situation and further progressive development;
- identify mechanisms for the successful balancing of regional and national development;
- identify the conditions and factors of innovative reproduction formation by defining the main directions of state policy impact of this process;
- innovation (set of activities of the specialized research organizations, industrial companies, financial institutions and government): to generate, develop, distribute, innovate by the most rational ways (Никулина 2015).

The *institutional approach* considers the complex of intractable contradictions and ways to overcome them by improving the functioning of the innovation system institutions. A more detailed

collaboration will allow institutions to identify their performance in the implementation of policy and program development, regulatory innovation processes.

In view of the abovementioned, it becomes clear why the innovative actions are realized with a *certain institutional mediation* in the world. Resources are accumulated in the stock markets and concentrated in specialized financial institutions - investment banks, etc. Risks are provided with specialized financial authorities (Еоров 2010).

Innovation development is a natural development process of *private business* in a market economy. Innovation allows improving product or service quality and increasing its competitiveness on the market in this way, coveting a certain segment of the market for a limited period, until the next new technological breakthrough will come. For this reason, there are funded over 60% of total costs for research and innovation by private business funds in economically developed countries.

Innovation development requires *old manufacturing infrastructure replacement*. The company that develops innovative is periodically carried out product or service production volumes decline because innovation does not give immediate economic effect. Many business leaders are trying above all to increase production volumes, and in any case to avoid the reduction in production volume. In this context, it can be concluded that the volume indicator planning is contrary to the economic development of the innovative character. Innovation requires incentives. It is a windfall profits as a bonus for the product or service the average quality level exceeded in a market economy.

According to the UN World Intellectual Property Organization (WIPO) study, in 2015, Latvia occupies 33rd place, which is one position higher than in 2014. The study ranked countries, evaluating 79 indicators, including innovation in the areas of patents and computer software, as well as market and business development, infrastructure, research and technology, human capital and institutional framework (News and analytical information portal Focus.lv).

The title of the world's most innovative country has Switzerland in the study. Second and third place occupied by the United Kingdom and Sweden, behind them, are the Netherlands (5th place last year), the US (last year's 6th place), Finland (4th place last year), Singapore, who kept the 7th, Ireland (last year 11th place), Luxembourg (maintained 9th place) and Denmark (8th place last year).

Estonia has climbed one position compared to last year and ranks 23rd. Lithuania devoted to 38th place, which is one place higher than last year.

In terms of the major economies Canada occupies 16th place, China - 29th and Russia – 48th place. Last place in the field of innovation takes Sudan in the world, a bit higher place is taken by Togo (140th place), Guinea (139th place) and Myanmar (138th place).

Latvia occupies 30th place by innovation output sub-index, by innovation investment sub-index – 34th place, but by innovation efficiency level sub-index - 26th place.

Lithuania is ranked by sub-indexes respectively in 42nd, 35th and 74th place, but Estonia – 14th, 26th and 17th place (News and analytical information portal Focus.lv).

Currently, innovation is an active link in all spheres of society. It is impossible to imagine the modern world both without already implemented innovations and became familiar for everybody and without future innovations, contributing to the further evolution. The majority of scientists agree that innovation become the main driving force of economic and social development. Innovation activity has led the international community to a new, higher stage of development.

View of the fact that innovation is mostly financed by borrowing basic – credit, enterprises' own funds - there is a whole range of problems. Bank, taking into account innovation investment risky nature, very slowly fits in the financing process. It is necessary to build infrastructure in the country, aimed at providing financial support to innovation, for example, specialized innovation development banks. One of the main problems is the lack of non-bank financial support in financial sphere: requires specialized guarantee funds that are established with state participation.

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# METHODOLOGICAL AND THEORETICAL ASPECTS OF INNOVATION CAPACITY

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**Abstract**

**Methodological and theoretical aspects of innovation capacity**

***Key words:*** *innovation capacity concept, innovation process, innovation initiator, commercial type of thinking, innovation growth*

The concept of innovation capacity becomes increasingly important in business as well as in the regional and national characteristics nowadays. Innovation process today is not only the commercialization of new ideas, it is a continuous, planned and organized process in order to increase productivity, or to reduce production costs and increase competitiveness.The aim of the research – to identify the main methodological and theoretical aspects of the concept of innovation capacity. There are used the following methods in the study: logical analysis and synthesis methods, international economic theory and empirical sources monographic and analytical research methods, statistical analysis techniques.

Innovation capacity as a concept is extended to three levels:

- Human resources as the initiator of innovation, often also known as individual innovation;
- Companies operating in certain system;
- Regions and countries and their regional and national capacity.

The company's innovation capacity assessment or technological capability audit tool provides a mechanism to:

- Perform rapid technological possibilities auditing;
- Determine the company's strengths and weaknesses;
- Determine the criteria as compared with other companies or "best practice" model.

Foreign and local experts have practically concluded that Latvian innovation capacity lies in its ability to be commercialized; it is to prepare potentially successful scientific ideas to the market.

The experience of the European Union countries in innovation policy has shown the need for an intermediary between scientists and entrepreneurs, without which the great ideas of scientists are often forgotten and derive no progress. A great example of innovation policy, the author believes, is Poland. It has created the National Research and Development Centre Bridge Mentor, whose aim is to support management innovation commercialization process using professional consulting and mentoring, as well as to promote cooperation and communication between researchers and potential investors.

Commercial type of thinking among academics should be encouraged on the Latvian market, and it is also necessary to ensure effective communication and cooperation between research institutes and potential investors, in order to dispel misconceptions about the commercialization of innovations and contribute to the growth, as well as the country's international competitiveness. It is particularly important and should be taken into consideration in the planning of the programming period 2014 to 2020 of the European Union funds.

**Kopsavilkums**

**Inovācijas spēju metodoloģiskie un teorētiskie aspekti**

***Atslēgvārdi*:***inovācijas kapacitātes jēdziens, inovācijas process, inovācijas ierosinātājs, komerciāla domāšana, inovācijas izaugsme*

Mūsdienu globālās ekonomikas apstākļos inovācijas kapacitātes jēdziens iegūst arvien lielāko lomu uzņēmumu, kā arī reģionu un valstu raksturojumos. Inovācijas process šodien nav tikai jaunas idejas komercializēšana, tas ir nepārtraukts, plānots un organizēts process, ar mērķi palielināt darba produktivitāti, samazināt ražošanas vai pakalpojumu izmaksas un celt konkurētspēju.Pētījuma mērķis - identificēt galvenos inovāciju kapacitātes koncepcijas metodoloģiskos un teorētiskos aspektus.Pētījumā ir izmantotas šādas metodes: loģiskās analīzes un sintēzes metodes, starptautiska līmeņa ekonomisko teorētisko un empīrisko avotu izpētes monogrāfiskā un analītiskā metode, statistiskās analīzes metodes.

Inovācijas kapacitāte kā jēdziens tiek attiecināta uz trim līmeņiem:

- cilvēkresursi kā inovācijas ierosinātājs, bieži arī saukts par individuālo inovāciju;
- uzņēmumi, kas darbojas noteiktas sistēma ietvaros;
- reģioni un valstis un to reģionālā vai nacionālā kapacitāte.

Uzņēmuma inovācijas kapacitātes novērtējums jeb tehnoloģiju spēju audita instruments nodrošina mehānismu, lai:

- Veiktu ātru tehnoloģisko iespēju auditēšanu uzņēmumā;
- Noteiktu uzņēmuma stiprās un vājās puses;
- Noteiktu kritērijus salīdzinājumā ar citiem uzņēmumiem vai "labās prakses" modeli.

Ārvalstu un vietējie eksperti praksē ir secinājuši, ka Latvijas inovācijas kapacitāte slēpjas spējā komercializēt, t.i. sagatavot potenciāli veiksmīgās zinātniskās idejas tirgum.
Eiropas Savienības valstu pieredze inovāciju politikā liecina, ka ir nepieciešams starpnieks starp zinātniekiem un uzņēmējiem, bez kura lieliskas zinātnieku idejas bieži vien tiek aizmirstas un negūst attīstību. Lielisks piemērs inovācijas politikas īstenošanā, pēc autora domām, ir Polija, kur ir izveidots Valsts pētniecības un attīstības centrs BRIdge Mentor, kura mērķis ir sniegt atbalstu inovācijas menedžmenta procesu komercializācijā, izmantojot augstas klases konsultācijas un mentoringu, kā arī veicināt sadarbību un komunikāciju starp pētniekiem un potenciālajiem investoriem.
Komerciāla tipa domāšana akadēmiķu vidū ir jāveicina Latvijas tirgū, turklāt jānodrošina efektīva komunikācija un sadarbība starp pētniecības institūtiem un potenciālajiem investoriem, lai kliedētu maldīgus priekšstatus par komercializāciju un sekmētu inovācijas izaugsmi, kā arī valsts starptautisko konkurētspēju. Īpaši būtiski to būtu ņemt vērā, plānojot 2014.-2020.plānošanas perioda Eiropas Savienības fondu līdzekļus.

## Introduction

Innovation capacity concept is becoming increasingly important for businesses, as well as in regional and national characterizations in today's global economy. The process of innovation is not only the commercialization of new ideas today, it is a continuous, planned and organized process in order to increase productivity, reduce production or service costs and raise competitiveness. It has more often expressed the view that a high innovation capacity is the only way of survival under current market conditions. Innovation capacity impacts in micro-level on the national innovation capacity of the macro-level, which is different for the countries of the region (author modelled by (Lukjanska 2016)). Innovation capacity characterizes the national economy and the general public's readiness as technological and social change.It is impossible to be competitive enterprise without innovation capacity potential formation in a company. In order to create company innovationpotential it is necessary to find out the main methodological and theoretical aspects of the concept of innovation capacity.

The aim of the research – to identify the main methodological and theoretical aspects of the concept of innovation capacity and to study the experience of other countries in this field.

The objectives of the study are the following: to study the methodological and theoretical aspects of the concept of innovation capacity, to compare different countries in this area.

There are used the following methods in the study: logical analysis and synthesis methods, international economic theory and empirical sources monographic and analytical research methods, statistical analysis techniques.

## Concept of innovation capacity

Innovation capacity is a collection of various types of resources, including material and manufacturing, financial, intellectual, scientific, technical and other resources required for the implementation of innovation.

Innovation potential determines the innovative activity of managing subjects, that is, their ability to produce, sell and accept innovation, which is essential for the functioning of innovation-

based economy. Innovation potential can be viewed as the result of the implementation of the existing possibilities, the real product innovation (new products, licenses, patents).

The concept of innovation capacity introduced by K. Pavita (Pavitt) in 1982, but still at least two authors claim to this definition promoter status. Professor L. Suarez-Villa (Suarez-Villa) in 1990 mentions the concept of innovation capacity, which, in his view, measured invention and innovation potential of any nation, geographic area or economic sector (Lukjanska 2016).

Based on theoretical knowledge, Renate Lukjanska in his doctoral thesis concludes that innovation capacity is related to three levels:

- human resources as the initiator of innovation, often also referred to as the individual innovation;
- companies operating in certain system;
- regions and countries and their regional and national capacity (Lukjanska 2016).

Each level affected by certain factors.

Innovation potential is represented as a set of two components - the scientific and technological capacity and entrepreneurial potential. Scientific and technical potential is only part of the innovation potential that characterizes the system's ability to invent and innovate. It is defined as a set of resources and results of activities of the scientific sphere, which can be expressed in reality in the form of rationalization copyright certificates, suggestions, know-how.

Scientific and technical capacity is characterized by research intensity - an indicator reflecting the ratio between the scientific and technological activity and production in the form of the value of expenditures on science per unit of production - the ratio of the number of employed in scientific activities and all engaged in the production (in the company, in the industry). There is usually understood by the research intensity the ratio of the annual expenses of the organization for research and development to the volume of sales and production per year. The level of research intensity - the most important characteristic of any organization and industry. There are distinguished high-tech industries precisely by this criterion (aerospace, electronics, etc.) (Шерстобитова 2009).

The absence or weak development of business components does not provide dynamic potential in general. Effective innovation potential identifies the key success factors of the organization, which include:

- superior product over their competitors, the availability of the distinctive features that contribute to a better perception by the consumer;
- marketing know-how, that is a better understanding of the market, the behavior of buyers, the rate of acceptance of new products and the size of the potential market;
- technological know-how (the advantage of the possibilities of implementation of the results of innovation in production) (Шерстобитова 2009).

Innovation potential is increasingly characterized by intangible assets of the organization, its knowledge and skills. In this regard, assessment of the current innovation potential is based on data mining, not physical capital, which has some specificity (see Table 1).

Table 1. **Features of assessment of physical and intellectual capital of the organization**

| Characteristics | Physical capital | Intellectual capital |
|---|---|---|
| 1. Evaluation base | Costs, which are made | Assessment of the value based on the future performance |
| 2. Evaluation indicators | Using cost indicators | Using non-cost indicators |
| 3. Frequency of evaluation | Is periodic | Is continuous |
| 4. Result | Material (profit) | Not material (social effect) |

Source: (Шерстобитова 2009)

Intellectual capital - Condition of knowledge and skills of the company, which is characterized as a potential opportunity to smoothly carry out a sequence of coordinated action, which is usually effective in terms of achieving its goal, if these operations are carried out in a normal environment for them. “Knowledge status” of each organization is very individual. It includes not only technical knowledge but also managerial and social skills as well as knowledge of environmental protection.

The components of the intellectual capital:

1. human capital - the knowledge, skills, creativity, moral values, work culture;
2. organizational capital - hardware and software, patents, trademarks, organizational structure;
3. customer capital - communication with customers, customer information, history of the relationship with the client;
4. capital of relationship (network capital) - relations with the subjects of the environment (suppliers, intermediaries, competitors, contact audiences).

The definition of intellectual capital means the amount of the knowledge of employees and information received from the external environment, which provides a competitive organization.Intellectual capital includes two knowledge groups “know-what” (I know that) and “know-how” (I know how). Knowledge of “know-what” is dead “unauthorized” information, and without the “know-how”, which is associated with the implementation process, it is conserved and become outdated quickly. According to experts, there are more developed “know-what” of knowledge in Latvia, while in developed countries – “know-how”. The use of “know-how” is extremely important, because it is the dividing line between the moderate successful company and the company, which is extremely profitable.

Modern researchers have noted that the “knowledge” and “information” are not identical concepts. Information – a set of data that has already interpreted that managed to make some sense.

Knowledge - product of the use of information. According to some researchers, the knowledge can be classified in two ways: “soft component” and “current component”. In the form of “soft component” codified knowledge, embodied in a particular form (written, graphics, etc.) and kept out of the human brain. This component is more suitable for definition of information (Шерстобитова 2009).

Formation of capacity is due to extensive factors on the stages of production and investment – labor and capital. This stage can be described as a phase of extensive development, where there is an accumulation of knowledge and resources, there is awareness of the needs of society. The priorities in the development of society are determined on the basis of this phase. Active resource consumption, capital concentration, the expansion of markets is typical for this phase.

Development is ensured by intensifying at the stage of innovation - new technologies. There is a realization of accumulated knowledge, deep processing of resources and improving the quality of products at this stage. The phase of intensive growth accompanied by a redistribution of knowledge in the sphere of practical applications, enhanced processing of resources and an increase in product quality. The organization moves to a new level here, which is characterized by an increase in the welfare of all of its members.

It identifies the following major factors affecting the development of the innovative capacity:

1. a clear definition of innovation needs and definition of strategy the release of new products;
2. determination of the potential usefulness of the discoveries and its implementation;
3. cooperation and communication as a formal project selection system that allows assessing the proposals advanced for specific financial and organizational goals;
4. sufficient amount of resources and periodic evaluation of innovations in order to determine the moment when would be achieved initially assigned organizational tasks.

Knowledge of the development cycle of innovative potential requires development and implementation of strategy to keep it in working condition. It is important to ensure consistency between innovative potential of the external environment and the potential of partners in the market.

The concept of marketing is considering innovative capacity as constant interaction with the environment, which has an impact on his formation, but also the change under its influence. Consistency implies that the innovation potential of the economy and its industries is the environment for the development of the capacity of firms (business entities). In its turn the companies are forming potential of the economic system as a whole system. In this approach the study of the capacity of firms is decisive in the study of the potential of the economy.

In order to ensure active development of innovation activities it is necessary to operate with different organizations potential views.Some researchers define the following classification capabilities:

- eksplerenties, which are characterized by small size, flexibility, willingness to take risks, the implementation of leadership qualities;
- violenties, that can provide economies of scale, the ability to raise the necessary resources;
- patienties, advantage of which is the possession of special knowledge of technologies and market segments, the release of specialized products;
- commutanties, providing the flexibility and maintaining market through the satisfaction of local needs (Шерстобитова 2009).

Economic agents are enabled with a particular type of capacity at various stages of the innovation process. The enterprises – eksplerenties are more active at the appearance of a radical innovation, which are characterized by a combination of obsession with the full financial responsibility for the outcome of the case. Violenties, the advantage of which is the ability to mass production, are more successful at the stage of replication of innovative products.

At the stage of differentiation – the dissemination of new technology, major acting role belongs to the enterprises – patienties, firms that provide the appearance of improving innovations. And the last stage - the stage of maturity - where takes the active actions the enterprises – violenties and enterprises – patienties, the companies – commutanties get development, which carries out false innovation – cheap copies of the leading products, but in doing so acts as a link in the economic structure.

One company is unlikely to be successful in all policies, but it can fulfil its potential in the interaction to compensate for its weaknesses. For example, the need for large investments of enterprises – eksplerenties, who cannot usually attract them independently, become available with the support of powerful enterprises – violenties. For violenties interaction with eksplerenties, as well as with the enterprises – patienties and the enterprises – commutanties, provides the flexibility and dynamism of development.

The absence of innovative market organizations with one or another kind of capacity limits the development of the economy. According to some researchers, it was a complete lack of enterprises – eksplerenties, as well as an insufficient number of patienties and commutanties, as main reason for the deceleration in the domestic economy of scientific and technical progress (Шерстобитова 2009).

The company's innovation capacity assessment or technological capability audit tool is a method to assess individual companies according to nine key technology areas of activity introduced by Professor John Besant. Innovation and new technologies have the following capacity dimensions:

- Awareness – describes how assess a company their innovation processes and new technologies, the importance of their business.

- Search – demonstrates how active companies are interested in the latest developments in new technologies in its industry over the world, in Europe and Latvia. Dimension describes the company's ability to quickly and efficiently purchase, order or to develop new technologies and develop new products.
- Competence – inform does the company and its management act competently enough in innovation and new technology issues.
- Strategy – determines whether the innovation and new technologies in the process of developing the firm is "random" and spontaneous, or the company has included these processes in its business strategy and long-term business plan.
- Availability or technology assessment and selection is the result of search and other analysis dimensions (Cooperation, Competence), which indicates whether the company is now able to quickly enough to acquire or develop new technologies, when it is squeezed by competition or new developments in the industry. It should be noted that this dimension does not take into consideration the company's financial capacity to acquire new technologies.
- Purchase. This is one of the objective dimensions and show whether the firm really in practice acquires new technologies and whether they develop.
- Introduction. This is also an objective dimension, which indicates whether the firm develop, purchase and use new technology in their activities.
- Learning. The company's managerial and staff opportunities for further education.
- Cooperation or external communication and incentives – indicates whether the company cooperates with research institutes, universities and other innovation and technology supportive organizations.

This tool provides a mechanism to:

- perform rapid technological possibilities auditing;
- determine the company's strengths and weaknesses;
- determine the criteria in comparison with other companies or "best practice" model (Innovation Support Web Site).

**National innovative potential comparison**

"Latvian innovation capacity lies in its ability to commercialize or to prepare potentially successful scientific ideas to the market, but there are cases where there are no capable investors, who can demonstrate and lead to realization these ideas in an understandable way," explains her foreign colleagues' views on the situation in Latvia PwC Consulting Division Project Manager Anita Kalnina (Kalniņa 2014).

European Union countries experience show that it is necessary intermediary in innovation policy between scientists and entrepreneurs who contribute new ideas evaluation and implementation. Poland, for example, has set up the National Research and Development Centre Bridge Mentor, whose purpose is to support the commercialization of innovation management process, using high-quality advice and mentoring, as well as to promote cooperation and communication between researchers and potential investors.

This center is based on the successful cooperation with Price Water House Coopers consultants, especially technology and engineering, who are leveraging their resources and global knowledge, the researcher is able to offer an optimal way to show his business idea of financial and technological prospects for potential investors. Consultants help to resolve legal issues, including intellectual property rights and provide support for market research and marketing activities in the planning and implementation at the same time (Baula 2014).

Evaluating the European Union (EU) Member States innovation development indicators in 2015, the European Commission (EC) made a high assessment of the Latvian achievements as a result of Latvia for the first time the EC annually published by the Innovation Union Scoreboard (European Innovation Scoreboard 2016) managed to rank “average innovators” national group, whose performance in the field of innovation is from 50–90% of the EU-28 average. Latvian performance as a whole has improved – in 2008 average rates were 43%, but in 2015 – 54% of the average in EU countries. Latvia has shown the highest growth of innovation annual increase among all EU Member States, amounting to 4% (EU average increase – 0.74%) according to the report in the rated period from 2008 to 2015 (Innovation Union Scoreboard).

Latvia is located together with Lithuania, Estonia, Poland, Croatia, Slovakia, Hungary, Spain, Greece, Portugal, Italy, Czech Republic, Malta and Cyprus in the report’s "average innovators" (Innovator Moderate) group. Overall, Latvia ranked 25th place in the 28 countries surveyed, leaving behind Croatia, Bulgaria and Romania (Innovation Union Scoreboard).

Sweden, Denmark, Finland, Germany and the Netherlands successively occupy first places in the review published in 2016. Lithuania ranked 24th, but Estonia - 14th place (Innovation Union Scoreboard).

Overall, the Innovation Union Scoreboard presents data for the period from 2008 to 2015, using 25 indicators in eight areas, as a result all EU Member States allocating into four groups:

- Innovation leaders: Sweden, Denmark, Finland, Germany and the Netherlands - countries whose innovation performance more than 20% above the EU-28 average level;
- Strong innovators: Ireland, Belgium, United Kingdom, Luxembourg, Austria, France and Slovenia - countries that follow innovation leaders and whose performance is 90-120% of the EU-28 average level;

- Moderate innovators: Cyprus, Estonia, Malta, the Czech Republic, Italy, Portugal, Greece, Spain, Hungary, Slovakia, Poland, Lithuania, Latvia and Croatia - countries whose innovation performance is 50% - 90% of the EU-28 average level;
- Modest innovators: Bulgaria and Romania - countries whose innovation performance indicator is less than 50% of the EU-28 average level (Innovation Union Scoreboard).

Latvia moved up one place in September 2015, published by the Global Innovation Index 2015 (Dutta 2016), ranking 33rd place in the study included 141 surveyed countries, overtaking its neighbour Lithuania, which was in 38th place (Estonia - 23rd) (Innovation Union Scoreboard).

Global Innovation Index collects national data, taking into account 79 indicators that influence innovation. The study analyzed indicators in areas such as: education, training, skills-building, political and business environment, regulatory framework, research and development, infrastructure, information and communication technology, environmental sustainability, lending, investment, trade and competition, knowledge, influence and distribution , intangible assets, the creative industry products and services, online activities, etc.

**Conclusion**

The innovative capacity of the organization - a set of enterprise features that determine a company's ability to carry out activities for the establishment and practical use of innovations.

The elements of the company's innovative potential include:

- Material and technical resources;
- Financial resources;
- Organizational resources;
- Human resources;
- Socio-psychological factors.

For the innovation processes the company must have:

- available funds sufficient to finance development;
- the appropriate material and technical basis for the creation and mass production of the new product;
- staff able to generate creative solutions.

Innovation capacity applied to three levels:

- human resources as the initiator of innovation, often also referred to as the individual innovation;
- companies operating in certain system;
- regions and countries and their regional and national capacity.

Intellectual capital are: human capital (skills, knowledge), organizational capital (software, patents, trademarks), customer capital (customer relationships), capital relationship (network capital) - relations with the subjects of the environment.

The development is provided by the new technologies at the stage of the innovations. There is a realization of accumulated knowledge, deep processing of resources and improving the quality of products at this stage. For successful implementation of this step, it is necessary to clearly define the needs of innovation and strategy for the production of new products, the feasibility of innovations, cooperation and communication as a formal project selection system, adequate resources, and periodic evaluation of innovations.

There activates the economic actors with a particular type of potential at various stages of the innovation activity. Companies - eksplerenties are more active at the stage of the emergence of a radical innovation, which are characterized by full financial responsibility for the outcome of the case. Violenties are more successful at the stage of replication of innovative products. Patienties are more active at the stage of differentiation - the dissemination of new technology. And the last stage - the stage of maturity - with the active operation of violenties and patienties, the companies-commutanties develop, which carry out false innovations.

The lack of organizations with a particular kind of the potential on the innovative market limits the development of the economy. According to some researchers, complete lacks of eksplerenties, as well as an insufficient number of patienties and commutanties, are the main reasons for slowing down of scientific progress in the domestic economy.

Commercial-type thinking among academics should be promoted in the Latvian market. It is necessary to ensure effective communication and cooperation between research institutes and potential investors, in order to dispel misconceptions about the commercialization and promote innovation growth as well as the country's international competitiveness. It is particularly important and should be taken into consideration when programming the planning period of the European Union funds.

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# DIFFERENCE IN CONSUMER BEHAVIOUR: TRADITIONAL MARKET AND ONLINE TRADING

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**Abstract**

**Difference In Consumer Behaviour: Traditional Market And Online Trading**

***Key words:*** *Consumer behaviour, Online trading, Marketing Communications*

The consumer of the 21st century has an integrated technological environment around and increase using of the opportunities they provide. As technologies provide the consumer quicker and more efficient use of time, it is not surprising that the Internet market is becoming a popular place to shop. This is explained by the fact that the Internet is much faster to move over the shops, compare prices and order goods with delivery to the house door. Online shopping is no longer associated with unsafe consumer purchases, as it had been before. Therefore, those consumers who spend their daily lives of the rapid pace of life prefer to shop directly online.

The aim of the paper to select and analyse the key differences in consumer behaviour in the traditional market and online trade.

The methods used - analysis of scientific literature, conducting consumer surveys and analysis of quantitative and qualitative analysis of the results using statistical methods.

As the main method of the paper is a consumer survey. Were surveyed Latvian residents who answered to the questions about the use of online store. Survey analysis makes it possible to conclude the main differences between traditional consumer behaviour in the market and online trade.

Results of the research have the opportunity to apply in practice. They show consumer behaviour Internet market key features that will help to assess how to better communicate with consumers on the Internet, help to increase the efficiency of the online store performance.

**Kopsavilkums**

**Patērētāju rīcības atšķirība tradicionālajā tirgū un interneta tirdzniecībā**

***Atslēgvārdi:*** *Patērētāju rīcība, interneta tirdzniecība, mārketinga komunikācijas*

Mūsdienu patērētājs ir integrēts tehnoloģiju vidē un arvien biežāk izmanto iespējas, ko tās sniedz. Tā kā tehnoloģiju izmantošana sniedz patērētājam iespēju ātrāk un efektīvāk izmantot laiku, nav pārsteigums, ka interneta tirgus kļūst par populāru iepirkšanas vietu. Tas ir izskaidrojams ar to, ka internetā ir daudz ātrāk pārvietoties pār veikaliem, salīdzināt cenas un pat pasūtīt preces ar piegādi līdz mājas durvīm. Pirkums internetā vairs nesaistās patērētājam ar nedrošiem pirkumiem, kā tas esot bijis agrāk. Tāpēc tie patērētāji, kas savu ikdienu pavada straujā dzīves tempā dod priekšroku tieši interneta veikalam.

Pētījuma mērķis ir atlasīt un analizēt galvenās patērētāju rīcības atšķirības tradicionālajā tirgū un interneta tirdzniecībā.

Izmantotās metodes – zinātniskās literatūras analīze, patērētāju aptaujas veikšana un analīze, kvantitatīvā un kvalitatīvā rezultātu analīze, izmantojot statistiskās metodes.

Pētījumā tika izmantota patērētāju aptauja. Aptaujāti tika Latvijas iedzīvotāji, kas atbildēja uz jautājumiem par interneta veikalu izmantošanu. Aptaujas analīze dod iespēju secināt galvenās patērētāju rīcības atšķirības tradicionālajā tirgū un interneta tirdzniecībā.

Pētījuma rezultātus ir iespēja pielietot arī praktiski. Tie parāda patērētāju rīcības interneta tirgū galvenās iezīmes, kas palīdzēs izvērtēt, kādā veidā labāk komunicēt ar patērētāju interneta vidē, tādā veidā ceļot interneta veikalu darbības efektivitāti.

## Introduction

The number of consumers who use online stores every year becomes bigger, and in 2014 71% of Latvian internet users are involved in online shopping, which is by 4 percentage points more than in 2013. As it is shown in Gemius data, people aged between 25 and 34 are more active in online trading; women do that more often and act as professionals or office workers (Kursors 2014). Analysis of Citadele Bank data shows that the number of transactions into foreign online shops increased by 42%, and into Latvian shops - by 9 percentage more in 2013 than in 2014 (Haka 2015

[6]). In spite of the fact that in Latvia the popularity of online stores is growing, consumers shop more in foreign online stores. Comparing the Baltic States countries between each other, Latvia takes the second place in terms of the percentage of people who are aged between 16 and 74 and who get the goods or services on the Internet (Latvian Internet Association 2014).

Table 1. **People purchasing goods or services online (aged 16-74) %**

| **Country** | **Residents, %** |
|---|---|
| Latvia | 33.5 |
| Estonia | 48.6 |
| Lithuania | 26.0 |

Source: Latvian Internet Association E-Commerce Statistics, 2014

By gathering and analysing the available information, author can conclude that in Latvia it is necessary to promote local online stores and to increase consumer e-loyalty and e-trust for online vendors. However, before that it is important to study how relationship marketing can effect consumers' behaviour in both markets traditional and online.

The aim of the paper to select and analyse the key differences in consumer behaviour in the traditional market and online trade.

The following methods were used – literature study and analysis, respondents survey and statistical analysis conducting.

The author put forward the following hypotheses:

H1: Consumers do mostly hedonic shopping in the online trade market.

H2: Consumers evaluate product quality lower than delivery quality on the online trade market.

H3: Consumers use mostly foreign online stores not the local one for different product purchasing process.

**Discussion**

Marketing channel in the Internet differs from the traditional one. Customers have to choose and evaluate product only from the provided information on the website (Bilgihana, Bujisic 2015). It is impossible to touch the product or to try it before buying. That is why for the vendor it is necessary to provide full and trustful information about the all products, prices, delivery and payment terms.

In the online trading consumer has two ways of purpose to use Internet – hedonic and utilitarian shopping (Bilgihana, Bujisic 2015). Hedonic shopping consumer uses when he wants to entertain himself like surfing the Internet, watching different pictures or reading funny quotes and after that just do shopping with no specific reason. Utilitarian shopping has a particular goal to buy something such as buying products with the lower price. Customers' behaviour and attitude about the product offered by the company is differs how website fulfils the utilitarian or hedonic requirements of the customer.

For finding those requirements there is a necessity to come with a special approach and communication that could be integrated into online environment (Kotler 2014). Three approaches are mentioned in different sources to increase consumer satisfaction and loyalty in the Internet world (Yi 2103):

- professional approach - in terms of traditional marketing it means professional services associated with direct service and staff skills. The quality of provided information and service is important to consumer (Chang, Chen 2008). If there are any problems and getting the product the consumer sees that the product and the picture are two different things in real life, then there is no doubt that consumer returns it immediately. The same is connected to prices – some online shops do not count the full price with delivery and other options and when consumer start to pay the price increase. All provided information should be trustable and easy to use (Labrecque, Esche, Mathwick, Novak, Hofacker 2013);
- interaction with consumers - it is possible to leave feedbacks in the virtual environment - both positive and negative. It is necessary to deal with any review very quickly. It is interaction with the consumer and requires a two-way communication in order to build a sustainable relationship with the consumer, which increase trust and satisfaction as well (McCole, Ramsey, Williams 2010). Therefore, it is necessary to interact with the consumer kindly and with understanding and respect (Ivanov 2012); in case of any problems that may be arisen there need to be find a solution to satisfy consumer. There should be a possibility to return the product, refund etc. Besides there is the necessity to ensure a convenient buying process (Andrews, Bianchi 2013), delivery and billing processes. In short, the process of purchasing the product should provide the consumer with satisfaction and comfort (Martínez-López, Pla-García, Gázquez-Abad, Rodríguez-Ardura 2014);
- stimulation – it is impossible to forget that any internet store wants to make a profit, which means that the consumer is more likely to be motivated to visit the website and make as many purchases as he can. A variety of promotions and discounts motivate consumers to buy products very well (Sewell, Brown 2002). Loyalty programs become topical and stimulate to buy in a particular online store in order to accrue bonus points, to get free delivery, discounts or various gifts etc. (Ткачев 2015). A personal approach to each customer is important too, such as a thank-you letter, holiday greetings, faster delivery etc. After that the consumer wants to share his positive experience with either his friends or acquaintances, or in social networks and blogs.

Using all three approaches company establishes a long – term relationship with the customer. In that case, it will mean an e-loyalty to the online vendor. Loyalty is the unity of interaction and behavioural and attitudinal components, as shown in Figure 1, the model designed by the author from research made in early 2015 which was conducted within the master's thesis (Radionova,

2015). In turn, loyalty influences directly customer satisfaction (Audrain-Pontevia, N'Goala, Poncin 2013). The developed model points out that there are also factors that can influence consumer loyalty from outside, such as socio-demographic, usage duration, a variety of marketing activities. The analysis of loyalty models showed that satisfaction is the general impact factor to loyalty (Christodoulides, Michaelidou 2011). The model can be used in general but each sector has its own characteristics and, of course, the Internet trade market has its own specific features that allow modifying the specific model and applying it to online stores.

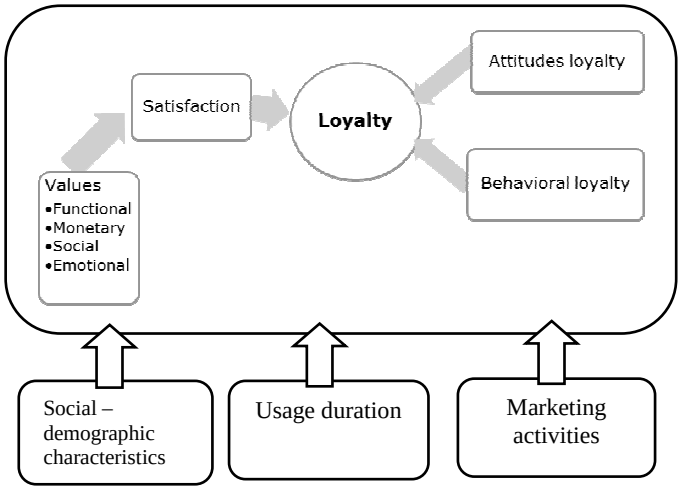


Figure 1. **Consumer loyalty model**
Source: Author created model based on Radionova 2015

After having analysed the theoretical part, author has modified and adapted consumer loyalty model to the internet environment (Figure 2.) and to the internet trade market (online store) (Figure 3).

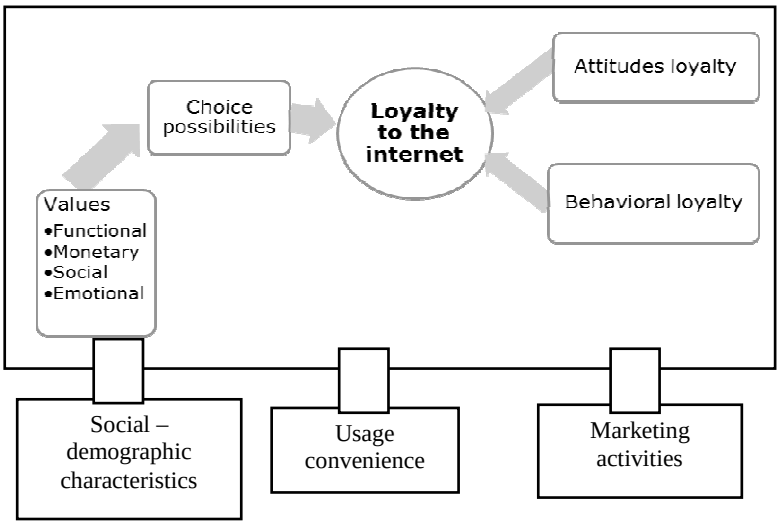


Figure 2. **Consumer loyalty model to the internet**
Source: Author created model based on Radionova, 2015

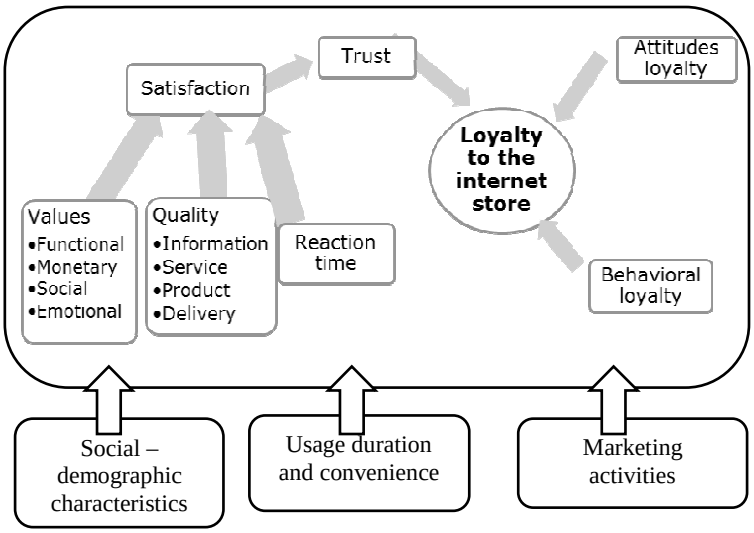


Figure 3. **Consumer loyalty model to the internet store**
Source: Author created model based on Radionova 2015

The models developed by the author point out that the e-loyalty building process on the internet and in particular online stores is more complicated process than it is considered to be. In this case, it is necessary to mention repeated purchases (re-purchases), which will appear in case of the high level of trust, which affects satisfaction. The author would like to point out that the chosen opportunities are what make the difference in loyalty to the traditional market and to the online market. While on the internet it is much faster to find required products, also to find a product that is not available in a traditional store, so foreign stores are more popular than local ones in Latvia. Because of these factors, online sellers need to react fast on different changes and interact with the consumer in order to prevent wrong and negative cases that could be in the online trading. In the traditional market, it is possible to talk face – to – face to the customer to explain some things or to show the product and provide all necessary information.

Data were collected during January and February 2016 using random selection. Author comes up with the results based upon the questionnaire presented to 319 respondents who answered the questions from self-designed survey. The research is still continuing to obtain the data from over several years and to compare the changes that take place over time, so today there are only interim results.

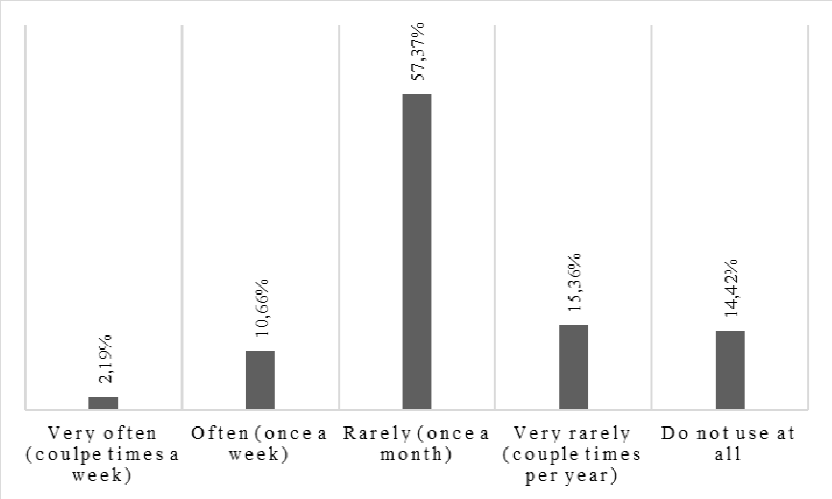


Figure 4. **The usage of internet stores**

Source: Author created graphic based on survey results

After having analysed the results, it can be concluded in the Fig.4. that the consumers use internet-trading services at least once a month – 57,37% of respondents. 10.66% and 2.19% of the respondents use the internet shops once a week and a couple times a week. 15.36% of respondents use internet trading only a few times a year, while 14.42% do not use it at all. Most of respondents (43.57%) give preference to foreign stores as it is shown on the Fig.5. 24.76% respondents use both foreign and Latvian internet market services and only 10.66% use only Latvian internet shops. In contrast, 4% of respondents are not interested in what country and in which internet shop to make purchases and 6.58% of respondents do not buy online at all. That situation can be explained by the fact that foreign consumers can buy any product by a low price, with a good and free delivery and from a wider assortment. In online stores such as ebay.com, alibaba.com, aliexpress.com etc. consumers choose products from different sellers, gathering thousands of offers in one place.

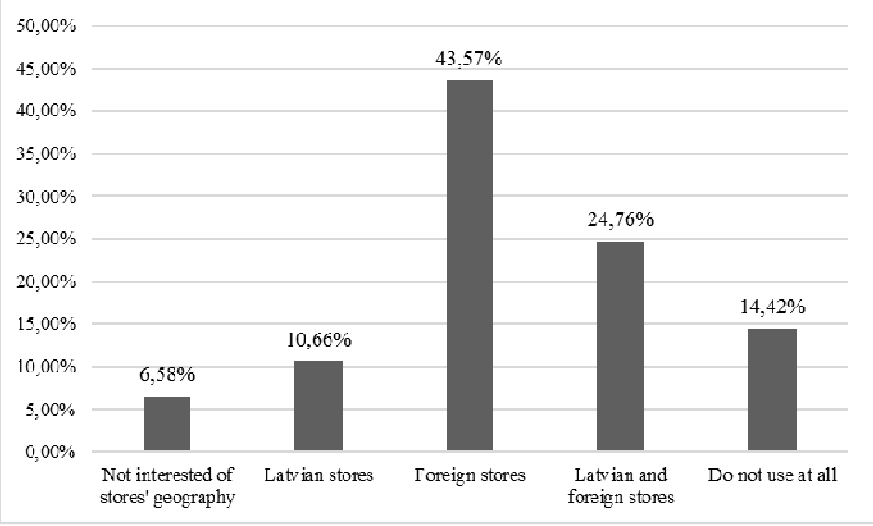


Figure 5. **The usage of internet stores by its' geography**

Source: Author created graphic based on survey results

Respondents (23.08%) answered that the most important factors for re-purchase are delivery opportunities and quality; 18.68% stated that it is product variety, 17.22% presented offer price, 16.48% - delivery price, 10.62% - quality of products, 8.06% - offered brand and 5.86% - service quality. The author would like to point out that sometimes foreign online stores do not deliver products to Latvia or delivery cost is high and the delivery duration is too long, so this is becoming an important factor for consumers. The internet trade market service quality as the factor for repeated purchases has been used least of all, this can be explained by the fact that communication with the seller is rare and it is not also popular for customers. Most of respondents (30.41%) do online shopping after communication with the seller (e-mail, social media, etc.) or getting a special offer from him. Almost the same number of consumers do shopping in two different cases like buying e-products with someone (relatives, friends, colleagues, etc.) 23.82% and spontaneous shopping do 21.32% of respondents. Only 10.03% do purpose shopping when they analyse the situation in the online sector and after evaluation do shopping. As it was mentioned before 14.42% of respondents do not shopping online. After analysis it could be pointed out that in Latvia mostly do hedonic online shopping, it means that online sellers should provide not only trustful and informative information about the all shopping aspects but also interact with the consumer in order to increase the interest to the shopping process in current online shop.

**Conclusions**

1. Consumers do online shopping in two ways – hedonic and utilitarian, when they do not have and have special purpose. It is recommended for online vendors to understand what their customers want and their behaviour using relationship marketing to fulfil consumer needs and find the right way of communication.
2. Online purchase process consists of three stages - pre-purchase stage, the online purchase stage, after-sales stage. On the first stage the consumer is directed to a specific website to a specific seller / shop. The second stage is when the customer is provided with full information and secure purchase via the Internet. The third stage is quick delivery to the buyer and the product should fully coincide with the information provided by the seller, and feedback should be provided to express gratitude or complaints, to evaluate the service, to return a purchase or ask questions. While interacting with consumers, sellers need to specify full and appropriate information that will not confuse consumers, increasing not only satisfaction but also trust to the seller. After that process, it is necessary for sellers to react as quickly as it is possible to increase trust that influences satisfaction and loyalty and will ensure a long – term relationship.
3. Professional skills, interaction with consumers and consumer stimulation can be used to increase consumer e-loyalty in the Internet environment. The formation of loyalty to the Internet and Internet stores are influenced by such factors as opportunities, quality (in all dimensions),

reaction time, usage duration and convenience. Internet traders have to expand their territorial delivery options and the range of products; it could not only attract new customers but also promote existing consumer satisfaction and loyalty. Because of the big number of other sellers and opportunities of Internet sellers need to find the most efficient way of communication with consumer to make long – term relation with consumer.

4. H1, H2, H3– proved. All hypothesis were proved. H1 – consumers do mostly hedonic shopping in the online trade market, as the respondents answered only 10.03% do utilitarian shopping with special purpose. H2 –by the survey results consumers evaluate the quality of products lower (10.62%) than the quality of supply (23.08%) of the Internet trade market. H3 – 43.57% of respondents use only foreign online stores. The results showed that consumers in Latvia are not loyal to the local online stores. To improve the situation the sellers need to analyse what consumers like in foreign stores and improve the communication by make changes in all quality dimensions that will increase the satisfaction and the level of trust.
5. It is recommended to react on different situations as soon as possible and rise the all quality dimensions in case to satisfy consumers and increase the level of efficient communication with customers. That helps to increase the level of e-loyalty both to product and vendor and ensure a long – term relationship.

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# INTERNATIONAL INDICES CAPTURING PROGRESS IN DIGITISATION: LATVIA RANKINGS

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**Abstract**

**International indices capturing progress in digitisation: Latvia rankings**

***Key words:*** *information and communication technologies, digitisation, ICTs infrastructure, technology usage*

There is no doubt that technological innovation is influencing many aspects of our lives. Social media are changing the way people interact, the way companies interact with customers. Internet usage helps entrepreneurs to generate new markets. In many countries information and communication technologies can be even more fundamental for reducing inequalities and taking people out of poverty.

The aim of this paper is to analyse Latvia's positions compared with other countries within benchmarking indices that cover different aspects of digitization. The World Economic Forum Network Readiness Index seeks to better understand the impact of ICT on the competitiveness of country. The 2015 edition of NRI covers 144 countries. The European Commission Digital Economy and Society Index aims to summarize Europe's digital performance covering EU28 countries. Also other measurements cover different aspects of ICT - education, infrastructure, government policy, human resources, knowledge, ICT value added to economy etc.

Secondary data that are published by Economic Forum and European Commission are used and analysed to show how Latvia performs compared with other countries. If countries performance is low in benchmarking indices it can result in spoiled prestige and conversely - high ranks can improve country's reputation. In this case international indexes can play important role in country's place marketing. From another point of view, low indicators can reveal directions where improvements are needed. The overall results show that Latvia performs poorly compared with other EU countries. Latvia has lower values in composite indices compared with other Baltic States.

**Kopsavilkums**

**Starptautiskie indeksi, kas parāda digitalizācijas procesus: Latvijas rādītāji**

***Atslēgvārdi:*** *informāciju un komunikāciju tehnoloģijas, digitalizācija, IKT infrastruktūra, tehnoloģiju izmantošana*

Nav šaubu, ka šodien tehnoloģijas ietekmē daudzus aspektus ikdienas dzīvē. Sociālie mediji ir mainījuši veidu kā cilvēki komunicē savā starpā, kā kompānijas komunicē ar klientiem. Interneta izmantošana palīdz uzņēmumiem ienākt jaunajos tirgos. Daudzās valstīs informāciju un komunikāciju tehnoloģijas var spēlēt vēl būtiskāku lomu, palīdzot pārvarēt nevienlīdzību un nabadzību. Darba mērķis ir izanalizēt Latvijas rādītājus un salīdzināt tos ar citu valstu rādītājiem par pamatu ņemot plaši izmantotos un starptautiski atzītus indeksus, kas ietver digitalizācijas jautājumus. Darbā galvenais uzsvars tiek likts uz Eiropas Komisijas publicētais Digitālās Sabiedrības un Ekonomikas indeksu, kas publicēts 2016.gadā un aptver visas Eiropas Savienības valstis, kā arī uz Pasaules Ekonomikas Foruma publicēto Tīkla Gatavības Indeksu, kas pēdējo reizi atjaunots 2015.gadā un aptver 144 valstis. Protams, pastāv arī citi rādītāji, kurus var izmantot, lai izmērītu dažādus IKT nozares aspektus – izglītību, infrastruktūru, valdības politiku, cilvēku kapitālu un zināšanas, IKT nozares ietekmi uz ekonomiku u.c.

Lai izpētītu kādi ir Latvijas rādītāji salīdzinājumā ar citām valstīm, pētījumā tiek izmantoti publiskie pieejamie sekundāri dati, kurus publicē Pasaules Ekonomikas Forums un Eiropas Komisija. Ja valsts rādītāji plaši atzītos indeksos ir zemi, tad tas var sabojāt valsts prestižu un tieši otrādi – ja rādītāji ir augsti, tas paver iespējas piesaistīt investorus vai citā veidā to veiksmīgi izmantot valsts mārketinga nolūkiem. No cita skatu punkta – zemi rādītāji parāda vājās vietas, kurām būtu jāpievērš pastiprināta uzmanība. Diemžēl pētījums atklāj, ka Latvijā ir zemāki kopējie rādītāji salīdzinājumā ar daudzām citām ES valstīm, t.sk., Baltijas valstīm.

## Introduction

The information and communication technologies (ICTs) have potential to affect nations' economies, can boost competitiveness and well-being. ICTs improve rural area development, create employment and reduce the gap between rich and poor people.

ICTs research field consists of multiple interrelated questions – ICTs value added to economy, ICTs human capital, infrastructure and ICTs usage. Different indicators can be used to measure all these aspects. First, the author of this paper describes different benchmarking indicators that are usually used to capture ICT development, as well as digitisation of nations.

However, as the main focus in the research is European Union member countries' digitisation that mainly covers such dimensions as infrastructure, ICTs usage and some questions of human capital, then the second part of the research is based on analysis of secondary data published by the European Commission (gathered from different sources) and the World Economic Forum (by Executive Opinion Survey). The author presents different indicators for benchmarking indicators like composite indexes Digital Economy and Society index, Network readiness index and some other indicators. Afterwards more detailed analysis of digitisation sub dimensions is presented.

While in recent years leading telecommunication companies in Latvia have often emphasized developed, modern and affordable infrastructure, the author believes that more analysis is needed on regular basis to see if this is still true and if other countries do not outperforms Latvia.

**Literature review**

As today there exists different indicators related to ICTs capturing different aspects of ICTs. These research questions could be divided into following (interrelated) parts:

- ICTs sector as it is (measured by ICTs shared in GDP, value added to economy, export share etc.);
- ICTs human resources (employment in ICTs, basic and advanced knowledge, STEM graduates etc.)
- ICT infrastructure (availability and affordability of internet; mobile internet; also support from government and legislation system);
- ICT usage (usage by businesses, government and individuals).

This paper is focused on nation's digitisation that is measured by such aspects as preparedness to use ICTs in terms of infrastructure, usage of ICTs by individuals, businesses and government. Table 1 summarizes main indicators that are used for digitisation measurements.

Table 1. **List of benchmarking indicators for digitisation**

| **Indicator(s)** | **Publisher** |
|---|---|
| Network Readiness Index (NRI; composite index), latest edition NRI 2015 | World Economic Forum in Global Economy Report since 2012 |
| Digital Economy and Society Index (DESI; composite index), latest edition DESI 2016 | European Commission in Digital Scoreboard since 2013 |
| ICT Development Index (IDI), latest edition IDI 2015 | International Telecommunication Union in Measuring the Information Society Report |
| State of the internet (multiple indicators), latest edition 2015 | Akamai Technologies, Inc. in the State of the Internet Report since 2008 (Akamai, 2015) |
| Other indicators related to value added to economy | Different sources, mainly national or other statistical data |

Source: author's compilation

Composite indexes like NRI, DESI and IDI consists of multiple sub dimensions. NRI is the oldest indicator and there are list of papers that discuss different aspects of index and present analysis of country performance based on this index (for instance, Alper, Cigdem et. al., 2015; Binsdfeld, Whalley et al., 2015; Wei, 2012). Some researchers have also focused on IDI. DESI is also the newest composite index in the family of ICTs indices, thus it is not widely discussed in research papers.

NRI measures the propensity for countries/economies to exploit the opportunities offered by ICT and establishes a broad international framework mapping out the enabling factors of such capacity. (World Economic Forum, 2015) It is measured on a scale from 1 (worst) to 7 (best) and the latest edition covers 143 economies. Main dimensions included in NRI are environment (political and regulatory, business and innovation), readiness (infrastructure and digital content, affordability and skills), usage (by individuals, business, and government) and impact (economic and social).

DESI is a composite index that summarises relevant indicators on Europe's digital performance and tracks the evolution of EU member states in digital competitiveness (European Commission, 2016). Its structure consists of five principal dimensions – Connectivity (25%), Human Capital (25%), Use of Internet (15%), Integration of Digital Technology (20%) and Digital Public Services (15%).

he goal of ICT Development Index (IDI) is to measure: the level and evolution over time of ICT developments; progress in ICT development in both developed and developing countries; the digital divide and measure the development potential of ICTs and the extent to which countries can make use of them to enhance growth and development (ITU, 2015). IDI contains three dimensions (ICT access – 40%, ICT use – 40% and ICT skills – 20%).

It could be shown that taking latest available data all three indices have quite high correlation (see Figure 1 and Figure 2). All indicators have become benchmarking indicators and often mentioned within media and for policy makers. Most of indicators used in IDI are also measured by NRI, while DESI and NRI have more differences. DESI is more focused on digitisation processes, while NRI is more focussed on readiness. NRI and IDI are measured worldwide, while DESI is calculated only for EU and EU candidate countries, making it impossible to compare EU with other regions.

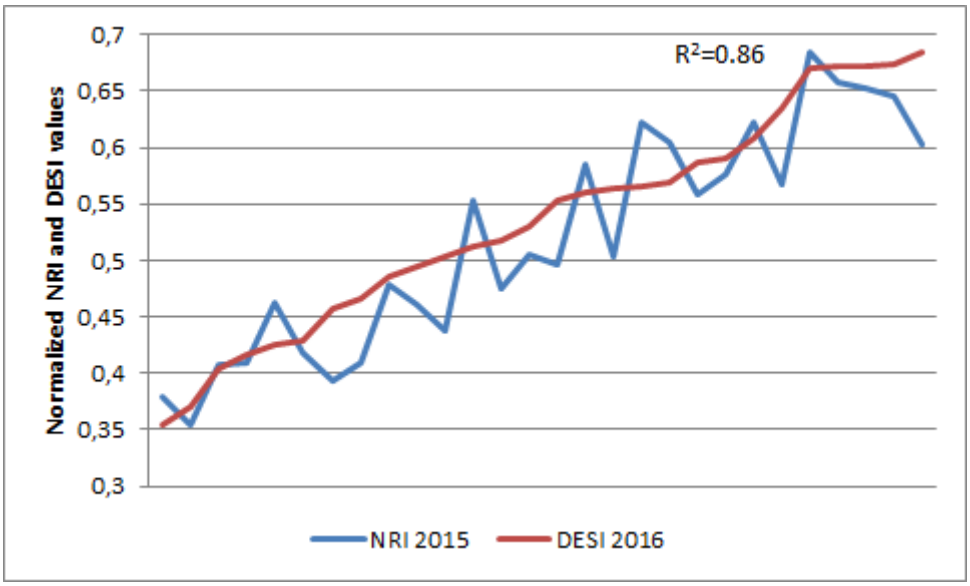


Figure 1. **Relationship between Network Readiness Index 2015 and Digital Economy and Society Index 2016 (EU28 countries)**
Source: author's compilation using secondary data (World Economic Forum 2015; European Commission 2016c)

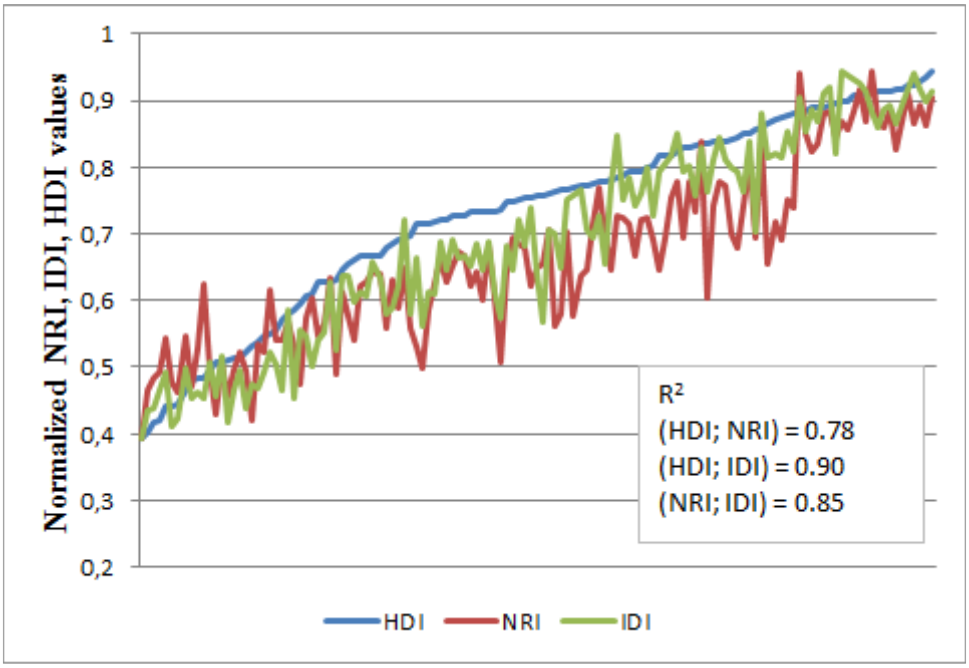


Figure 2. **Relationship between Network Readiness Index 2015, ICT Development Index and Hunan Development Index 2015**
Source: author's compilation using secondary data (World Economic Forum 2015; European Commission 2016c)

From methodological aspects it should be noted that composite indices often use both, hard data (publicly available statistical information from sources) as well as survey data (expert evaluations). For instance, NRI measurements include evaluations from experts from each country. Thus some data could be biased if expert evaluations from different countries are compared. Also it should be understood that different composite indices often use different methodology and measurements even when speaking about the same aspect, for instance, internet access level.

Another important issue is that often composite values are cited without more detailed sub-dimension analysis, but sometimes it could lead to incorrect conclusions.

Often some of benchmarking indicators are used for administrative purposes. In this case, once a reference indicator is chosen, it is likely that policy makers will pay particular attention to it and take actions to improve the indicator, which may or may not actually ameliorate the situation that the indicator is supposed to measure (Taylor 2007).

**Data analysis**

If we look at Latvia's performance compared with other countries, we can see that Latvia performs worse than European Union on average. For instance, DESI 2016 (see Figure 3) shows that Latvia has rank number 19th having value 0.49, while EU on average has value 0.52. Both Estonia and Lithuania outperforms Latvia. The very similar pattern could be seen by NRI (Latvia is 16th among 28 EU countries, while Lithuania is 15th and Estonia is 9th). If we look at IDI, then Latvia outperforms Lithuania (Latvia is 37th among 167 world countries, while Lithuania is 40th).

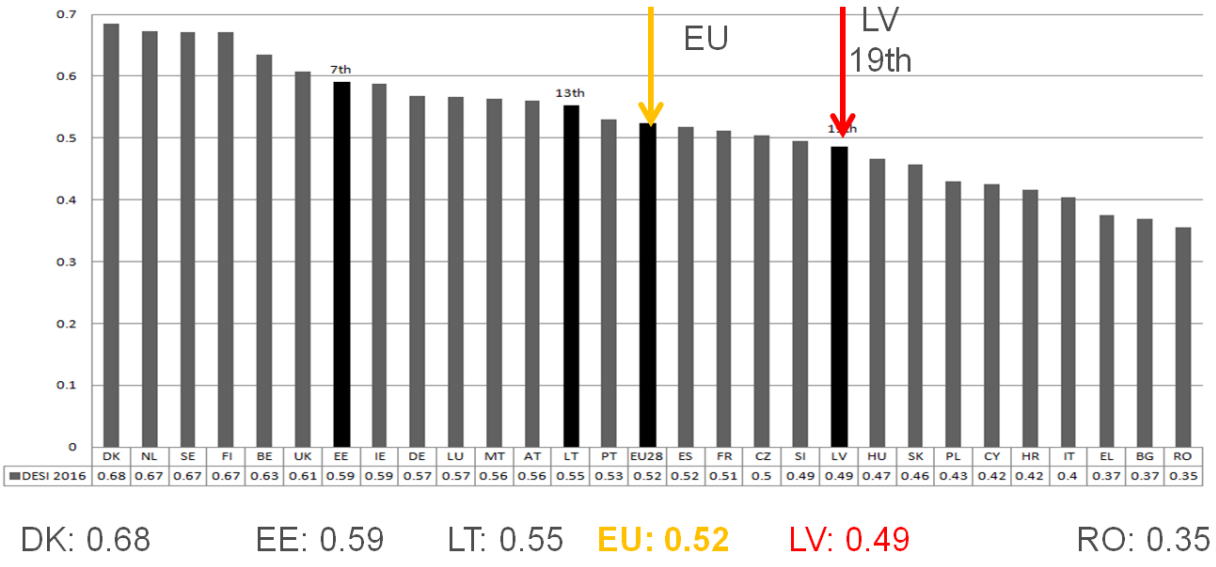


Figure 3. **DESI 2016 values and ranks**

* created by author based on secondary data (European Commission, 2016)

Figure 4, Figure 5 and Figure 6 shows Latvia's overall progress comparing two latest available editions of DESI, NRI and IDI. In overall Latvia have improved scores if compared two latest available indice editions, however, some dimensions are improving lower then others. We can also see that Integration of Digital Technology (DESI) has the lowest value. Connectivity (or also Infrastructure) has quite high value, however, it has not been improved much, but affordabilty has even decreased. In Latvia there is high NGA access level compared with other EU countries. Next Generation Access reach 91% (8th; EU is only 71%) and have subscriptions 56% compared to EU 30%

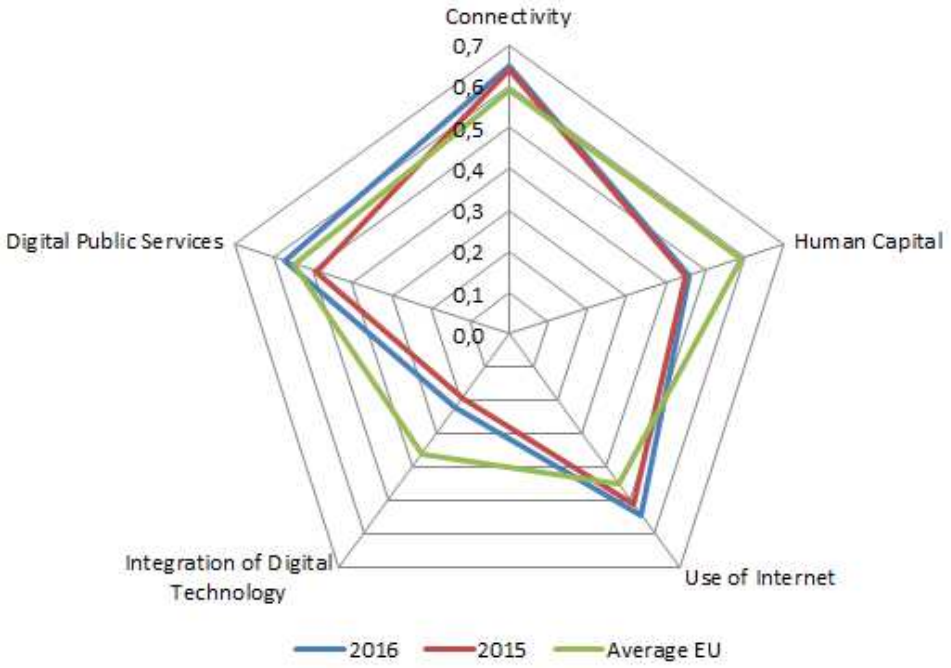


Figure 4. **Digital Economy and Society Index 2015 and 2016 edition comparison**
* created by author based on secondary data (European Commission, 2015; 2016c)

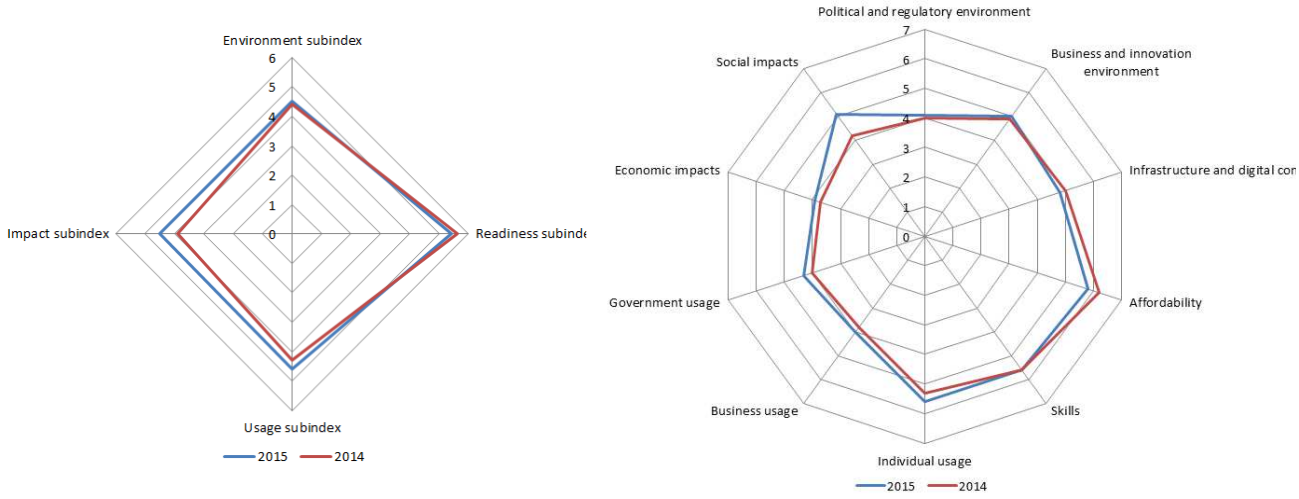


Figure 5. **Network Readiness Index main dimensions and sub-dimensions 2014 and 2015 edition comparison**
* created by author based on secondary data (World Economic Forum, 2014; 2015)

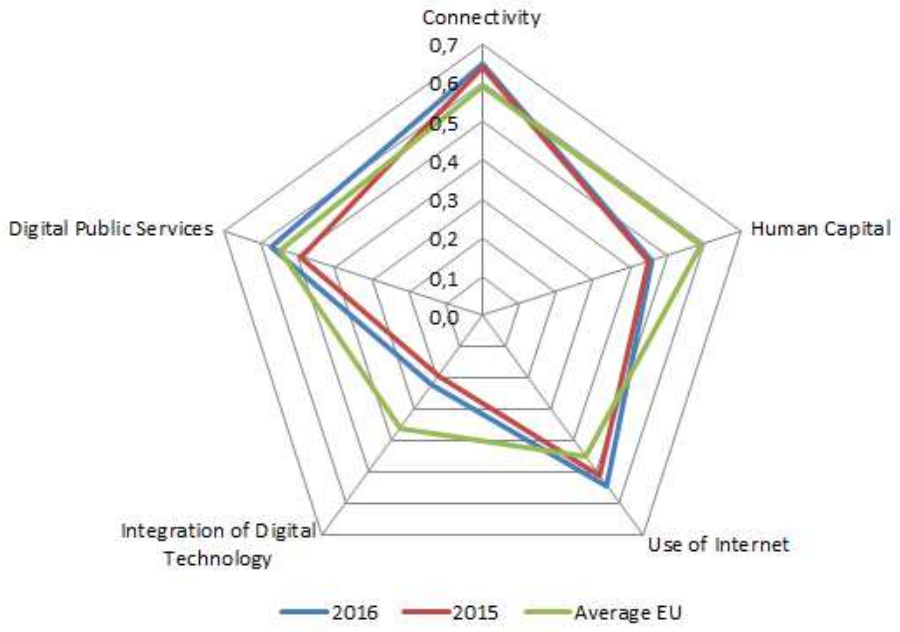


Figure 6. **IDI Index 2015 and 2014 edition comparison**
* created by author based on secondary data (ITU, 2015; 2014)

DESI shows that Latvia has improved Digital Public Services a lot. This is due to e-Government services. E-Government uses digital tools and systems to provide better public services to citizens and businesses. In Latvia the number of services was recently increased making people more often using them. e-Health sub dimensions that is an important part of public services, is not included in DESI yet. However, it probably would be include in future. Author believes that Latvia's results would be lower than in EU on average, as there are on-going project related to e-Health that is still not implemented.

If we look at all countries, then we can see the strong correlation between "Connectivity" and "Integration of Digital Technology" (see Figure 7). This means that "Connectivity" is a requirement for Technology integration and most of the countries really take opportunity of their connectivity. However, figure show that Latvia does not. It is one of the "outliers" in the chart meaning Latvia business (in the sense of DESI Integration of Digital Technology sub-dimension) doesn't use existing connectivity opportunities. The author suggests investigating this question in future more in details to understand if DESI captures al important aspects of Digital Technology Integration as well as to find out more detailed reasons why Latvia lacks in integration).

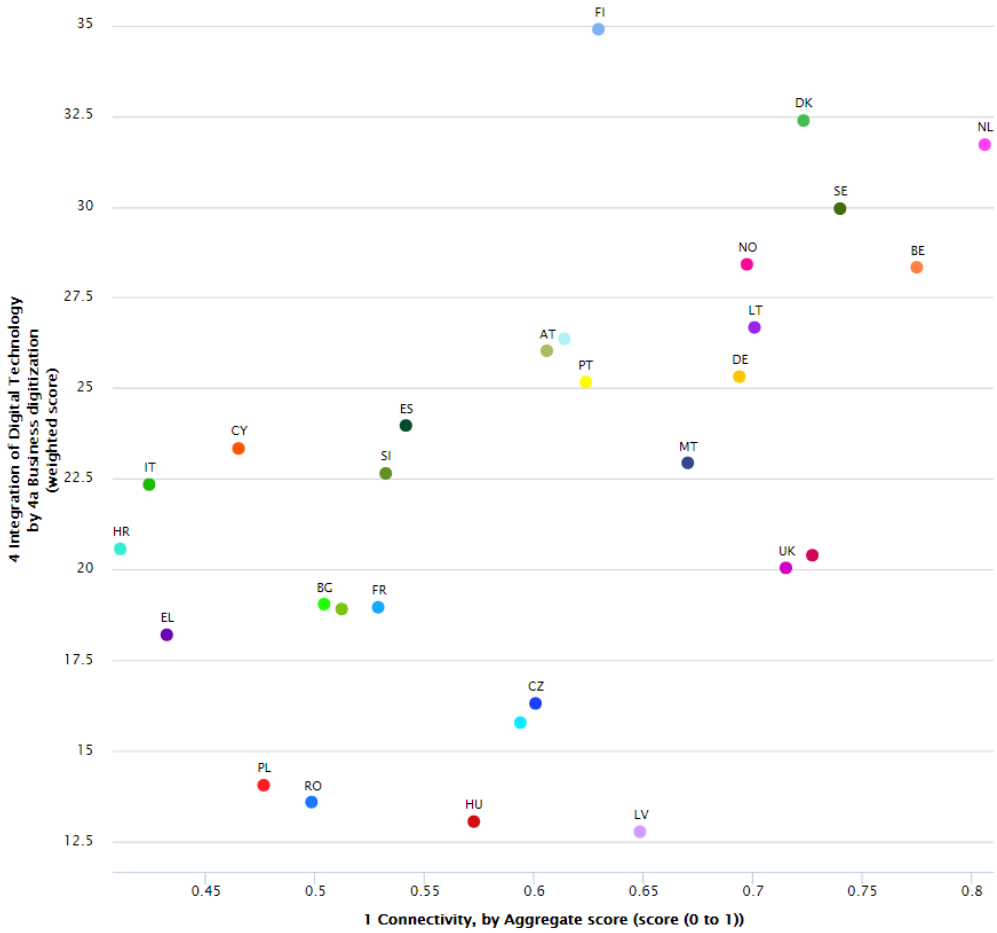


Figure 7. **Relationship between Connectivity and Integration of Digital Technology**
* European Comission, 2016

Items related to regulatory and legislation environment is covered only by NRI. If we look at worst indicators for Latvia (see Table 2), we can found that most of these indicators are related with political and regulatory environment, as well as other government related issues. Among worst indicators we can found also mobile network coverage (however, coverage is very high 98.8%, thus this is not bad at all). Unfortunately also Skills are evaluated quite low (it should be noted that Skills are based on expert evaluations).

Table 2. **TOP indicators of Latvian NRI with worst performance (< average EU level), 2015**

| **Pillar code and name** | **Indicator** | **Rank (out of 143)** | **Rank (out of EU28)** |
|---|---|---|---|
| A1 Political and regulatory environment | Efficiency of **legal system** in settling disputes | 115 | 20 |
| A1 Political and regulatory environment | Efficiency of **legal system** in challenging regs | 95 | 17 |
| C8 Government usage | Importance of ICTs **to gov't** vision | 95 | 18 |
| A2 Business and innovation environment | **Gov't** procurement of advanced tech | 92 | 17 |

| | | | |
|---|---|---|---|
| B3 Infrastructure | Mobile network coverage, % pop. | 84 | 26 |
| B4 Affordability | Internet & telephony competition, 0–2 (best) | 83 | 23 |
| A1 Political and regulatory environment | Effectiveness of **law-making** bodies | 81 | 18 |
| C7 Business usage | Capacity for innovation | 81 | 22 |
| A2 Business and innovation environment | No. days to start a business | 72 | 17 |
| B3 Infrastructure | Electricity production, kWh/capita | 69 | 25 |
| B5 Skills | Quality of educational system | 65 | 18 |
| A2 Business and innovation environment | **Total tax rate**, % profits | 61 | 20 |
| D9 Economic impacts | Impact of ICTs on new services & products | 61 | 17 |
| A1 Political and regulatory environment | **Judicial independence** | 58 | 17 |

Source: created by author (World Economic Forum, 2015)

If we divide all countries into 4 clusters by growth and index value, Latvia falls into 2nd clusters. This means that in overall Latvia has value that is lower than EU on average, however, Latvia has higher growth compared with other countries (see Figure 8).

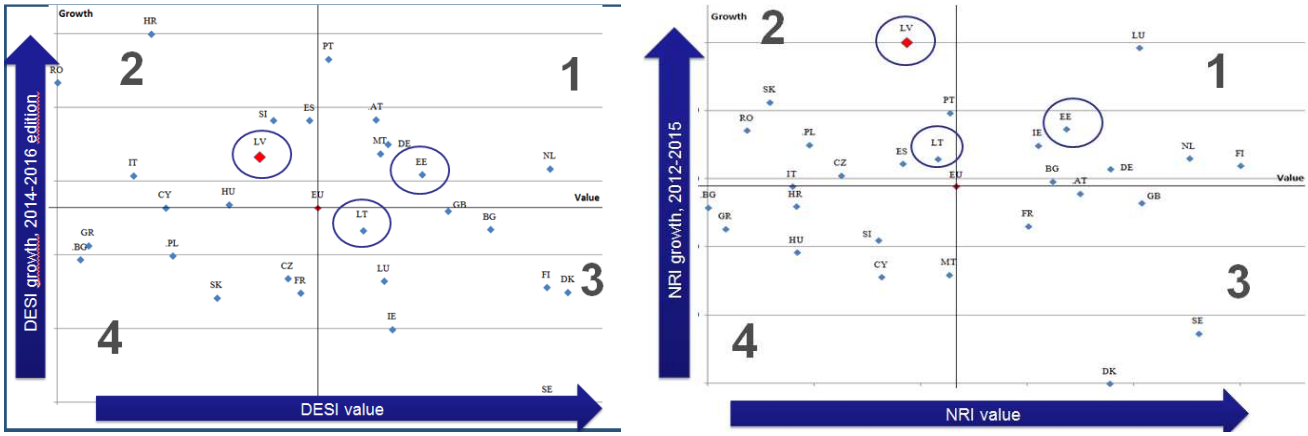


Figure 8. **DESI and NRI clusters by growth and overall value**
Source: created by author (World Economic Forum, 2015, 2014; European Commission, 2015, 2016)

## Conclusions

1) ICT as a research field consists of multiple questions – ICTs sector itself, ICTs infrastructure, usage etc. Thus multiple indicators exists to measure all these aspects.
2) The most known benchmarking indicators are related to nations digitisation processes. These are NRI, DESI and IDI.
3) In aggregated indices' values Latvia show low performance comparing with other European Union countries, as well as if compared with Baltic States.
4) Latvia doesn't use its potential enough. While Connectivity (that is related to infrastructure and affordability) is on high level, Latvian businesses are not using ICTs potential.
5) Many legislation and regulatory environment items are below average EU level.

6) The positive aspects are that there is fast internet access and NGA coverage is increasing. Also e-Government public services have improved and increased, thus people are using them widely.
7) e-Health is not included into DESI index as e-Government is; the author believes that if it would be included Latvia would have low positions as public e-Health projects in Latvia is still on-going and not introduced yet.
8) From country's place marketing perspective it is important to have higher ranks. Thus it is important to understand main strengths and weaknesses of country based on given indices' values. However, if benchmarking indicators are used for administrative purposes, it is likely that policy makers will pay particular attention to it and take actions to improve the indicator, which may or may not actually ameliorate the situation that the indicator is supposed to measure.

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# TIESĪBU ZINĀTNE / LAW

# THE CONCEPT "CHILD'S BEST INTERESTS"

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**Abstract**
***Keywords:*** *"child's best interests"; principle; fundamental rights; family law; human rights*
Over the time the society has changed the views of the child as an individual who gives the benefit to the society and concluded that the child can be given the right to itself. Legislation regarding to children are focused on the child's interests and they should be given a prominent position. The child should be able to enjoy his/her fundamental rights, he/she must have the knowledge how to implement and claim those rights.
In the current paper the author analyses the concept "child's best interests", which is used for both international and national legislation and it should be considered in all actions concerning children. This concept is most often used in the context of family law determinations. However, there is no exact definition for this term. The author analyses the legal nature of this concept. Many scholars have tried to define the concept or to create a list of factors which is the most important when defining "child's best interests" in particular case.
The lack of definition or precise criteria to determine a child's best interest allows a case-by-case interpretation. The author tries to find out the meaning and content of the concept "child's best interests" by exploring its application in European Court of Human Rights cases. Term "child's best interests" is implemented in almost every national legislation act concerning child's rights as well it is included in international private law and human rights, therefore the analyse of this concept is essential to understand the content of this concept.

**Kopsavilkums**

**Bērna interešu princips**

***Atslēgvārdi:*** *bērna intereses; ģenerālklauzula; princips; cilvēktiesības; starptautiskās privāttiesības.*
Laika gaitā sabiedrība ir mainījusi viedokli par bērnu kā indivīdu, kurš ir labuma devējs sabiedrībai un secinājusi, ka bērnam var tikt piešķirtas tiesības pašam par sevi. Bērna interešu principa dominante starptautiskajās, Eiropas un nacionālajās tiesībās nešaubīgi norāda, ka tiesību normu piemērotājiem prioritāri ir jāievēro bērna intereses, pat tad, ja tās ir pretrunā ar sabiedrības interesēm un konkurē ar bērna vecāku cilvēktiesībām.
Raksta ietvaros autore analizē "bērna interešu" principa, kas ietverts gan starptautiskajos, gan nacionālajos tiesību aktos, juridisko dabu un, kas jāņem vērā izskatot lietas, kas skar bērna tiesības. "Bērna interešu" princips visbiežāk tiek lietots ģimenes tiesību jomā, piemēram, aizgādības, saskarsmes un adopcijas lietās. Tā kā šī principa saturs tiesību aktos nav definēts, tad autore analizē šī principa piemērošanas metodes un saturu.
"Bērna intereses" ir plaši pazīstams elements daudzu valstu tiesībās, kā arī starptautiskajās privāttiesībās un cilvēktiesībās, tāpēc šī principa piemērošanas izpētē liela nozīme ir ne tikai tiesību zinātnē izteiktajām domām un vērtējumiem, bet arī starptautiskajai praksei un pieredzei šī principa satura atklāšanā un tā piemērošanā. Autore vērsīs uzmanību uz Eiropas Cilvēktiesību tiesas praksi, kas atklāj bērna interešu principa saturu.

## Introduction

The notion of "the child's best interest" is the key to many judicial systems where the child protection services intervene. The aim of the article is to explore the legal nature and the content of the concept "the child's best interest" and how should the concept be interpreted and applied in practice. For this article the author use descriptive, case study, observational and analytical research method.

## "The child's interest" general characteristics and a legal nature of the concept

The concept of "child's best interests" is embodied in the Article 3 of Convention on the Rights of the Child - in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best

interests of the child shall be a primary consideration (UNCRC 1989). It is unique provision in a human rights treaty, establishing a principle to guide decisions and actions affecting the lives of children both individually and collectively (Landsdown 2016: 31). Considering that the "child's best interests" is very wide, vague, roomy and substantively important concept, it is necessary to clarify the legal nature and content of it.

Starting from the second half of the 19th century up to nowadays family law and children's rights is one of those areas of law which are developing very rapidly. The rapid development of law is undoubtedly at a risk that regulation will become obsolete even faster and legislative measures will not meet the demands of the society in near future. Analysing the concept of "children's interests", the author finds that this concept is at high degree of abstraction and can cope a myriad of different situations, so it is clear that this concept belongs to the so-called open or indefinite group of the concepts (Meļķisis 1999:17). According to author's view, "children's interests" is a general clause since the concept does not contain any detailed indications what exactly the "child's best interests" means, and the concept is broad and flexible enough to be successfully applied by decision-maker in any case that have an impact on children's lives.

What is the general clause "children's interests"? How the decision makers should act in order to fulfil the content of this concept and how to interpret it? And how to assess these interests adequately? These and another questions decision makers face in practice, in different environments.

The general clause – is not precisely formulated term and concept of legal rights and should be filled with certain content during decision-making (Meļķisis 1999:17). The boundary between "conventional" open legal concepts and general clause is uncertain - the first ones should be clarified within context of the law and the specific case, while clarifying the content of the general clause the specific context is less important, but more important is to find a more or less universal, abstract legal guidance outside of the regulation and the particular context (Levits 2003: 166).

In legislation the general clause is used due to the reason that the general clause is possible to adapt flexibly over time, responding to permanently changing valuation of society to the legal, social and everyday phenomena (Kalniņš 2001: 120). Although the regulations where general clause is used very intensively, is easier to adjust to the new needs of society, at the same time there is a risk that it may be applied unsystematically, casuistically and formally (Grundman, Mazeaud 2006: 7). The general and vague wording of the general clause does not necessarily mean that the decision maker could fulfil the clause with any content (Balodis 2002: 280). The concretisation of general clause or filling with specific content must be carried out by the case law and jurisprudence clarifying whether the indications of the existing case really correspond to the spirit of legal provision contained general clause (Meļķisis 2000: 31).

The general clause also allows decision makers to follow social changes and to change the interpretation in the course of time (Levits 2003: 166) At the same time it stipulates the decision maker considerably more complicated task and imposes more responsible obligations. Every general clause contains the legal substance and it is directed to a specific goal; to be precise – to achieve the goal. Analysing the facts of a case, the decision maker should acquire reasoned confidence that the case corresponds to the meaning of general clause - *ratio legis* (Meļķisis 2000: 31). In this way is possible to find out an idea contained by general clause. Any general clause, as well the "child's best interests" content can be studied out by collecting and generalizing judicial practice and legal knowledge of specific occasions on which the general clause applies. Since the general clause is formulated on a high level of abstraction, the main method to interpret the general provision is the teleological method (Levits 2003: 168).

Teleological interpretation means to interpret legislative provisions in the light of the purpose, values, legal, social and economical goals these provisions aim to achieve and the fundamental principles of law arising from the law system as a whole (Meļķisis 2003: 124). In order to provide more accurate and complete extent determine the *ratio legis* of the law, it is necessary to follow a number of conditions. Firstly, the interpretation should be done in the context of the existing law institutes and the legal system, the object and purpose that pervades the content and linking norms and laws, determined by the legal system of social nature and orientation. Secondly, general and recognized principles of international and national law concerning the purpose and spirit of law; thirdly, the purpose and spirit of law should be interpret in the context of real, constantly changing life and the logic communities' development (Meļķisis 2003:125).

In 1959, the United Nations General Assembly adopted the Declaration of the Rights of the Child. The Declaration embodied "child's welfare" concept, which later transformed into "child's best interests" principle in the United Nations Convention on the Rights of the Child Article 3. However, it is important to differentiate between the principle "child's best interests" and the welfare principle. The last one values welfare and does not concentrate on rights. The best interest of the child, on the opposite, is interpreted as a right, and also as a legal principle, and a rule of procedure (Khazova 2016: 27). The Convention on the Rights of the Child defined child as an independent legal entity, in addition – with this document rights of the child for the first time obtained international legal force. The child's best interests as a primary consideration is firmly embedded in several regulations of international, European and national legislation, such as the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children; 27 November 2003 Council Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental

responsibility, repealing Regulation (EC) No. No 1347/2000 - this regulation ground of jurisdiction in matters of parental responsibility is established, taking into account the child's best interests, in particular the criterion of proximity.

The European Convention on Human Rights does not expressly refer to "child's best interests" (Grgic 2016: 17). However, the European Court of Human Rights (hereinafter - ECHR) has determined that it is the Community's interests to maintain a coherent system of family law, where as a main principle dominates "child's best interests" (Van Buren 2007: 31).

Despite the fact that the principle "child's best interests" is not mentioned in the Article 8 of the European Convention on Human Rights, but the wide scope of Article 8 has meant that the case law of ECHR touches on a great variety of family and child law areas (Kilkelly 2004:68). While the vast majority of this case law has concerned children in state care, ECHR has also considered the obligations of the state in private law cases, particularly with regard to access and custody disputes between parents and the enforcement of court orders in this area (Liddy 1998: 15).

At first sight the principle "child's best interests" seems obvious, but the legislation does not use the word 'interest' in its ordinary sense. This does not apply to what the child is actually interested in, but on what is good and suitable for the child. Child needs food and clothing. Child will be helped over her/his childhood years to become a mentally healthy adult by receiving love, care, education, discipline and a host of other things (Williams). So, the "best interests" is what the best serves (protects) the child. In author's view - it obliges the decision-maker to begin with a consideration of the child's best interest as a sole factor, and only then concern itself with the rights of any other parties involved.

It is a fundamental principle of law, which is designed to limit the amount of adult (parents, professionals, teachers, doctors, judges, etc.) power over the children. The principle is based upon the recognition that an adult is only in a position to take decisions on behalf of a child because the child's lack of experience in judgment (Van Bueren 2007: 30).

However, it is clear that the "child's best interests" principle includes the following basic elements:

- the importance of each child point of view;
- a child's life short, medium and long-term perspective, bearing in mind that a child is a person who is in constant development;
- Convention on the Rights of the Child essence and spirit;
- Convention on the Rights of the Child interpretation of provisions that are not culturally relative or deny other principles in this Convention (Zermatten 2010: 17).

Of course, determining the child's best interests requires a clear and comprehensive disclosure of the identity of the child, including his nationality, upbringing, ethnic, cultural and linguistic basic

identification, vulnerability and need for protection. Evaluation carried out by qualified professionals in a friendly and safe atmosphere (Hodgkin 2007: 37).

Often the concept "child's best interests" is criticized as too vague and general, that its content and interpretation changes over time and depends on the financial resources of the state where the child is living, level of development and culture. Of course, there is a risk that the interests of the child principle can be abused "child's best interest" to adult justify their actions in cases where it actually has violated the rights of the child, for instance, to defend corporal punishment arguing that it sets the necessary limits for the long term, serve for their own good; adopted children are denied to know their biological parents "in their own interests", children are being forcefully removed from their families and placed in institutions, so that they could live in "the civilized world".

Contrary to the majority of articles in the Convention on the Rights of the Child, "child's best interests" principle does not constitute a subjective or substantive right *stricto sensu*, but rather institutes a principle of interpretation which must be used in all forms of interventions regarding children and which confers a guarantee to all children that decisions that will affect their lives will be examined in accordance with this principle of interpretation (Beshir 2012).

Considering that the child's best interests is a general clause which needs to be clarified in practice and adhere to internationally recognized procedural rules for its application, examining specific cases, it is possible to develop general guidelines and model solutions to deal with the child's interests both in individual cases and in cases involving groups of children. The criterion of the best interests of the child is relative in space and time. This criterion is relative in time since it is dependent on scientific knowledge about the child and the pre-eminence of such theories in any given time period. It is relative in space, since this criterion should take into account the valid standards present in certain countries. It must be repeated here that the principle of best interests cannot be threatened by arguments of cultural relativism that seek to justify decisions which would negatively impact on respect for and the enjoyment of the substantive rights of the child/children (Beshir 2012).

In view of the axiom that the child is an evolving human being, in principle, appropriate to think about the *hic* and *nunc*, as well as medium- and long-term consequences for children. For example, a decision maker in deciding on the child's removal from his biological family, thus interrupting his links with parents, it is necessary to analyse what implications this will have on the child's life at the moment and the child's future. As a child all the time in the development, priority should be given to his or her interests in the future (Zermatten 2010: 17).

The author is in position and joins to opinion of Ms.Fatma Hassan Beshir that the criterion of the interest of the child is doubly subjective. First, we have collective subjectivity. This means that

in any given society, at any given moment of its history, there is an image of what the interest of the child is: for example, the education of the child in one religion or another or the refusal of all "excesses" as a religious practice (Beshir 2012).

In the interest of the child, there is also a personal subjectivity. This personal subjectivity can be further broken down into three levels:

First, there is the subjectivity of parents, caregivers, or legal representatives. What parent does not claim to act in the interest of their child, even when their actions may seem to be motivated by selfish reasons (judges in divorce cases know this all too well)?

Second, there is the subjectivity of the child/children. Problems emerge when the childs views or wishes under consideration do not correspond to the view(s) held by the parents (or others adults) regarding a situation or a proposed solution.

Finally, there is the subjectivity of the judge, or the administrative authority invested with the power to make the decision (the decision-makers). While the strength (or risk) of this subjectivity is well-known, in most cases, it will be asserted that the decision was reached based on a "scientific" analysis of the situation (Beshir 2012).

The author's opinion, the decision-makers subjectivity is quite widespread - very often family affairs decisions can be faced with the knowledge that "the interests of the child" is to stay with her mother, does not justify such a choice.

Despite this principle weaknesses and criticisms of the principle of broad scope, flexibility and ability to adapt to different times, in different cultural and socio-economic environments, different legal systems, it points to the fact that it is universal and can be applied everywhere and in all cases where a involving children.

In order to facilitate the decision-making choices, many countries are attempting to introduce a catalogue of the interests of the child. Other countries are referred to as the "interests of the child test." For example, Canadian children and family law specialists have developed guidelines for children's interests, such as: 1) the child is important for a stable and lasting relationship with both parents; 2) the child's moral and emotional well-being; 3) Respect the child's wishes when he is old enough to express their views; 4) the child's divestiture of grandparents; 5) a child's life from the status quo, so that the child's living arrangements are disrupted, etc.

In authors opinion its vagueness lays as well its strength: it prevents standardisation, uniformity and depreciation.

Scientists and researchers have a lot of discussions and views on how the clause of "child's best interests" should be filled with content, so for example Christian Munthe and Thomas Hartvigsson concludes that the best interests of children can be divided into the following three groups:

- Experiential interests: the interest of having enjoyable experiences and avoiding unpleasant ones.
- Developmental interest: the interest of having one's development into a well-functioning adult promoted as far as possible.

Basic interests: the interest of being provided with such material, mental and social resources that are a prerequisite for experiential and developmental interests to be satisfied.

**Jurisprudence of the European Court of Human Rights on the best interests of the child**

The largest group of family cases which allowed the ECHR to develop its jurisprudence related to children is custody and access rights. ECHR has frequently stated that mutual enjoyment by parent and child of each other's company constituted a fundamental element of family life even when the relationship between the parents had broken down. Despite the criticisms regarding to "child's best interests", ECHR allows this principle to continue to retain significant value. ECHR classes this principle as paramount, regarding all other considerations as subsidiary, since the vulnerability of children requires that the best interest principle be given prominence for serving as 'one of the few unquestionable moral assertions' that exists in society today. Whether parents are separating from each other or adopting a child, the principle sends a powerful message: `forget about your own rights; put the interests of your children first' (Herring 2005: 432).

Case *P. V. v. Spain* ECHR acknowledged that the access restrictions between a male-to-female transsexual and her six-year-old son was the child's best interests. The applicant - a Spanish national, who prior to his gender reassignment was the father of the child. The child's parents had entered into an arrangement with which the custody was awarded to the mother, but parental responsibility they exercised jointly. The agreement also established the order in which a father realizes contact with the child. Given that the father had not shown any interest in the child, as well as due to his gender reassignment had started hormone therapy, used make-up and dressed as a woman, the mother of the court he applied so as to deprive the father of parental responsibility, and to stop communication between father and child. Spanish court limited the father's and son's contacts on the grounds of his father's temporary emotional instability caused by hormone therapy, and that it can lead to a real and significant risk of impediments to the child's psycho-emotional well-being. ECHR decision in this particularly stressed the interest of the child, namely the Court's view of the child's interest to gradually become accustomed to his father's gender reassignment.

Case *Hokkanen v. Finland* indicates the problem how to find a balance between different interests. Mr.Hokkanen's wife had died, and his daughter looked after by his wife's parents - his daughter's grandparents. They had obstructed contact over a 3-year period, despite repeated applications to court. ECHR noted that it was in the child's best interest to develop contacts with the applicant, even if she might not wish to meet him. Whilst national authorities must do their utmost to facilitate such co-operation, any obligation to apply coercion in this area must be limited since

the interests as well as the rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and his or her rights under Article 8 of the Convention. Where contacts with the parent might appear to threaten those interests or interfere with those rights, it is for the national authorities to strike a fair balance between them.

In access case *Sahin v. Germany* ECHR noted the necessity of hearing the child in court. In that case the mother prohibited all contact between the child and the father. The father petition was denied when the judge found that granting the father access would be harmful to the child because of, among other things, the serious tensions between the parents. The child herself was never asked about her father and whether she wanted to continue seeing him. Article 8 requires that the domestic authorities should strike a fair balance between the interests of the child and those of the parents and that, in the balancing process, particular importance should be attached to the best interests of the child, which, depending on their nature and seriousness, may override those of the parents. When a parent seeks access to the child, accurate and complete information on the child's relationship to the applicant is an indispensable prerequisite for establishing a child's true wishes and thereby striking a fair balance between the interests at stake.

**Conclusions**

- The child’s best interests principle is the most important principle that must always be respected for any legal proceedings affecting the child.
- The child’s best interest principle limits the amount of adult authority over children and acknowledged that the adult take decisions instead of child just because the child have a lack of experience in decision-making.
- The decision - maker should fill in the general clause “the best interests of the child” with specific content.
- Applying principle “the best interests of the child” the decision maker must disclose the child's identity and to anticipate the consequences of the decision, which can cause a child in the near and distant future, giving priority to the child’s interests in the future.
- In order more easily fulfil the content of child’s best interests principle, countries can create a catalogue of children’s interests or the tests of the interests of the child, but they should not be absolute.

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# RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL MATTERS IN THE EUROPEAN UNION

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**Abstract**

**Recognition and enforcement of judgments in civil matters in the European Union**

***Key words:*** *Recognition of judgements, Declaration of enforceability, Exequatur, Mutual trust, Enforcement*

At its beginning this article gives a little insight in the history of the development of the concept of recognition of judgements and tries to answer why it is useful to apply in the one State (of enforcement of judgement) the concept of the recognition of judgements towards the judgement carried out in another State (of judgements origin). Further this article analyses, how the European Union has developed its 'genuine European area of Justice' in the sphere of mutual recognition and enforcement of judgements in civil matters and analyses the European Union's principle of mutual trust which serves as a basis of quite deep integration of European Union in sphere of mutual recognition and enforcement of judgements in civil matters. Further this article lists those European Union's regulations in civil matters according to which still once a person has obtained a judgment in his/her favour in one Member State, that judgment must be declared enforceable/recognised in another Member State (of enforcement of judgement), although the declaration of enforceability may be refused only in highly exceptional cases. After that this article lists those European Union's regulations in civil matters which abolishes the „exequatur" (declaration of enforceability) procedure which means that according to these regulations once a person has obtained a judgment in his/her favour in one Member State, that judgment can be automatically enforced in another Member State without any special procedure. In this case person can go directly to the enforcement authorities in another Member State where e.g. the debtor has assets without any intermediary procedure being required, but the debtor against whom the enforcement is sought usually may apply to the court of Member State of enforcement to request the refusal of enforcement of judgement. Further this article tries to analyse whether, by abolishing exequatur, European Union's regulations in civil matters do not violate the defendant's/debtor's fundamental rights. Finally, it concludes that by abolishing exequatur the most of European Union's Regulations in civil matters tries to find the balance between the fundamental rights of both parties, although not always this balance is reached.

**Kopsavilkums**

**Spriedumu atzīšana un izpilde civillietās Eiropas Savienībā**

***Atslēgvārdi:*** *spriedumu atzīšana, izpildāmības pasludināšana, ekzekvatūra, savstarpējā uzticēšanās, izpilde*

Vispirms šis raksts satur nelielu ieskatu spriedumu atzīšanas koncepta attīstības vēsturē un mēģina atbildēt, kādēļ vienā valstī (sprieduma izpildes valstī) ir lietderīgi piemērot sprieduma atzīšanas konceptu spriedumam, kas taisīts citā valstī (sprieduma izcelsmes valstī). Tālāk ietverta analīze, kā Eiropas Savienība ir attīstījusi savu "Eiropas tiesiskuma telpu" spriedumu atzīšanas un izpildes civillietās sfērā, un Eiropas Savienības savstarpējās uzticēšanās principa analīze, kas ir pamatā salīdzinoši tālejošai Eiropas Savienības integrācijai spriedumu atzīšanas un izpildes civillietās sfērā. Tālāk šajā rakstā ir uzskaitītas Eiropas Savienības regulas civillietās, saskaņā ar kurām personai, kuras labā vienā Eiropas Savienības dalībvalstī taisīts spriedums, vēl joprojām ir jāprasa šī sprieduma izpildes pasludināšana/atzīšana citā Eiropas Savienības dalībvalstī, lai arī izpildes pasludināšana var tikt noraidīta tikai izņēmuma gadījumos. Pēc tam šajā rakstā uzskaitītas tās Eiropas Savienības regulas civillietās, kas atceļ ekzekvatūras (izpildes pasludināšanas) procedūru, kas nozīmē, ka saskaņā ar šīm regulām spriedums, kas taisīts vienā Eiropas Savienības dalībvalstī, ir bez kādas starpprocedūras automātiski izpildāms citā Eiropas Savienības dalībvalstī. Šādā gadījumā persona, kuras labā taisīts spriedums, var bez kādas starpprocedūras tieši vērsties izpildes institūcijās citās Eiropas Savienības dalībvalstīs, kur ir parādnieka manta, bet parādniekam, pret kuru vērsta izpilde, parasti ir tiesības izpildes dalībvalstī prasīt izpildes atteikšanu. Tālāk šajā rakstā tiek mēģināts analizēt, vai Eiropas Savienības regulas civillietās, atceļot ekzekvatūru, nepārkāpj atbildētāja/parādnieka pamattiesības. Nobeigumā šajā rakstā tiek secināts, ka vairums gadījumos Eiropas Savienības regulas civillietās, atceļot ekzekvatūru, mēģina rast balansu starp civillietas abu pušu pamattiesībām, tomēr šis balanss ne vienmēr tiek sasniegts.

## Introduction

The aim of this article is to analyse how far the European Union has developed its 'genuine European area of Justice' in the sphere of mutual recognition and enforcement of judgements in civil matters. This article from the one hand gives general overview how far the question of mutual

recognition and enforcement of judgements has been developed in numerous European Union's regulations in civil matters. And form other hand this article tries to analyse and criticize whether European Union's regulations in civil matters "integrating" so far in the question of mutual recognition and enforcement of judgements always ensure the rights of both parties in civil cases.

**Discussion**

The judgments from the courts of one State have no force by themselves in another State. But successful party is interested to avoid repeated litigation in this another State. Besides there is a common interest to avoid private and public resources spent on re-litigation and in this another State (Michaels: 1). Therefore the concept of recognition of the foreign judgements could be helpful. Recognition is needed to because States still might have valid reasons to deny foreign judgments the same force as they grant to their own judgments since the foreign procedure may be viewed as deficient (Michaels: 1). It is needed to say that the recognition and enforcement of foreign judgments is a relatively young phenomena. In antiquity, local law was applied to foreigners and foreign judgments were denied any force beyond their territories. Although in Roman law no clear difference was made between foreign and local judgments – foreign judgments were freely recognized and enforced. This liberal attitude changed with the rise of sovereignty. A duty to enforce foreign judgments was rejected as an undue restraint of sovereignty in 16th century. Once ideas of sovereignty limited the authority of judgments to State boundaries, the recognition of foreign judgments between sovereign States had to be based on new principles – reciprocity and politeness towards another sovereign. These principles, that are still relevant today (Michaels : 2). Nowadays the European Union had formulated the aim of the creation of a 'genuine European area of Justice' which in author mind goes much further than reciprocity and politeness because European Union is much basing its policy in this field on European Union's principle of mutual trust. Since the entire European Union is a form of co-operation between its Member States, mutual trust as describing, legitimizing and ordering this co-operation plays a role on various levels of European Union law. One can argue that from the principles embodied at the level of primary Union law it is possible to deduce mutual trust which allows and justifies the mutual recognition to the extent necessary to implement the Union's vision of an area of freedom, security and justice. According to Article 2 the Treaty on the Functioning of the European Union the European Union is founded "on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities" and these values are "common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail." On its face, the provision – in conjunction with Article 6 (3) of the Treaty on the Functioning of the European Union– simply describes and identifies the existing common values of the Member States which

form the basis and source for the values of the European Union, reiterated and reinforced according to Article 6 (1) by the Charter of Fundamental Rights of the European Union. Working from the assumption that all Member States share the value of "justice" and enforce "the rule of law", it is possible for the European Union to fulfil its promise in Article 3 (2) the Treaty on the Functioning of the European Union to "offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured". This is achievable by building this area on the mutual trust of the Member States in each other's administration of justice and enforcement of the rule of law. Now the European Commission undoubtedly recognizes mutual trust as a key component in establishing the area of freedom, security and justice of the European Union and that mutual recognition appears as the predominant practice of granting such trust. Although European Commission and European legislator are being widely criticised that in explaining the respective provisions on mutual recognition in its instruments of secondary law the European legislator availed itself of the mutual trust in an unconvincing manner: it diagnosed a lack of mutual trust and then imposed an obligation of the Member States for mutual recognition as a cure. It should be the other way round (Weller 2015). Notwithstanding that Tampere European Council on 15 and 16 October 1999 established as priorities for action in this area also mutual recognition of judicial decisions. Point 3.1.2 of the Stockholm Programme for the year 2010-2014 goes even further and establishes that "the process of abolishing all intermediate measures (the exequatur), should be continued during the period covered by the Stockholm Programme". As the result of that a number of the European Union's regulations have been adopted to promote more freely circulation judgements in civil matters from the one European Union's country in other European Union's country. The level of „integration" of mutual recognition of judgments among European Union's countries differs from subject matter. There are „spheres" where once a person has obtained a judgment in his/her favour in one Member State, that judgment must be declared enforceable/recognised in every other European Union's country – the declaration of enforceability may be refused only in highly exceptional cases. And there are „spheres" where once a person has obtained a judgment in his/her favour in one Member State, that judgment can be automatically enforced in almost every European Union Member State without any special procedure. In this case person can go the enforcement authorities in another Member State where e.g. the debtor has assets without any intermediary procedure being required (the Regulations abolishes the „exequatur" procedure) – the debtor against whom the enforcement is sought usually may apply to the court requesting refusal of enforcement. As regards European Unions's regulation in civil matters it should be explained that the exequatur or declaration of enforceability is a procedure, similar to recognition procedure, whose purpose is to make a foreign decision enforceable in the forum. The sole goal of this procedure is to verify that there are no grounds for refusing the recognition of the

foreign decision. The decision issued in the exequatur procedure establishes whether the foreign decision can be accepted in the forum. When the procedure ends with a positive resolution, the foreign decision becomes effective in the forum. Usually both decisions, the foreign decision and the decision issued in the exequatur procedure, are required when a party seeks the effectiveness of the foreign decision in the forum. Without the decision adopted in the exequatur procedure, the foreign decision lacks any effect (Garcia).

To go further in detail in the European Union's regulation in civil matters, it shall be concluded that the following regulations maintain the need for exequatur (where once a person has obtained a judgment in his/her favour in one Member State, that judgment must be declared enforceable in every European Union's country, but this declaration may be refused only in highly exceptional cases):

- Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I regulation) – apply only to legal proceedings instituted before 10 January 2015;
- Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (Brussels IIbis regulation) – except access rights and child abduction cases;
- Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession – except European Certificate of Succession.

And on the another hand the following European Union's regulations in civil matters abolishes the exequatur (where once a person has obtained a judgment in his/her favour in one Member State, that judgment can be automatically enforced in another Member State without any special procedure, which means that this person can go directly to the enforcement authorities in another Member State where e.g. the debtor has assets - the debtor against whom the enforcement is sought usually may apply to the court requesting refusal of enforcement or have another means to defend his/her rights):

- Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters - apply only to legal proceedings instituted after 10 January 2015;
- Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims;

- Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure;
- Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure;
- Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations – except if Hague Protocol is not applied in particular EU Member State of judgement origin;
- Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (Brussels IIbis regulation) – only access rights and child abduction cases.

To go back in the history as a consequence of the mandate given in the Tampere Programme (to make proposals for further reducing the intermediate measures required to enable the recognition and enforcement of decisions or judgments in the requested State), the Commission drew up some Proposals that later became Regulations. Regulation 2201/2003 establishes that certain judgments concerning rights of access and certain judgments which require the return of a child are enforceable in a Member State, other than the Member State were the judgment was given, without the need for a declaration of enforceability and without any possibility of opposing its recognition. The condition for this "automatic" enforceability is that the judgment be certified in the Member State of origin in accordance with the provisions of the Regulation 2201/2003. The road to an unconditional recognition and enforcement of judgments given in other Member States had been opened, and Regulation 805/2004 creating a European Enforcement Order for uncontested claims became the next step forward. Regulation 805/2004 determined that judgments given or public documents drawn up in a Member State and certified as a European Enforcement Order would be enforceable in another Member State without any possibility of opposing its recognition. This means that a European Enforcement Order certified in a Member State should be enforced under the same conditions as a judgment handed down in the Member State of enforcement (Garcia). But later when the time to draft Regulation 1215/2012 became, although Commission's initial proposal contained provisions ensuring abolition of exequatur, European Union's legislator finally turned out to be much more careful. At Council level working groups and after when Regulation 1215/2012 was already approved, this Regulation gave extensive rights to debtor at the enforcement stage, which means that although exequatur is abolished the debtor at the enforcement stage can apply to court to ask to refuse the enforcement of judgment on the traditional grounds of non-recognition of judgements. This in practice means that the procedure of verifying the grounds of non-recognition of judgements is being transferred to the enforcement stage. Dr. Rafael Arenas García admits that:

"Quite understandably, the direct enforcement of a foreign judgment, without the possibility of opposing its recognition, was new and, to a certain extent, shocking… These instruments provide that, in certain conditions, decisions given in a Member State can be recognised and enforced in another Member State without the adoption of an enforceability decision in the Member State where recognition or enforcement is sought. In these cases, no grounds for the refusal of recognition are admitted. This means that the foreign judgment or document has to be recognised and enforced under the same conditions as judgments or documents given in the Member State where recognition is sought. A refusal of recognition is therefore not possible" (Garcia). The author of this article agrees with Dr. Rafael Arenas García that direct enforcement of a foreign judgment, without the possibility of opposing its recognition, was shocking at the beginning and remains shocking when Regulation 2201/2003 (provisions on access rights and child abduction cases) is concerned. But not so shocking when other Regulations are concerned. Besides the situation is quite the same as mentioned with the example of Regulation 1215/2012, which abolishes exequatur but at the same time gives extensive rights to debtor at the enforcement stage by transferring the procedure of verifying the grounds of non-recognition of judgements to the enforcement stage. It should be mentioned that also Regulation 1896/2006 in its Article 22 gives the rights to the defendant/debtor to apply for the refusal of enforcement in the competent court in the Member State of enforcement. And the same is provided in Article 21 of Regulation 805/2004 and Article 22 of Regulation 861/2007. Beside that Regulation 1896/2006, Regulation 861/2007 and Regulation 805/2004 gives also the right to defendant/debtor to apply for a review of the judgement before the competent court in the Member State of origin which brings to quite good balance of both parties rights in these Regulations. Thus the author of this article agrees with Dr. Rafael Arenas García that direct enforcement of a foreign judgment, without the possibility of opposing its recognition, is still very shocking only when provisions of Regulation 2201/2003 concerning access rights and child abduction are concerned. When provisions on access rights and child abduction of Regulation 2201/2003 are concerned, the defendant/debtor still lacks any possibility to oppose to recognition of a foreign judgment or possibility to defend their rights in another way, which, in author's mind, has led to tremendous violations of child's rights also in practice of European Court of Justice, but it could be whole topic of another article.

**Conclusions**

European Union, by abolishing exequatur in some Regulations of civil matters, has gone and integrated very far in the question of mutual recognition and enforcement of judgements in civil matters basing its policy on the European Union's principle of the mutual trust. As it could be seen by abolishing exequatur the most of European Union's Regulations in civil matters tries to find the balance between the fundamental rights of both parties, although not always this balance is reached.

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# INTERROGATION OF PERSONS IN ADMINISTRATIVE VIOLATION CASES

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**Abstract**

**Interrogation of persons in administrative violation cases**

***Key words:*** *administrative violation process, interrogation, liability, summons*

Recently there is much attention is paid to improve documentation in administrative violation cases in order to achieve high standards. It is important, because affairs in administrative violation cases on the essence and on nature of punishments on recognition of the European Court of Human Rights are estimated as „small criminal cases". Now Administrative violation proceed law is developed and submitted for consideration. The main goal of the law is to provide observance of standards. One of the main action where it is necessary to observe the high standard is the proving. The officials have to be able to process proofs correctly. Unfortunately there is not all actions of proof processing are described in Latvian Administrative violation code, including interrogations of persons. But any official has to know how correctly to invite to interrogation and an order of interrogation. And also the official has to know how to apply coercive measures against persons who without the objective reasons avoid interrogation.

**Kopsavilkums**

**Personu nopratināšana administratīvo pārkāpumu lietās**

***Atslēgvārdi:*** *administratīvo pārkāpumu process, nopratināšana, atbildība, pavēste*

Daudz uzmanības tiek pievērsts, lai uzlabotu dokumentēšanas kvalitāti administratīvo pārkāpumu lietās. Tas ir svarīgi, jo administratīvā pārkāpuma lietas pēc savas būtības un soda rakstura atbilstoši Eiropas Cilvēktiesību tiesas atziņām ir vērtējamas kā „mazās krimināllietas". Šobrīd tiek izskatīts un nosūtīts apstiprināšanai Administratīvo pārkāpumu procesa likums. Likuma galvenais mērķis ir nodrošināt augstus standartus. Viena no svarīgākajām darbībām, kur ir jāsasniedz augsts standarts ir pierādīšana. Amatpersonām ir jāprot pareizi fiksēt pierādījumus. Diemžēl Latvijas Administratīvo pārkāpumu kodeksā nav noregulētas visas procesuālās darbības, tajā skaitā nopratināšana. Bet jebkurai amatpersonai ir jāzina kā pareizi aicināt personas uz nopratināšanu un piemērot piespiedu līdzekļus pret personām, kuras bez objektīva iemesla neierādās uz nopratināšanu.

Interrogation is one of the main procedural actions for obtaining proofs. That is why each official, who makes interrogation, has to know tactics of interrogation and an order of conducting interrogation. The main goal of article is to analyze features of interrogation in administrative violation cases. In the work will be applied scientific methods: analysis, synthesis, descriptions.

One of the main objectives of the state is to guarantee a public order and safety that can be reached only with correct normative regulation. Creating a legal environment, the state creates preconditions for protection of interests and the rights of the persons.

Offenses are dangerous and harmful actions or inactions, which threaten interests of persons, therefore any state pays special attention to recovery of justice after commission of these actions or inactions. In the 1 section of Latvian Administrative violations code is told, that the task of administrative violations legislation is to protect public order, property, socio-economic, political and personal rights and freedoms of citizens, as well as the rights and legal interests of merchants, institutions and organizations, the specified management procedures, State and public order, to strengthen legality, to prevent right violations, to educate citizens in a spirit of precise and strict observance of laws, to inculcate a full of respect attitude in them towards the rights of other

citizens, honor and self-esteem towards the provisions of social life, upright attitude towards the duties thereof and liability to the public. Thus this section means that in the adjudication of administrative violation matters justice can be restored if three tasks are executed, namely, legal interests will be protected, the offense will be prevented and educational actions will be made. The author considers, that with such standard regulation the concept of justice recovery was unreasonably narrowed, because it is only connected with application of repressive methods. The modern concept of justice recovery is more wider and in generally is connected with protection of interests of the victim, besides justice is connected with objectivity and proportionality.

Tasks define the main requirement of conducting process. Therefore incorrect or wrong tasks create the wrong opinion about process. To correct this problem, now there is an active work on replacement of outdated regulation. The Minister cabinet was considered and was sent for consideration to parliament "Administrative violations proceed law". In the 1 section of law project is specified, that the task of the law is to protect the legal system, including legal interests of society, an order of administration, a public order, and also to provide effective process of administrative violations, applying certain punishments without unjustified intervention in fundamental human rights, and to achieve fair settlement of the relations.

Necessary of new regulation is also caused by the fact, that as well as European court of human rights, as well as Constitutional court recognized that in administrative violation cases individuals must have the same procedural guarantees as in criminal cases, because administrative punishment have criminal character. It is necessary to apply criminal proceed standards in adjudication of administrative violation matters (Pfarmeier v Austria). It means that cases of administrative violations are small criminal cases. The high standard needs to be provided during all process, including obtaining of proofs.

Proving is an activity of a person involved in administrative violation proceedings that is expressed as the justification, using evidence, of the existence or non-existence of facts included in an object of evidence (Strada-Rozenberga 2002: 6). It is necessary use evidences in the proving process. Evidence in administrative violation proceedings is any information acquired in accordance with the procedure provided for in the Law, and fixed in a specific procedural form, regarding facts that persons involved in the administrative violation proceedings use, in the framework of the competence thereof, in order to justify the existence or non-existence of conditions included in an object of evidence. In the $243^1$ section of Latvian Administrative violations code is specified, that evidences in administrative violation cases are:

- explanations of that person, who is subject to administrative liability;
- testimony;
- conclusion of an Expert or Auditor;

- conclusion of the Competent Authority;
- material evidence;
- document which contain information regarding facts in writing or in another form;
- electronic evidence;
- information acquired by investigative actions.

Evidences are used to prove the decision. Having read justification the person can draw a conclusion on whether it will appeal against the decision. Justification of the decision is closely connected with the principle of validity, which is specified in The Constitution of The Republic of Latvia - everyone has the right to defend his or her rights and lawful interests in a fair court. The principle of validity is also connected with the principle of equality. The main function of the principle of validity is to achieve that the decision would be accepted, as by means of justification the person is convinced of correctness of the made decision (Briede 2005: 167).

There is no definition of testimonies and explanations in Administrative violation code. The 87th section of „Administrative violation proceed law" project specify, that testimony is information regarding facts provided in a testimony during an interrogation by a person regarding the circumstances to be proven in the administrative violation proceedings. At the same time the 131 section of Criminal proceeding law specify, that testimony is an information regarding facts provided in a testimony during a questioning or interrogation by a person regarding the circumstances to be proven in the criminal proceedings, and the facts and auxiliary facts connected thereto. Testimony is also an explanation regarding concrete facts and circumstances written and signed by a person him or herself and addressed to a court, an investigating institution or a prosecutor's office. The author considers that regulation in Criminal proceeding law is better than in law project, because it provide that the person can write testimonies by hand.

Also the author considers that there is no basis for use of two categories at designation of different proofs, namely, a testimony and explanation. It can cause contradictions in use of terminology. Because explanations are testimonies which are written by hand, it is necessary to use only one category – testimonies.

It is recognized that interrogation is the most important action in administrative violation process. Interrogation of witnesses, victims and other persons are the most widespread proof in process. It is possible to receive testimonies only during interrogation. The administrative violations code doesn't establish the rule of carrying out interrogation. At the same time, in practice the most number of mistakes is allowed at interrogations.

Interrogation is the action in which police officer officially communicates with the person who perhaps knows information about the significant facts (Kavalieris 2002: 63).

Analyzing interrogation in administrative violation process, the author will describe the rights and duties of persons during interrogation.

The invitation of the person for interrogation is responsible and important process. Depends on the correct realization of this process whether it became known to the person of the place, time and the basis of interrogation, and also about procedural compulsory measures and sanctions. The person can be invited for interrogation by summons, or having personally reported about need to be (for example, by phone). At the moment the administrative violation code doesn't regulate summons form and content. The author considers that it is necessary to use regulation about the summons from Criminal proceeding law. Sending or transfer of the summons is necessary to make on the basis of the law on notifications. The law on notifications specifies that it is possible to do it in these ways:

- at the institution;
- with the intermediation of an employee or courier of the institution;
- using postal services;
- using electronic communications.

In receiving a document or information at the institution, the addressee shall sign for it. A document issued or information provided by the institution shall be deemed notified from the moment when the addressee has signed for receipt. If a document is notified at the institution, however, the addressee refuses to accept such document, it shall deemed notified from the moment when the addressee refused to accept the document. There is identical order with transfer of the summons with the courier.

Using postal services, a document shall be notified in a sealed envelope in the form of letter-post items:

1) as an ordinary postal item;
2) as a registered postal item.

Summons which has been notified as an ordinary postal item shall be deemed notified on the eighth day from the day when it was registered in the institution as the document to be sent. Summons which has been notified as a registered postal item shall be deemed notified on the seventh day after handing it over to the post office. The addressee may refute the presumption that the document has been notified on the seventh day after handing it over to the post office or on the eighth day from the day when it was registered in the institution as the document to be sent, pointing out to objective reasons which have been an obstacle for receipt of the document at the indicated address regardless of the will of the addressee. This presumption follows from this that the addressee has a duty to be reachable at the indicated address.

The summons shall be notified sending it by fax, if the addressee has indicated the fax number and has expressed a wish in writing to receive the document by fax. The summons shall be deemed

notified from the moment when the sender receives a confirmation from the addressee by fax regarding receipt of the document.

Only when the summons have been sent or transferred, using mentioned methods, it is possible, that in the case of contempt toward police institution, which has been manifested as failure to attend without a substantiated reason after summons of a police officer, person may be subject to administrative liability. There is no special section in the Administrative violations code, which determines administrative liability for failure to attend without a substantiated reason after summons of a police officer in administrative violation process therefore the author suggests to apply the 175th section of the Administrative violations code (intentional non-compliance with a police officer's). Latvian court's judicature specify that the 175th section of the of the Administrative violations code can be applied only if the requirement was lawful (nolēmums Nr.SKA-454/2006). 260 section of the Administrative violations code specify that by an invitation from the institution (official), a person subject to administrative liability has an obligation to appear at the specified time. 264 section of the Administrative violations code specify that by an invitation from the institution (official) in whose record-keeping the matter is, a witness has an obligation to appear at the specified time and to give truthful evidence: to notify of all that he or she knows about the matter and to answer questions. Mentioned regulation approve that the requirement was lawful. Unfortunately, in relation to the victim this requirement is not lawful, because victims have no obligation to appear at the specified time to the police officer. The author considers that this situation complicates work of the official in administrative violation process. And also this regulation doesn't conform to the accepted standards.

Secondly it is necessary to prove that the person became knows the requirement. Therefore it is necessary to prove that the summons have reached the person. The Supreme court of Latvia considers that the fact that the summons have been sent at the declared place of residence, doesn't certify that the persons have to know about requirements. It is necessary to prove the fact of getting the summons (nolēmums Nr.SKA-252/2008).

Analyzing procedure of interrogation in administrative violations process, the author stated one more discrepancy. 300 section of Criminal law specify, that person who knowingly commits giving false testimony, opinion, translation, explanation or application during pre-trial criminal proceedings, in court, to a notary or bailiff, if such act has been committed by a person who has been warned regarding criminal liability for giving false testimony, opinion, translation, explanation or application should be punished. And 302 section of Criminal law specify, that person who, being a witness, a victim or another person who has been warned against giving false testimony, commits unfounded refusal to give testimony to a pre-trial Prosecutor's Office or at a trial should be punished too. That is why no person in administrative violations process can be punished under the

Criminal law for false testimony and for refusal to give testimony. Such situation is not correct, and also it is necessary to make changes in the Criminal law.

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# MEDIATION AND DEVELOPMENT OF ITS NOTION

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**Abstract**

**Mediation and development of its notion**

***Key words**: mediation, comprehension, concepts, conflict settlement*

The alternative methods of dispute resolution are new field of study in Latvia. In most cases such methods and its real procedure are outside any legal regulation. One of this alternative dispute resolution methods is called mediation and person, who is responsible for the management of this process is called mediator. The notion of this term is known from the ancient civilization times. It is useful to understand the initial comprehension of mediation in order to sucessfully implement this process in the legal system of modern society. Nevertheless the elaboration of mediation procedure asks serious evalution of possibilites to completely evolve basic principles of alternative dispute resolution methods. Answering on question whether it is possible to completely realize the concept of mediation, it is necessary clearly understand, what it is and how you can use the advantages of this process in real life.

**Kopsavilkums**

**Mediācijas jēdziena izpratnes attīstība**

***Atslēgvārdi:** mediācija, izpratne, koncepcijas, strīdu noregulēšana*

Mediācija kā viena no alternatīvām strīdu regulēšanas metodēm ir jauninājums mūsu tiesību sistēmā. Vairākuma gadījumos minētais process un tās realizācija ir iznesta ārpus tiesību sistēmas rāmjiem. Mediācijas procesa īstenošanā piedalās trešā neitrālā persona, kuru apzīmē ar terminu mediators. Mediācijas jēdziena nozīme ir pazīstama jau no seno civilizāciju laikiem. Mediācijas procesa sekmīgai izmantošanai tagadējā tiesību sistēmā ir svarīgi zināt tās sākotnējo nozīmi. Neskatoties uz to mediācijas procesa izmantošana prasa visu iespēju izvērtēšanu par iespējām pilnīgi ieviest alternatīvo strīdu noregulēšanas pamata principus. Atbildot uz jautājumu vai ir iespējams pilnīgi realizēt mediācijas koncepcijas, ir nepieciešams saprast, kas tas ir un kā ir iespējams izmantot minētā procesa priekšrocības reālajā dzīvē.

The judiciary is considered to be the mechanism, by which it is possible to achieve protection of violated interests or rights. In the Natural law doctrine, if there is a conflict, it is necessary to apply to the courts to prove your opinion through the judicial process and other connected legal procedures. The court, presented by the judge, authoritatively settle disputes and delivers judgment in the rest of society. In most countries, the trial is still considered the only authoritative dispute resolution (Tetunic 2008). The problem lies in the practical implementation of the judicial process. If theoretically we can consider trial as the best instance fot the settlement of conflicts and specialists, who are employed in courts, could be considered as the most competent in their field of work, then in real life everything happens differently (Friedman, Lord 2004). In fact, people are reluctant to use a traditional legal procedure and trial for the resolution of conflicts. There are some publicly announced assumptions, that only 3% of the conflicts come to courts (Schwartz 2003). There are some reasons, often mentioned in that relation. Amongst them are duration of cases, costs of the trial process, dissatisfaction with a court decision, inability of the parties to participate in the decision making about settlement of the conflict, as well as the desire to keep the dispute details secret from the rest of society (Greenwald 1978). That's why the other types of conflict resolution and settlement procedures are considered to be a very popular replacement for traditional court. General legal theory combines a variety of extra-judicial conflict settlement methods with a

common name Alternative Dispute Resolution (ADR) (Keanini 2011), that in Latvian reads as an "Alternative Dispute Resolution (ADR) methods" (Kameņeca-Usova 2015). Sometimes the word "alternative" is replaced with the word "external" (Approval and oversight of external dispute resolution schemes), that does not change an overall meaning of the concept.

The concept of ADR integrates all the processes, which are used for the termination and settling of disputes, and that are applied by the consent of parties, without recourse to courts of general jurisdiction. ADR includes (Madison 2008): 1) negotiations; 2) reconciliation; 3) arbitration; 4) mediation.

Negotiations are dialogue between at least two individuals, parties to the dispute, which has different interests and opinions. Aim of the negotiations is to achieve understanding, to remove differences between opinions of parties and to achieve the confidence-building between the two parties with different point of views, who were involved in the negotiation process. During the negotiation process all parties are trying to achieve favorable conditions for themselves. The main objective of the negotiations is to reach a compromise that is mutually acceptable (Brazeal 2009). In the Latvian law negotiations are not considered as an alternative to the traditional court proceedings and are not recognized as an independent method of dispute resolution.

Reconciliation is an alternative form of conflict resolution, when sides of the conflict uses a special person – conciliator, which meets with each of the parties individually and trying to reconcile them - eliminating the differences in the views of parties. Reconciliation is realized through the gradual improvement in relations of parties and through the reduction of connected emotional stress, asking parties about related dispute issues, providing technical assistance, studying possible options for the settlement of the dispute and persuading each side to make concessions in negotiations (Christiansen 1997). Reconciliation is based on the mutual concessions of the parties of dispute, which gives them possibility to achieve an amicable settlement of the conflict. The conflict sides communicate with each other only through a mediator and no onsite (Christiansen 1997). Reconciliation as a separate type of alternative dispute resolution is not recognized in the Latvian legal system. At the same time according with Second paragraph of Article 149 of the Latvian Civil Procedure Law, judge, during the preparation of the case materials for trial, could fulfill reconciliation measures and settle the conflict. According with First part of Article 381 of the Latvian Criminal Procedure Law trained mediator of the State Probation Service could contribute to the reconciliation of conflict sides.

Arbitration is an alternative dispute resolution form, technique for ending the conflict out of court, when sides of the disoute grant rights to decide on ending the conflict and the resolution of the dispute to one or more persons (arbitrators), the decisions of which the parties agree to submit to. Arbitration is a conflict resolution technique, when a third party has the right to get acquainted

with the details of the conflict and make a mandatory decision to the parties of the conflict, which is obligatory to them, because of signed arbitration agreement (Winn, Davis 2004). Parties have no right to refuse to comply with the arbitrator's decision (Pucci 2005). Arbitration Institute in Latvia has known as the Arbitration trial. It has regulated by the Twelfth Chapter of Part D in the Civil Procedure Law. Arbitration trial is intended only for resolution of certain civil conflicts, arbitration trial couldn't be applied for the resolution of criminal conflicts.

Mediation is an alternative dispute resolution form, type or technique for the settlement of disputes between two or more parties with certain consequences (Meyer 2007). The origin of the word „mediation" is not known precisely. The word „mediation" is not an anglicism (Trossen). Generally it is believed, that the term is derived from the Latin language and means "intercession". At the same time it is possible to find references to its German origin (Lazar 2006). The concept has been adapted in several languages: in the USA - "mediation", in Great Britain – "mediation", in Germany – "mediation", in Hungary – "mediáció", in Holland – "mediation", in Lithuania – "mediacija", in Poland – "mediacija" (Lintner et al. 2012). In the Latvian language is not possible to find and use one generally accepted term instead of the word "mediation". Terminological problems appear also during the selection of name for the subject, who organizes the mediation. Latvian synonym choice of the term "mediation" could be "intermediation", the subject, who organizes mediation, could be called as "intermediary" or "go-between". There have been assumptions, that the intermediation is a correct translation of mediation, but not very correct designation of mediation (Rone). Thus, in Latvia it is recommended to use the term "mediation" for the designation of conflict resolution process, and for the subject, who organizes and manages the mediation process, it is recommended to use term "mediator".

The scientific literature has numerous mediation definitions. US mediation researcher L. Beekman defines mediation as an informal, confidential process, when sides of the conflict with help of specially trained neutral person, are trying to find a mutually acceptable solution of their dispute (http://files.eric.ed.gov/fulltext/ED451644.pdf). R. Robinson defines mediation as an intervention in negotiations or in the conflict, carried out by the specially authorized third party, who has limited decision-making power or has no such power, but who helps the parties of conflict voluntarily agree on mutually acceptable conditions for the resolution of dispute (Rubinson 2004). D. O. Adetoro defines mediation as usage of a third party, that is aimed at helping to those, who can't reach an agreement of conflict resolution, or may agree on ending the conflict, but much later, as a result each of the involved side is suffering an additional damage (Adetoro 2005). US mediation researchers C. T. Autry, G. C. Reid, R. F. Hall in the publication „Mediation: Effective Resolution Of Contract Disputes" describes mediation as a conflict settlement process, that necessarily requires a neutral third party participation, which helps to agree on the terms of ending

the dispute, without evaluating the essence of the conflict (Autry et al. 2005). The Russian Federation professor D. N. Sahabutdinova (Д. Н. Сахабутдинова) in the dissertation „Auction as a subinstitute of contract law and legal procedure" („*Торги как субинститут договорного права и юридическая процедура*") stresses, that mediation is a bargaining procedure between conflict sides, defining joint working program for the parties with a neutral third party participation, concluding future agreements between sides as a goal of the whole process (Сахабутдинова 2007). Latvian scientist and professor J. Bolis (J. Bolis) in the publication „Mediation: Application in the United States and prospects in Latvia" („*Mediācija: pielietojums Amerikas Savienotajās Valstīs un perspektīvas Latvijā*") defines mediation as a non-trial procedure, where a professionally trained neutral person, who is not involved in the dispute, helps the parties themselves to find a solution of the dispute (Bolis 2011). Attorney at Law and Mediator practitioner D. Rone (D. Rone) in the publication „Mediation: The concept and possibilities" („*Mediācija: Jēdziens un iespējas*") stresses, that mediation is a process, in which dispute of two or more persons is settled out of court, through the assistance of one or more mediators (Rone 2006). Attorney at Law R. Matjushina (R. Matjušina) in the publication „The introduction of mediation in solving of commercial disputes" ("*Mediācijas ieviešana komercstrīdu risināšanā*") defines mediation as a voluntary and confidential process, in which a third neutral party led negotiations between sides of the conflict, and that third party has no rights to make any decisions (Matjušina 2008). German specialist A. Trossen, who is practising in Latvia, describes mediation as a conflict resolution process, when parties of the conflict with a mediator support independently make an agreement about conflict resolution and hence all the parties are winners from the participation in mediation proceedings (http://www.mediacija.lv/?download=mediacija_lv.pdf).

Previously mentioned mediation scientific definitions stresses basic features of that institute: it is an alternative process for the legal proceedings, involving at least two parties (sides of the conflict), activities are carried out voluntarily and without external control, process is organized by the neutral third party – mediator. At the same time development of the notion of mediation happens in the laws and legal regulations. That institute, without revealing its definition, is mentioned in the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Conciliation, comments to the 6th paragraph: *"mediation [...] other dispute settlement processes"*. Legal definition of mediation, that retains all the elements and characteristics of the nature of mediation, includes 2008/52/EC Directive Of The European Parliament And Of The Council On Certain Aspects Of Mediation in Civil And Commercial Matters (accepted in May 21st, 2008). Article 3 of the Directive defines mediation as a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the

assistance of a mediator. This process may be initiated by the parties or suggested or ordered by a court or prescribed by the law of a Member State.

Theoretical elements, that characterizing the nature of mediation, could be found also in the Latvian national legislation. For instance, Section 1 of the Chapter 1 of the Latvian Mediation Law defines mediation as structured co-operation process on voluntary basis, whereby the parties attempt to reach a mutually acceptable agreement on the settlement of their dispute with the assistance of a mediator.

Legal notion development of Mediation concept will occur in the draft of the United Nations Commission on International Trade Law (UNCITRAL) Convention on Enforcement of Conciliated Settlement Agreements (Vidak-Gojkovic 2015), that is scheduled for the acceptance in the near future.

According with the above-mentioned scientific and legal definitions of the mediation, that process could be defined as an alternative dispute resolution method, that is used for the non-trial settlement of the conflict between two or more sides, with the participation of the third impartial, neutral go-between, who manages the process and persuades conflict sides to settle the dispute. Mediation is not a reconciliation, because mediator isn't reconciliate parties, but allows them independently find a mutually beneficial solution for the conflict. Mediator is trying to achieve active cooperation and communication between conflict sides, either with each other, either through the direct participation of mediator. Mediation result is so-called win-win solution, with which both parties have satisfied and which they have independently formulated. Currently, mediation institute together with other alternative dispute resolution methods continues its development in the scientific doctrine worldwide. Development of mediation institute occurs because of its normativization in the international and in the national (domestic) law of European and Non-European countries. Spread of mediation and its growing popularity in the world is caused by the inefficiency of national trial system and official legal regulations, high costs of court proceedings and the parties' dissatisfaction with the conflict settlement results.

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# PERSONAL IDENTITY IN THE PERSPECTIVE OF FUNDAMENTAL RIGHTS

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**Abstract**

**Personal identity in the perspective of fundamental rights**

***Keywords:*** *personal identity, the right to personal identity*

The objective of the article is to provide a concise insight into a judicial assessment of personal identity in the perspective of the fundamental rights, clarifying the content of the named concept. To achieve the given goal a legal definition of a term has been clarified, summing the opinions provided by a various legal scientists. Moreover, having studied legislative regulations, the viewpoint of the legislator on the matter has been established.
In conducting the study and clarifying the content of the right to personal identity, the appropriate case law of the European Court of Human Rights and the Constitutional Court of the Republic of Latvia has been examined.
The following research methods have been used in the study: descriptive, comparative and analysis method. The article is concluded with the relevant conclusions.

**Kopsavilkums**

**Personas identitāte pamattiesību skatījumā**

***Atslēgvārdi:*** *personas identitāte, personas tiesības uz identitāti*

Raksta mērķis ir sniegt koncentrētu ieskatu personas identitātes juridiskajā vērtējumā pamattiesību kontekstā, precizējot minētā termina saturu. Mērķa sasniegšanai tiek noskaidrota jēdziena legālā definīcija, apkopojot vairāku tiesību zinātnieku viedokļus. Turklāt, izpētot normatīvos aktus, tiek noskaidrots likumdevēja viedoklis par minēto jautājumu.
Veicot pētījumu un precizējot personas identitātes tiesību saturu, tiek analizēta Eiropas Cilvēktiesību tiesas un Latvijas Republikas Satversmes tiesas attiecīgā tiesu prakse.
Pētījumā izmantotas šādas metodes: aprakstošā, salīdzinošā un analīzes metode. Raksts ir noslēgts ar attiecīgajiem secinājumiem.

## Introduction

One of the most recent topical state rights issues is the discussion about the core values of the Latvian state, *inter alia*, the core of constitution (*Satversme*), its content and immunity. Within the framework of that discussion among other things the state constitutional identity has been discussed, analyzing such elements as national and cultural nature, territory, nation, state power etc, which forms the Latvian constitutional identity.

In legal literature it is acknowledged that each state as a legal entity has its own identity (Konstitucionālās tiesību komisijas viedoklis 2012). Moreover, the national identity is inextricably linked to its nation's identity. But what else forms the national identity, if not we both together and individually. Therefore, the discussion of elements, which form the constitutional identity, also includes the discussion of an individual’s identity as the representative of the nation.

The sense of identity is crucial for all of us. Identity or the *sense of belonging* provides stability and thus gives the opportunity to grow and develop; without the sense of identity the personality is unclear and vulnerable. The modern understanding of personality, summing up the idea of what it means to be "*I* " or "*you*" , is described as a flexible and fragile. Lack of *self-sense* can lead to some incapacity. This is why the idea of a person's nature and sense were suggested and

analyzed in a number of studies and different eras in the past. To some extent, human rights legislation focuses and stipulates some separate expressions of personality, including aspects related to the identity (Marshall 2009).

To this end, this paper is to address the personal identity in the perspective of the fundamental rights, providing the legal assessment of the identity of the person or the right to one's personal identity.

**Legal definition and review of legislative regulation**

To begin a discussion on the right to one's identity, it should be noted that different legal scholars, debating on the right to a person identity, provide both similar and yet diverse definition of that term. On the one hand, legal scholars acknowledge that the right to personal identity is connected to a human dignity and thus it can be considered as a fundamental right (E.g.: Bonasso 2001; McCombs&Gonzalez 2007). However, on the other hand, legal experts disagree and one part of them considers this right as totally autonomous and independent right, while the second part of scholars is in the opinion that, although this right is fundamental, it has evolved from an individual's right to privacy. Furthermore, the content of it has been mostly determined by the case law (E.g.: Pino 2000; De Hert 2008; De Anrade 2011).

Overall, as regards the person's right to identity, the following definition can be suggested: *one's right to identity is the right of an individual to exist, to express his/her self and to participate in social life in accordance with his/her perception of his/her personality and considering features of his/her individuality*.

It shall be noted that these scholars, who consider that the right to personal identity is completely autonomous right, justify their views with the fact that these rights have been explicitly defined in a number of international instruments (E.g.: Convention on the Rights of the Child 1989; Hague Adoption Convention 1993; Directive 2004/83/EC). Moreover, having studied the national regulation of Latvia, it can be concluded that the Latvian legislator also acknowledges not only the legal definition of that term but extensive and dimensional nature of personal identity as well, strengthening it with the law (E.g.: Bērnu tiesību aizsardzības likums 1998; Patvēruma likums 2009; Biometrijas datu apstrādes sistēmas likums 2009).

Whereas these legal scholars, who consider that a person's right to the identity as so-called *rights created by the judges*, are of opinion that this right has been created, interpreting the European Human Rights Convention, namely, deriving it from the right to privacy.

**The analysis of the relevant case law**

In terms of case law, first and foremost, it should be noted that it is not possible to fully study it within this paper due to its voluminous content. Therefore, only one element, which forms the

personal identity, shall be evaluated henceforward, namely, one's origins, which is also one of the core issues of the personal identity.

One of the categories of cases where the legal assessment of personal identity has been provided more often is the establishment of parentage, including the paternity issues. Within these cases it shall be particularly noted references of the European Court of Human Rights (hereinafter – the ECHR) in the case *Mikulić v. Croatia*. In this case the applicant is a five-year-old girl who was complaining about paternity trial and the lack of resources to ensure that her alleged father would comply with a national court order to take the DNA paternity test.

Having reviewed the case, the ECHR held among other things the violation of the right to private life, namely, despite the fact that, on the one hand, it must be borne in mind that the protection of third persons shall be provided while making medical testing, on the other hand, *the applicant has a vital interest, protected by the Convention, in receiving the information necessary to uncover the truth about an important aspect of their personal identity* (Mikulić v. Croatia: para. 64).

Evaluating the relevant case law, it can be concluded that the right to a personal identity can be granted not only to the child, but to alleged father of the child as well. Namely, in *Mizzi v. Malta*, the actual situation was totally opposite to the above problem: the applicant under Maltese legislation was automatically recognized as the father of the child, although at that time he had not been cohabiting with his spouse for a long period of time. Moreover, according to Maltese procedural law, he was not able to contest the blood test results of his daughter. In this case the Court held that *the potential interest of applicant's daughter in enjoying the "social reality" of being the daughter of the applicant cannot outweigh the latter's legitimate right to have at least the opportunity to deny paternity of a child who, according to scientific evidence, was not his own* (Mizzi v. Malta: para. 112).

In the light of this, it shall be concluded that one of the elements, which forms the personal identity, in the view of ECHR is the legal certainty and any long-term uncertainty threatens the personal identity, it shall therefore be eliminated as soon as possible. However, on a few occasions in order to reach the balance between the interests of parties, the legal certainty may be a subject of certain restrictions.

However, the discussion of the child's parentage is not limited only to the issues concerning the paternity of the child; it shall also include the child's origins as such. Namely, within the case law of the ECHR there are such judgments in which the ECHR holds that *the person has a vital interest, protected by the Convention, in receiving the information necessary to know and to understand their childhood and early development*.

One of these judgments, which has also affected the further development of the case law, was the judgment of 1989 in the case *Gaskin v. United Kingdom*. In this case Gaskin, who was provided with out-of-family care, while he was very little, complained about the refusal of local authorities to allow him to access his own case file, claiming that this would reveal sensitive information about third parties (teachers, friends, foster family, neighbors, etc.) who, knowing that if this information will be available for Gaskin himself, would have never provided the expanded information about Gaskin.

A key factor in this case was fact that Gaskin's mother, who could give her permission to access the case file, was deceased. Thus, the ECHR found that *the prohibition to access the records could exist only if an independent authority would be provided which could finally decide whether access to records shall be granted in cases where a contributor fails to answer or withholds consent* (Gaskin v. United Kingdom: para. 49).

In the discussion concerning the determination of the child's origins, the case *Odièvre v. France* should be particularly noted. In this case *Odièvre* wanted to clarify the identity of her mother who abandoned her and made her available for adoption. Basically, according to the French legislation, the mother's right to remain unknown has the priority over the right of the child to know his/ her origins. Obviously, in this case interests of both the mother and the child collide; furthermore, the French legal system is supporting the mother's right to give birth anonymously, which therefore indicates that the right of mother prevails over the right of the child.

In this case, the Court with 10 votes to 7 held that a fair balance between the interests of the parties has been reached. However, the seven judges, who had dissenting opinion, pointed out that, according to the French legislation and case law to date, it is not possible in general to reach so called “fair balance” as from the begging the mother is provided with an opportunity to make a non-negotiable refusal to reveal her identity, while no legal remedies or options to challenge the refusal is offered to the child (Odièvre v. France: Joint Dissenting Opinion).

Although this judgment is considered to be the leading judgment in that category of cases, it should be noted that it did not gain a response from the subsequent case law, which among other shall include judgments of ECHR in cases *Jäggi v. Switzerland* and *Phinikaridou v. Cyprus*.

In the first aforementioned case the applicant has requested to exhume his alleged father's remains, but it was refused, claiming that it would undermine the balance between the deceased and the applicant's rights. A key factor that had influenced the judgment was that the biological certainty would not cause a change of existing entries in the civil registry and the applicant's genuine interest was only to find out the truth about his origins. Wherewith, the Court held that the preservation of legal certainty cannot suffice in itself as a ground for depriving the applicant of the right to ascertain his parentage (Jäggi v. Switzerland: para. 43).

Some similarities are also seen in case *Phinikaridou v. Cyprus*: the applicant only at the age of 52 learned from her biological mother the name of her biological father. Thus, paternity determination date, namely, 3 years after coming of age, had expired. In this case, the Court held that determination of unconditional term does not lead to fair balance. Moreover, in that case the rights to know one' origins prevail over other rights and interests (Phinikaridou v. Cyprus: para. 64).

As regards judgments of the Constitutional Court of the Republic of Latvia (hereinafter – the Constitutional Court), in which a person's identity and its constituent elements are discussed, first of all the judgment of 2001 of the Constitutional Court as regards the surname "*Mentzen*" should be highlighted. Namely, Ms. Mencena was not satisfied that her surname after marring the German citizen has been reproduced as Mencena. In this case, the Constitutional Court held, *inter alia*, that: "*The person's name is tightly linked to the sense of identity, and therefore also to his/her private and family life. However, it is used not only by its holder, but it also has an important social function - to identify the person*" (Satversmes tiesas spriedums 2001).

It should be noted that in relation to the aforementioned judgment ECHR, having evaluated the admissibility of the application of Ms Mencena, held that: „*It is in the first instance for the Latvian authorities – not the Court – to assess the true situation of the Latvian language in Latvia and to gauge the seriousness of the factors that could place it at risk. Considering that the Constitutional Court concluded that the situation of the Latvian language in the country's social relations as a whole was still relatively fragile and, consequently, that it was necessary to afford it additional protection. The Court could only call that assessment into question if it was arbitrary, which is manifestly not the case here*" (Mentzen alias Mencena v. Latvia: para B 2 (b)).

Certain legal assessment of the identity can also be found in the judgment of 2005 of the Constitutional Court concerning the request for a declaration of non-compliant with the Constitution the criminal liability for the usage of narcotic drugs and psychotropic substances in his/her own house or apartment. In this case the Constitutional Court, having interpreted the right to privacy, held that: "*this right* [inter alia] *concerns* [..] *the identity of an individual* [..]. *The right to privacy means that the individual has the right to* [..] *live in his/her own way, according to his/her nature and wish to develop and improve his/her personality, tolerating minimum of state's or other persons' interference. These rights include the right of an individual to be different, to maintain and develop the qualities and skills that distinguish him/her from other people*" (Satversmes tiesas spriedums 2005).

However, a particular attention shall be drawn to the judgment of 2009 of the Constitutional Court, in which the compliance with the Constitution of deadline for contesting the paternity has been assessed. In this case the Constitutional Court has evaluated the right to an identity of a person

and particularly of the child in the context of the right to a fair trial rather than the right to privacy. Furthermore, having assessed the restriction of fundamental rights, the Constitutional Court ruled that it has a legitimate purpose - the protection of children's rights, namely, the Constitutional Court is of opinion that: "*to ensure the child's right to identity, it is necessary to ensure legal certainty and for the sake of this objective a certain paternity appeal term can be established*" (Satversmes tiesas spriedums 2009).

**Conclusions**

1. Legal scholars, debating on the right to a person's identity, provide both similar and diverse definition of the term – it is argued whether this right is autonomous and independent, or it has evolved from an individual's right to privacy. The right to personal identity is connected to a human dignity and thus it can be considered as a fundamental right.
2. The person's right to identity is to be considered as one's right to identity is the right of an individual to exist, to express his/her self and to participate in social life in accordance with his/her perception of his/her personality and considering features of his/her individuality.
3. ECHR has derived the right to a personal identity from the person's right to privacy, its content is dynamic and consists of such elements as legal certainty, which in its turn includes the right to know his/her origins and history of origins, including the right to receive the information necessary to understand his/her childhood and early development.
4. The Constitutional Court acknowledges the right to a personal identity and names a few elements which form the identity of a person. The case law of the Constitutional Court points out that the right to a personal identity is not subordinated only to the right to privacy; it shall be also evaluated in the context of other rights. The identity of a person is connected to private life as itself, but the right to a personal identity is not equal to the right to privacy. To some extent they both overlay and stand alone.

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# TAX POLICY IMPACT ON INCOME INEQUALITY IN LATVIA

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**Abstract**

**Tax policy impact on income inequality in Latvia**

***Keywords:*** *tax burden, income inequality, value added tax, regressive tax*

Income inequality in Latvia has been very high for many years. Gini coefficient is one of the biggest in the Europe Union. Compared to other European Union countries, Latvia has a very low average tax burden. But this is not the case when the tax burden on persons with different income levels is compared.

The aim of the paper is to evaluate the impact of the tax policy on income inequality in Latvia. The objectives are: to overview opinions of international experts about the impact of tax systems on income inequality; to compare tax systems and income inequality in different countries; to analyse the tax burden of existing taxes on various groups of persons with different income level; and to find the best solutions how to change the tax system to reduce income inequality in Latvia.

To estimate tax regressivity in Latvia a method of assetment of tax burden on consumption was used. The results show that for persons with lower income the tax burden is significantly higher than the average and is higher than in other Europe Union countries. In Latvia the tax burden falls mainly on persons with low incomes. That is, for persons with low income the tax burden is much higher than the average, but for persons with high income the burden is lower. Regressive tax burden is mainly caused by value added tax and other consumption taxes, because persons with low income spend all of their income for daily needs, and therefore bear the value added tax burden.

To reduce the overall regressive tax burden in many countries value added tax rate on food and other products has been reduced, also progressive personal income tax is in place. The same should be done in Latvia, too.

**Kopsavilkums**

**Nodokļu politikas ietekme uz ienākumu nevienlīdzību Latvijā**

***Atslēgvārdi:*** *nodokļu slogs, nodokļu nevienlīdzība, pievienotas vērtības nodoklis, regresīvais nodoklis*

Latvijā ir ļoti liela ienākumu nevienlīdzība. GINI koeficients Latvijā ir viens no visaugtākajiem visā ES. Turklāt, pēdējos gados nav bijuši būtiski uzlabojumi. To galvenokārt pastiprina regresīvais kopējais nodokļu slogs, kā rezultātā veidojas liela ienākumu nevienlīdzība. Salīdzinot ar citām ES valstīm, Latvijā ir ļoti zems vidējais nodokļu slogs (zem 30% no IKP), 2012.gadā 4 zemākais Eiropas Savienībā. Taču tas tā nebūt nav, ja salīdzina nodokļu slogu personām ar dažādiem ienākumu līmeņiem.

Tādēļ, mērķis ir novērtēt nodokļu sloga ietekmi uz ienākumu nevienlīdzību Latvijā. Uzdevumi ir apskatīt starptautisku ekspertu viedokļus par nodokļu sistēmas ietekmi uz ienākumu nevienlīdzību, salīdzināt nodokļu sistēmas un ienākumu nevienlīdzību citās valstīs, analizēt nodokļu sloga ietekmi uz personām ar dažādu ienākuma līmeni un izstrādāt labākos risinājumus nodokļu sistēmas maiņai, lai samazinātu ienākumu nevienlīdzību Latvijā.

Analīze liecina, ka zemu ienākumu guvējiem nodokļu slogs ir būtiski lielāks par vidējo, un tas ir augstāks nekā citās ES valstīs atbilstošiem ienākuma guvējiem. Tā kā Latvijā nodokļu maksāšanas slogs gulstas pārsvarā uz personām ar zemiem ienākumiem, šīm personām Latvijā ir augsts nodokļu slogs. Regresīvu nodokļu slogu rada PVN un citi patēriņa nodokļi, jo personas ar zemiem ienākumiem, visus ienākumus patērē ikdienas vajadzībām. Lai mazinātu regresīvu kopējo nodokļu slogu, daudzās valstīs ir samazināts PVN pārtikai un progresīvs IIN nodoklis. Arī Latvijai, balstoties uz citu valstu pieredzi, tajā skaitā nodokļu administrēšanā, ir jāmazina nodokļu sloga regresivitāte, ieviešot samazināto PVN pārtikas precēm, palielinot neapliekamo minimumu un veicot citus pasākumus, kas mazina ienākumu nevienlīdzību nodokļu dēļ.

Lai noteiktu nodokļu regresivitāti Latvijā, tika izmantota patēriņa nodokļu sloga novērtēšanas metode.

## Introduction

Despite in recent years there has been considerable growth of economy in Latvia, real Gross domestic product (GDP) growth rate was only 2.4% in 2014 (Eurostat 2015) and Latvia still remains as one of the developing country within the Europe Union (EU), well far lag behind West Europe or Scandinavian countries. In 2014 GDP per capita in PPS was only 64% (EU28=100) or 12100 EUR per capita, what is one of the lower level in the EU (Eurostat 2015).

There has been very high income inequality for many years in Latvia (see Tab 1). In 2014 the Gini coefficient was 35.5 in Latvia (Eurostat 2015). It was one of the highest in the EU. Moreover, there is not observed a positive progress in the latest years.

Table 1. **Gini coefficient of equalised disposable income**

| Geo\Time | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Latvia | : | 36.2 | 38.9 | 35.4 | 37.5 | 37.5 | 35.9 | 35.1 | 35.7 | 35.2 | 35.5 |
| EU (28 countries) | : | : | : | : | : | : | 30.5 | 30.8 | 30.4 | 30.5 | 30.9 |
| EU (27 countries) | : | 30.6 | 30.3 | 30.6 | 31.0 | 30.6 | 30.5 | 30.8 | 30.4 | 30.5 | 30.9 |

Source: Eurostat 2015

To better understand the reasons of income inequality, tax burden should be analysed and its impact to persons with different level of income. Compared to other European Union countries, Latvia has a very low average tax burden – in 2014 only 29.2% of GDP. Value added tax (VAT) burden breakdown is 7.6% of GDP, income taxes 7.5% of GDP, net social contributions 8.7% of GDP, but capital taxes 0.0% of GDP (Eurostat 2015).

But this is not the case when comparing the tax burden on persons with different income levels. Analysis shows that for persons with low income tax burden is significantly higher than average and is higher than in other EU countries. Latvian tax burden falls mainly on persons with low incomes, that is, for persons with low income tax burden is much higher than average, but for persons with high income is lower. If we compare tax burden on low income earners (below 5000 EUR per year), it is significant higher as in other countries (World Bank 2014). Such tax policy stimulates income inequality. Where as revenue distribution and social transfers do not enough reduce income inequality, because it still remains very high (see Table 1), consequently solutions should be looked in the tax system itself.

In accordance with the Sustainable Development Strategy of Latvia until 2030 (VARAM 2010) and The National Development Plan of Latvia for 2014-2020 (VARAM 2012) and other policy documents is intended to gradually shift the tax burden from labour to consumption. This should be examinated very carefully. Consumption taxes are regressive and the consumption tax burden increase can only further increase the overall regressively of the tax burden and hence income inequality. Therefore, the tax burden should not be shifted from labour to consumption, instead - the right solution would be the tax burden redistribution or equalization between persons with different level of incomes.

The aim of the paper is to evaluate the impact of the tax policy on income inequality in Latvia. The objectives are: to overview opinions of international experts about the impact of tax systems on income inequality; to compare tax systems and income inequality in different countries;

to analyse the tax burden of existing taxes on various groups of persons with different income level; and to find the best solutions how to change the tax system to reduce income inequality in Latvia.

**Review of the Literature**

There are many reasons for income inequality in society. Researches show that income inequality is closely related to development of economic and living standard (OECD 2011). Rich countries have less income inequality. This is because of better social policy and more possibilities for revenue distributions and social transfers. Traditionally, the lower income inequality is in West Europe and Scandinavia countries. It is recognized that increased difference of salaries has one of main impact to income equality. Also enlargement of economic disparities is an inevitable phenomenon of free-market capitalism (Piketty 2014).

As main factors which impacts income inequality might be: labour market, globalization, changes of technologies, political reforms, regressive tax burden, oligarchy, different discrimination (gender, ethnic, racial etc.), speed of economic growth and others factors (Piketty 2013, Research Institute for Social Development 2011, Chomsky and McChesney 2011). One of the factors which intensify income inequality is an unfair tax policy (Rawls 2005, Kuznets 1950) or regressive tax burden. Furthermore, tax avoidance as well as non-compliance with regulatory functions deepen income inequality, namely, improper redistribution of public funds, for example, saving banks from bankruptcy in the crisis-hit, instead of spending for social support. Moreover, inequality is exacerbated by the illegal activities such as tax evasion, corruption, fraud and others.

Consequently, adequate tax policy and effective administration has significant impact on income equality. Although the primar function of taxes is fiscal, in practice often has been forgotten about another essential function of taxes - the regulatory function. The state can influence the economy with tax policy if the free market is unable to function properly.

How to determine whether the tax system is fair? One of the ways how to determinate the tax burden regressivity is Kakwani index (Kakwani Nanak and 1977). Kakwani index (K) is calculated as the difference between the total tax index (C) and the Gini coefficient of gross income (G), or $C = K – G$. Positive K means progressivity of tax system, the negative K - regressivity, and if $K = 0$, then the tax burden is proportional to income. Kakwani index is particularly well suited for the analysis of changes in the taxation of equity side. However, Kakwani index does not allow to identify the factors that affect the regressivity of the tax burden, or which factors shall be corrected by taxes itself.

What should be fair taxes, already in the 18th century has been described by Adam Smith in his works (Smith 1776). Adam Smith has stressed that taxes must be based on the principles of equality, certainty, convenience and economy. According to this concept the total tax burden for all taxpayers should be equivalent or each should pay according to his/her ability to pay. Equality does

not mean that all tax payers should pay an equal amount. Equality here means justice. Particularly, it means that the burden of taxation should involve an equal sacrifice for every individual. It means that the broadest shoulders must bear the heaviest burden. On this principle is based progression in taxation as proportional taxation will not do justice.

In addition, in assesstment of the fairness of the tax system must be taken into account the horizontal and vertical equality. Horizontal equity means that everyone has an equal tax burden, regardless of their position or the type of income. By contrast, the vertical principle of equality means that taxpayers with various income levels would have to pay according to their ability to pay. Thus, a progressive tax system can be based on the principles of vertical equity (Alink and Kommer 2011).

Also the modern experts note a progressive income tax with a transparent and coherent tax rate structure is good solution for fair tax system (Institute for Fiscal Studies 2011).

Researches show that actually consumption taxes create the regressive tax burden. Studies carried out about the VAT in the UK confirms that the VAT is a regressive tax (Murphy 2010). From the analysis it was concluded that the VAT and indirect tax burden decreases with increasing income. The progressive income tax not sufficiently prevent the poorest households suffer from increased indirect tax burden.

Studies show that in such countries as Canada, France, UK and USA consumption in the lowest quintile groups exceed the income, proving that the VAT or an equivalent tax on consumption is regressive (Garfinkel, Rainwater, Smeeding 2006). Moreover, all consumption taxes (excise, fuel, etc.) are regressive (Metcalf, 2010, Slemrod 1999). Reforms that replace the very high and regressive excise tax with less regressive and more flexible VAT can reduce inequality - especially if more revenue is invested in growth-enhancing activities such as education and infrastructure (R. Bird, Gendron in 2007). However, in the case of the reformed indirect taxes in Australia, primarily the general sales tax (GST), the magnitude of such taxes collected from the average household increased and the distribution of these reformed indirect taxes became more regressive (Warren, Harding and Lloyd 2005).

Consumption tax regressivity can be reduced if you look at consumer behaviour lifetime (Athreya and Reilly, 2009, Metcalf and Caspersen 2009). Consumer behaviour throughout life changing as its needs decrease, so its consume less in lifetime. Consequently, the consumption tax burden is different in the short term and long term. The tax burden may differ also on certain groups, such as students and pensioners who do not have permanent income (Cooper, Lutz and Palumbo 2011).

The studies found that the United States has historically been a regressive tax burden (Martin Mehrotra and Prasad 2009). For example, the poll tax was abolished because of its regressivity

(O'Sullivan, Sexton and Sheffrin 1995). Despite of the progressive income tax, US effective tax burden is regressive (Nichols and Wempe 2009). This is explained by the various exemptions in the case of persons who are able to pay, for example, on income from interest from municipal bonds issued. Therefore, experts remind that politicians always fit to remember Adam Smith's principle of ability to pay taxes, assessing whether the discounts are really justified. Most of the tax burden is regressive in the following US states: Alabama, Florida, Illinois, Michigan, Nevada, Pennsylvania, South Dakota, Tennessee, Texas, and Washington (An Zhiyong 2013). The study explains both the fact that the majority of votes on the tax system (in the US at risk of poverty occupation is relatively low), the mobility of citizens and racial heterogeneity (or discrimination). So in fact the taxpayers with higher incomes pay taxes in increasingly smaller proportion of the total income, which is also reflected in the inequality index.

The studies found that the flat income tax makes tax burden regressive, however governments can equalize income disparities otherwise, for example use social transfers (Kato 2003). So, the tax regressivity must be assessed in the context of revenues redistribution (Oliver Oldman 2007).

In order to reduce tax burden regressivity many countries have a progressive income tax and/or a high non-taxable minimum. Progressive personal income tax is almost all EU member states except the Baltic countries (IBFD 2014). Also OECD experts agree that a progressive tax is one of the key ways in which governments redistribute income (OECD 2012). There is also scope for governments to raise taxation of residential property which is relatively lightly taxed in many countries (Carter and Matthews 2012). Tax reforms should promote more equity.

It should be noted that the researchers recognize that the progressive tax promotes tax planning, for example, the taxpayers choose a different residence, if it is possible. Such observations found both in the US (Leigh 2008), and in Europe. For example, in France, after a significant increase in income tax rates on high incomes (the maximum rate of 75%) or the so-called "millionaire tax" implementation in 2012 the famous actor Gérard Depardieu decided leave the country (Higgins 2012). However, it could be explained also due to the excessively high tax rate which excess the theoretical or the so-called Laffer curve maximum (Laffer Center 2014). Therefore, of course, it need to be cautious in determining the maximum rate of progressive tax and not exaggerating it, but take into account the actual situation and the ability to ensure tax collection.

It must be also added that in recent decades, globalization and tax competition of countries are trying to reduce income taxes for taxpayers in order to prevent escaping by transferring income to other countries. Such measures also affected inequality. For example, US progressive tax system change to a lower progressiveness increases the concentration of wealth in the hands of the rich (Piketty 2003).

**Methods**

To realize impact of taxes to income inequality, it is important analyse and understand behaviour of taxes in case of changes of person income. In this context can be used a method of assetment of consumption tax burden, which was developed by Jurušs and discussed in his doctoral theses (Jurušs 1999).

The method is based on the theory of consumtion by John Maynard Keynes (Keynes 1936) particularly to a concept of the marginal propensity to consume (MPC). The concept is that the increase in personal consumer spending or consumption (C) occurs with an increase in disposable income (Y) (income after income taxes and transfers). MPC is the proportion of additional disposable income that an individual consumes or MPC = $\Delta C/\Delta Y$.

MPC may be vary denpending on level of disposal income. Consumption of an individual with low level of income could be equal to disposal income of an individual (or even more, for example, if individual borrows), as an individual mainly consums all disposal income and have not savings (or investments) (S) or $C \geq Y$, $S = 0$ and $MPC = 1$. Consumption of an individual with certain (average) level of income could be equal to disposal income of an individual, too, or $C = Y$, $S = 0$ and $MPC = 1$. And only an individual with high level of income consumes less, because part of income an individual spend to savings or investments or $C = Y + S$, $MPC < 1$.

Thus, similar can be described changes of consumption tax burden ($T_C$). As bases can be used observation of consumption tax changes on one additional unit of disposal income. Since consumption taxes apply to consumption in the same way (the same flat rate), the changes of consumption tax burden depend on changes in consumption. As changes of consumption are affected by changes of disposal income, as described above, so, it means for an individual with low-income consumption tax changes on one additional unit of disposal income is equal to or greater or $\Delta Tc \geq \Delta Y$, respectivlly such an individual has higher (progressive or flat) consumption tax burden. For an individual with certain (average) level of income income consumption tax changes are equal or similar to disposal income changes or $\Delta Tc = \Delta Y$, thus, such an individual has flat consumption tax burden. Finaly, an individual with high level of income consumption tax changes are less per unit of additional disposal income or $\Delta Tc \leq \Delta Y$, creating a regressive consumtion tax burden. This concept confirms that consumption tax has regressive nature (Jurušs 1999).

If (gross) income would be taxed with progressive tax rate, it would have an impact to individual disposal income differentlly, it means, it would reduce income inquality, and total tax burden would be equalized. As Latvia has a proportional (flat) tax rates (23% in 2015/2016) on personal income, it means that by increase of individual (gross) income, the income tax burden (Ti) remains the same for any level of (gross or disposal) income. In other words, an additional unit of income (I) or on disposal income (Y) has the same income tax burden changes or $\Delta Ti = \Delta Y = \Delta I$

(the same marginal income tax rate). Consequently, also $\Delta Tc \leq \Delta I$ and the total tax burden Tt (income and consumption tax burden) on individual income is regressive due to regressive consumption tax burden.

This method can be applied in practise to compare tax burden of various income level (or quintile groups) by osrevation of disposal income and consumption. Particularly, consumtion tax burden on specif level of income can be calculated by the following formula:

$$Tcn = Tca \times (Cn / Ca) / (In / Ia) \qquad \textbf{(Formula 1)}$$

where:

*Tcn* - consumtion tax burden on specific level of income,

*Tca* – average consumtion tax burden,

*Cn* – consumption of specific level of income,

*Ca* – average consumtion,

*In* –income of specific level of income,

*Ia* – average income.

While for income tax burden calculation on specif level of income can be used the following formula:

$$Tin = Tia \times (Yin / Yia) / (In / Ia) \qquad \textbf{(Formula 2)}$$

where:

*Tin* - income tax burden on specific level of income,

*Tia* – average income tax burden,

*Yin* –income after taxes of specific level of income,

*Yia* –average income after taxes,

*In* –income of specific level of income,

*Ia* – average income.

This method allows to describe the nature of changes of tax burden depending on level of income, however, in practice, there might be limitations, exceptions and anomalies affecting consumption and income. For example, there may be cases where an individual's behavior is different for various reasons, and thus a particular case may also have a different result. The results may be impacted by other factors such as illegal economic trends (Jurušs 1999).

**Results**

The method was used for estimation of the tax burden in Latvia for different quintile groups (Jurušs and Vaļuka 2015). It was estimated by analysis of the consumption by quintile groups (see Tab 2).

Table 2**. Consumption by quintile average per household member per month - as percent of disposal income (2013), %**

| Consumption\Quntil | Group 1 | Group 2 | Group 3 | Group 4 | Group 5 |
|---|---|---|---|---|---|
| Total | 130.3 | 102.3 | 94.6 | 85.9 | 68.6 |
| Food | 42.8 | 31.9 | 28.1 | 21.9 | 13.7 |

Source: Estimation (Jurušs and Vaļuka 2015) by using data from Central Statistical Bureau 2013

As shown in Table 2, the persons with the lower income (Group 1), the most of their income spend to consumption, mainly on food, while consumption decreases in groups with higher income as they part of incomes do not consume but save or invest. Moreover, according data Group 1 and 2 for consumption spend more than have incomes, what could be explained that persons borrow or have illegal (undeclared) incomes.

Thereby, it means also regessive VAT burden. In 2013 the average VAT burden was 7.1% in Latvia (Europian Commision 2014), however, the practical calculations (by Formula 1) show that the VAT burden differs (even by double) for persons with different income levels (see Tab 3).

In addition, it should be noted that the analysis proves that the excise and other specific tax burden in Latvia is regressive, too (see Tab 3). Persons with low incomes spend more of their disposal income on consumption of such good as alcoholic beverages, tobacco products, electricity, gas, fuel and other goods and services. Therefore, the excise duty and other consumption tax burden for these groups actually is regressive.

However, labor taxes (personal income tax and social contributions) have a regressive character in Latvia, too (see Tab 3). That may be observed from analysis of the personal income tax and social security payments.

For example, Latvian has a social tax threshold 48600 EUR per year. As compensation from 2016 a solidarity tax of 10% on incomes above this threshold was introduced.

Moreover, different types of income have different tax rate, which raises concerns about horizontal equality. For example, the tax rate is 23% on wage and profit from business activities, while 10% on income from capital and 15% on capital gain. As income from capital (or capital gain) mainly have persons with high incomes, reduced tax rate on such incomes generates personal income tax regressivity.

Since 2005, the non-taxable minimum was increased gradually, but still is very small in order to significantly reduce the tax burden on income of low and middle level. A similar situation is observed with regard to the allowances for dependents. In 2016 non-taxed minimum is 75 EUR, and allowance for dependent is 175 EUR in Latvia.

Practical calculations (by Formula 2) show that the income tax burden differs for persons with different income levels (see Tab 3).

Table 3. **Tax burden on gross incomes, %**

| Tax burden\Quntil | Group 1 | Group 2 | Group 3 | Group 4 | Group 5 |
|---|---|---|---|---|---|
| VAT | 12 | 9 | 8 | 7 | 6 |
| Personal income tax and social contributions | 21 | 21 | 20 | 20 | 19 |
| Excise and other specif taxes | 6 | 5 | 4 | 4 | 3 |
| **Total** | **39** | **35** | **31** | **31** | **27** |

By: Jurušs un Vaļuka 2015

The analysis show tendency of the regressive total tax burden in Latvia (Jurušs and Vaļuka 2015). Actually from the beginning the 90-ies a regressive tax burden always has been observed in Latvia due to regeressive consumption tax burden, low non-taxable minimum, very low income tax from capital burden (for instance, up to 2010 dividends were exempt from personal income tax).

Table 3 shows that the overall tax burden (even without estimations about real estate tax, environmental taxes and other taxes which actually make the tax system more regressive) for persons with low income (Group 1) was 39%, but for persons with high income (Group 5) 27% or by 12% less (see Tab 3).

**Discussion**

As we can see from the results, the tax policy is unfair in Latvia due to regressive consumption taxes and absence of progressive income tax. Thus, it impacts income inequality. Revenue redistribution and social transfer and benefits system can not enough reduce income inequality. Therfore, the total tax burden should be balanced.

Many countries have both a differentiated VAT tax and a progressive personal income tax. For example, personal income tax rate on low wages are much higher in Latvia compared to such countrys as UK, Ireland, to which so many have emigrated from Latvian. It is different in case of high incomes personal tax rate on high incomes is much lower the Latvia.

Latvia had experience in progressive taxation. For example, in 30-ies was a progressive income tax 2.9 -11.3% in Latvia (Zalts 1929) as well as in 90-ties the personal income tax had additional rate 10% on income above 4000 Lats (about 5700 EUR).

There was recently (gradually from 2007) introduced a progressive income tax in Iceland. Iceland is small country (330 thousand inhabitants), but compared to the EU countries, the Gini coefficient is very low 0.27 (Word Bank 2015), which reflect an effective tax rate impact on income equality. Personal income tax consists of income tax from 22.9 - 31.8% and fixed municipal tax 14.42% (KPMG 2014). In addition, from 2012 was introduced wealth tax up to 2% (Deloitte 2014).

To reduce the tax burden on basic goods (food, medicines and other goods) many countries have a reduced VAT rate in the EU. It should be noted that the reduced VAT rate for food allows the Council of 28 November 2006 Directive 2006/112/EC on the common system of value added

tax. Thus, many EU countries use this option. In addition, UK and Ireland have even super reduced VAT rate 0% on food.

The reduced VAT rate has positive impact to reduce income inequality as it has observed in relationship between VAT reduced rates and the Gini coefficient in the EU countries (Jurušs and Vaļuka 2015).

In order to reduce the regressive consumption tax burden in some studies have examined the idea of introducing a progressive expenditure tax (Slemrod 1994). But it is more theoretical concept and in practice is unlikely to be feasible due to EU regulation for VAT and excise duties.

Definitely, reduced VAT rate on food would have positive impact to economy in Latvia (Kozlinskis, Pilvere, Nipers 2010). This study concluded that the reduction of the VAT rate 21% to 12% on food will also reduce the prices. However, the price reduction will not occur in proportion to the reduction of the VAT rate, on average, they will decrease by 5.5% -5.6% from the base. The study also concluded that the VAT rate reduction has a positive impact on industry's economic indicators, which will form an increase in sales in the product categories for which VAT would be reduced. If reduced VAT rate would be introduced to all food commodity groups, the food consumption as a whole would increase by 3.1%.

In study about the VAT rate reduction from 22% to 13% to restaurant services in Finland (Harju and Kosoneny 2011) assessed that prices fell only by 2.1%, or about a third of it, what it should be. However, the rate reduction had a positive impact on employment. Similar findings about positive impact on employment in case of reduced VAT (12%) on catering services, especially in the regions, was concluded in Sweden (Lund University 2013).

In the short term only part of retailers responded with price cuts to the reduction of VAT from 17.5% to 15% in the UK (Pike, Lewis and Turner 2009). In addition, the reduction was very different. However, this study included a variety of goods excluding food because the food in the UK has already super reduced rate 0%. Thus, the results might be used more to analyse the trader reaction.

Consequently, priority is to align the tax burden in Latvia, according to the principles defined by Smith, it means tax burden shoul be fair for everyone (Smith 1776).

Tax policy should be adjusted and provide equal tax burden to persons from all incomes groups (Jurušs 1999). To achieve this, taxes should be differentiated by changing the tax burden so that it affects equally all taxpayers. This can be achieved by: differentition of the consumption tax burden of by differentiation of the income tax burden or apply both options (Jurušs and Vaļuka 2015).

Consumption tax burden may be differentiating, for example, by reducing the VAT rate on goods for which share of spending from total incomes is greater for persons with low incomes - for

food and other essential goods. The VAT reduction on food would lead to reduction of revenues. To compensate fiscal loses as one of option could be increase of VAT on other goods or services. However, as the VAT tax rate is already high (standad rate is 21% in Latvia) it is not recommended the increase of standard rate more. Therefore, as measure for fiscal compensation could be the second solution. Income tax burden may be differentiaing, for example, by reducing the personal income tax rate for low-income (or increasing a significant non-taxable income), introduce progressive tax rate to persons with high income, increase capital tax burden or increase real estate tax on expensive and exclusive property. Such changes will not be harmful, as comparison with other EU countries Latvia has the lowest effective tax rate on capital and income from capital and business. Moreover, the taxation of capital could also be based on the principle of progressivity.

As another option to compensate income inequality might be the redistribution of state budget revenues, provide more social transfers and benefits to persons with low income. However, as show analysis of income inequality (see Tab 1), such a redistribution of income actually does not work in Latvia because it has not given effect to reduce inequality. Regressive tax burden is much higher than the state offered measures of compensation, moreover, such compansations target narrow social groups (pensioners, poor peoples, etc.), thus such measures are not an effective solution in Latvia.

VAT reduction on food directly affects the low incomes earners, since they spend for food the largest part of their income (see Tab 2). Based on the model of assetment of consumption tax burden (Jurušs 1999), it can be estimated that in case of introduction reduced VAT rate the persons with low income will benefit more than persons with high income. Calculations (Jurušss and Vaļuka 2015) shows that the introduction of reduced VAT rate 12% on food VAT burden will decrease to persons with low incomes, but to persons with high incomes will remain the same. Additionl effect of tax burden changes would be in case of introduction of progressive income tax. According to the estimates (Jurušs and Vaļuka 2015) such solutions significantly reduce the tax burden for the first quintile group, by more than 8%, and therefore partly equalize tax burden. In the long term it reduces income inequality by 3%.

Excise duty or any other special tax burden differentiation is not effective and practically impossible, because in addition to the fiscal function, such taxes have specific purpose. For instance, with excise duty is also intended to limit consumption of unhealthy products (alcohol, tobacco), so there is no rational explanaiton for differentiation because of the person's income level or social status.

**Conclusions**

Although the Latvian economy has had positive growth, GDP is still very low and Latvia is one of the poorest countries in the EU. Also, Latvia has one of the highest levels of income

inequality in the EU. Income inequality is caused by unemployment, emigration and demographic change. However, a significant impact on income inqality is created by an unfair tax policy and an inefficient system of revenue redistributions, social transfers and benefits that are unable to offset the adverse effects of the unfair tax policy. Persons with lower incomes spend proportionally a much biger part of their income on consumption than persons with higher income, which means that persons with low income have the haviest consumption tax burden.

In order to create a more fair tax system and reduce the regressivity of the tax burden, thus reducing income inequality, many countries apply a reduced VAT on food and other basic goods. Also, many countries have introduced a progressive income tax. To reduce the regressivity of the tax burden and, consequently, income inequality, it is necessary to introduce a reduced VAT rate on food, as well as to increase the non-taxable minimum and/or introduce a progressive personal income tax in Latvia, too.

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# MEDIATION BY INTERNATIONALLY RECOGNIZED SPORT BODIES: SPORT DISPUTE RESOLUTION CENTER OF CANADA AND SPORT RESOLUTIONS IN UK

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**Abstract**
***Key words:*** *mediation, dispute resolution, sport disputes, Sports Disputes Resolution Centre, Sports Resolutions UK*
Mediation is an alternative dispute resolution method. It is a voluntary and non-binding process aimed at reaching a consensus with the assistance of a third party/intermediary named mediator. Mediator helps parties to negotiate, facilitates the communication process and does not impose any decision unlike an arbitrator or a judge. By the means of mediation parties are allowed to work out their own solution to the conflict in a structured way. Mediation is strictly confidential. Why mediation and sport related disputes? Because an increasing growth and development of sports, commercialization of it and big sums of money involved cause enormous differences and disputes in the area of sports what constitutes a necessity for an efficient resolution of such disputes. Author suggests mediation as an effective method to resolve sport disputes and analyses dispute resolution procedures of sport dispute resolution institutions SDRC of Canada and Sport Resolutions UK.

**Kopsavilkums**
Mediācija ir alternatīva strīdu izšķiršanas metode, brīvprātīgs process, kura mērķis ir panākt vienprātību ar trešās personas / starpnieka – mediatora palīdzību. Mediators palīdz pusēm vienoties, atvieglo komunikācijas procesu un neizvirza risinājumu, atšķirībā no šķīrējtiesneša vai tiesneša. Ar mediācijas, strukturētas procedūras, palīdzību, puses var izstrādāt savu konflikta risinājumu. Mediācija ir stingri konfidenciāla. Kāpēc mediācija ir piemērojama sporta tiesībās? Strauja sporta nozares attīstība, tās komercializācija, lielu naudas summu piesaistīšana, izraisa konfliktus sporta tiesību jomā, kas liecina par to, ka ir vajadzīga efektīva metode šādu strīdu risināšanai. Autors ierosina apsvērt mediāciju kā metodi sporta strīdu risināšanai, analīze alternatīvas strīdu izšķiršanas procedūras, tādās sporta strīdu izskatīšanas institūcijās, kā SDRC Kanādā un Sport Resolutions Apvienotājā Karalistē.

## Introduction

‘Mediation is an alternative dispute resolution method. It is a voluntary and non-binding process aimed at reaching a consensus with the assistance of a third party/intermediary named mediator. Mediator helps parties to negotiate, facilitates the communication process and does not impose any decision unlike an arbitrator or a judge. By the means of mediation parties are allowed to work out their own solution to the conflict in a structured way. Mediation is strictly confidential.

According to Maleki Jalil, an increasing growth and development of sports, complexity and expansion of sport organizations, institutions and activities, ever complicating mechanisms of laws and their function in sports, on-going fundamental changes in sports facts and phenomena, media impacts and their analytic and international influence which goes far beyond the geographical borders of countries, even farther beyond the continents, have caused to be raised enormous differences and disputes in the area of sports what constitutes a necessity for an efficient resolution of such disputes. (Maleki 2014: 81)

The need to provide an alternative forum to the court in which sports related disputes could be fairly, effectively, quickly and relatively inexpensively settled within ‘the Olympic Family’ was expressed by the retired President of the International Olympic Committee, Juan Antonio

Samaranch early in his presidency. As a result, the Court of Arbitration for Sport (hereinafter-CAS) was born in 1983, with the specific purpose of fulfilling this particular role. Originally, CAS acted only as arbitration body, but sixteen year later, in May 1999, a mediation service was also added to reflect the growing popularity and success of this form of dispute resolution. (Blachshaw 2002)

Why mediation works for sport disputes? Because it allows parties to resolve their disputes fast, amicably, confidentially and, what is especially important - the result allows to preserve healthy and non-aggressive relationship between the parties in dispute. All this allows athlete to avoid publicity, mass media attention, increased stress and contribute to positive atmosphere within the sport society. (Kamenecka-Usova, Matvijcuka 2014: 125) Mediation, as a private and informal dispute resolution method, is independent from any country what makes it attractive for cross-border disputes.

A number of Sport Bodies offer mediation as an alternative dispute resolution method for sport-related disputes. The most well known are CAS, Sports Dispute Resolutions UK, the Sport Dispute Resolution Centre of Canada and, presumably, Players' Status Committee together with Dispute Resolution Chamber of Fédération Internationale de Football Association.' (Kamenecka-Usova 2015)

In this article, author will analyze sport mediation and dispute resolution provided by the Sport Dispute Resolution Centre of Canada and Sport Resolutions UK.

**Sport Dispute Resolution Centre of Canada**

As it is proclaimed at the official website www.crdsc-sdrcc.ca, Sport Dispute Resolution Centre of Canada (hereinafter - SDRCC) was established to address the need to offer the Canadian sport community tools to prevent conflicts and, when they are inevitable, to resolve them. It is the culmination of studies, discussions and analyses carried out by leaders in the Canadian sport community and by experts in the field of alternative dispute resolution.

Provision 10 of the Act to Promote Physical Activity and Sport, which created the SDRCC, dictates the mission of SDRCC as follows:

"The mission of the Centre is to provide to the sport community **a)** a national alternative dispute resolution service for sport disputes; and **b)** expertise and assistance regarding alternative dispute resolution." In other words, SDRCC is about education and prevention. It's about providing tools and guidance to help resolve minor disputes quickly and informally.

The main goals of the institution are:

- To ensure access to independent, alternative dispute resolution (hereinafter- ADR) solutions for all participants in the Canadian sport system at the national level;

- To strengthen the transparency and accountability of the national sport system and national sports organizations by clarifying their responsibilities to athletes, coaches and other stakeholders;
- To ensure that independent ADR processes are equitable for all;
- To offer a low-cost mechanism throughout Canada in both official languages (i.e. English and French).

Hence, we see the successfully implemented to life idea of national sport body created to resolve sport disputes efficiently. SDRCC offers the following ADR mechanisms:

- Resolution Facilitation
- Arbitration
- Mediation
- Med/Arb

The notion of the mediation is discussed above, therefore the author won't analyze it once again, but will take a closer look at such ADR mechanisms offered by SDRCC as Resolution Facilitation and Med/Arb.

Resolution Facilitation (hereinafter- RF) is a completely confidential assistance process that allows the parties involved in a dispute to communicate more effectively and work towards an agreement. The resolution facilitator is a neutral "process manager," whose role is to try to help the parties to better communicate with each other and to resolve their dispute through an amicable settlement. Should such a settlement not be possible, the resolution facilitator helps the parties understand the other options offered by the SDRCC to settle the dispute. (www.crdsc-sdrcc.ca). From the first sight is it hard to see the difference between the RF and mediation, as the characteristics are very alike with the only two differences between those methods offered by SDRCC, i.e., resolution facilitation is free of charge and available at all times. As the official information states, the role of the RF was introduced to address the needs of the sport community at any stage of a dispute:

- Prior to submitting a request to the SDRCC, through a resolution facilitation request;
- Upon submitting a request to the SDRCC (it is mandatory when parties choose arbitration as the dispute resolution process);
- During arbitration proceedings, the parties always have the option to request the assistance of the RF at any time prior to an award being rendered by the arbitrator;
- Following publication of the award rendered by the arbitrator, the RF can assist a party in understanding the award. (www.crdsc-sdrcc.ca)

From the written above, author concludes that RF is a union of a 'charitable' mediation and administrative and legal support for parties on behalf of SDRCC, which perfectly fits the proclaimed mission and goals of the institution.

Med/Arb is a dispute resolution process that combines mediation and arbitration. Initially, the parties try to reach a settlement through mediation. If there are issues that are not resolved through mediation, an arbitrator (the same person who acted as mediator) makes a decision for the parties.

Med/Arb combines the advantages of both mediation and arbitration:

- Because parties are able to discuss in presence of a professional mediator, the process is likely to preserve relationships or even repair those that may have been damaged by the rise of the dispute;
- During the mediation phase, parties have control over the outcome and may find a win-win solution;
- A resolution is certain, because if mediation fails, a decision will be rendered by a third party;
- The transition from mediation and arbitration is seamless;
- It is less costly and quicker than a court battle. (www.crdsc-sdrcc.ca)

Along with the list of the advantages of Med/Arb, in some legal literature it is said that Med/Arb brings the best of both worlds. But the author agrees with Mark Batson Baril and Donald Dickey, where they name the two most important concerns with med-arb:

1) the inherent potential for "coercion" -when the power to decide the dispute is invested in the mediator, it gives him the power to pressure the parties into settlement;
2) the risk that confidential information gained during mediation may taint the med-arbiter's final decision- the med-arbiter cannot be completely neutral in the decision-making phase, having gained some information, perhaps unfavorable, in confidence in the mediation phase (Blankenship 2006: 35)

**Sports Resolutions UK**

Sport Resolutions (hereinafter- SpRUK) is the independent, not-for-profit, dispute resolution service for sport in the United Kingdom, which was established by the main stakeholder groups in sport. The aim is to provide an expert, speedy and cost effective alternative to internal appeals processes and court-based litigation. SpRUK provides sport specific arbitration and mediation services and operates the National Anti-Doping Panel (NADP) and National Safeguarding Panel (NSP). Two-thirds of income is self-generated through service level agreements with Non Governmental Bodies, arbitration and mediation fees, training and room hire. One third of income is received from UK Sport to provide a service to organisations in the Olympic and Paralympic high performance sport system (www.sportresolutions.co.uk). Hence, it can be seen that SpRUK, as well

as SDRCC aims to resolve sport conflicts fast, effective and answers the needs of UK sport community to contribute to the sport of high achievements.

According to the official website of SpRUK the following services are offered to resolve sport disputes:

- Arbitration
- Mediation
- National Anti-Doping Panel (the United Kingdom's independent tribunal responsible for adjudicating anti-doping disputes in sport. It is operated by Sport Resolutions in accordance with its own procedural rules and is entirely independent of UK Anti-Doping, who are responsible for investigating, charging and prosecuting cases before the National Anti-Doping Panel).
- National Safeguarding Panel (works in tandem with Non Governmental Bodies safeguarding systems and provides professional support in cases of significant complexity or seriousness, which present risks to children, young people, vulnerable adults or to the reputation of a sport. Is also appropriate in cases where an independent and "arms length" approach is required).
- Advisory opinions (provides for an independent arbitrator(s) to give a non-binding interpretation of a law, regulation or rule. It does not have the effect of adjudicating a specific dispute in sport).
- Pro Bono Legal Advice (service provides a list of experienced sport lawyers who may be willing to assist individuals of limited financial means before Sport Resolutions panels and other tribunals).

SpRUK mediation service provides a quick and cost-effective way of resolving all kinds of sports disputes where it is important for the resolution to remain confidential and for the relationship between the parties to be preserved. Mediation is led by a neutral facilitator who works collaboratively with the parties to reach a joint settlement.

The service includes:

- Appointment of an experienced mediator who has a good understanding of sport;
- Assistance in setting up and organising a mediation via mediation procedure and mediation agreement;
- Assistance in finalising a settlement agreement between the parties;
- Use of purposely-designed mediation centre.

The examples of sports disputes that SpRUK has successfully resolved by mediation include: termination of coaching contracts, deterioration of relationships within the board room or dressing room, issues arising from commercial contracts and agreements, rights and entitlements to govern sport and competitions, discrimination issues, safeguarding children in sport issues.

(www.sportresolutions.co.uk)

It can be seen that SpRUK mediation has resolved a vide variety types of cases with very different specifics what indicates to the successful applicability of this ADR method in British sport disputes.

SpRUK also provides a statistics of its caseload for the last 8 years. The author will reflect the latest data available on mediation and arbitration:

| Years | Mediation | Arbitration |
|---|---|---|
| 2012-13 | 9 cases | 41 cases |
| 2013-14 | 8 cases | 33 cases |
| 2014-15 | 7 cases | 37 cases |

The provided statistics shows that arbitration caseload is several times higher than mediation caseload what reveals not such high popularity of mediation in comparison with 'bigger brother' arbitration.

**Conclusion**

The creation on the national levels of such sport dispute resolution institutions as SDRCC and SpRUK, with high goals, thought-out structure, variety of ADR methods that answer the needs of specific sport community, affirms the viability of Juan Antonio Samaranch's idea to avoid litigation and provide for specialized bodies to resolve sport disputes within the family of sport.

Although at the moment it is hard to conclude that mediation is a popular ADR method is sport law, still one can not ignore the fact that it is being successfully used by sport institutions to resolve the sport related conflicts.

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# LATVIAN ADMINISTRATIVE TERRITORIAL REFORM ASSESSMENT

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**Abstract**

**Latvian administrative territorial reform assessment**

***Key words:*** *administrative territory, reform, municipality, counties, assessment*

This article is dedicated to results evaluation of Latvian Republic's administrative territorial reform, which was performed in 2009. At the end of 2015 Latvian government gave the idea to organize and perform the second administrative territorial reform in 2021 with the aim of reforming the existing municipalities by merging them. To do this it is necessary to identify and understand the consequences of the already performed reform. In this research the consequences of the first reform were analyzed from the legal, health and economic points of view.

In this article is carried out research about gains and losses of implemented reforms, within which administrative territorial reform related laws and regulations are being studied an analyzed, with the major deficiencies being identified. To make this research comprehensive enough, interviews were conducted in all the Latvian municipalities (110 counties) with the objective to explore and find out gains and losses from the implemented reforms for every county's municipality. These results of surveys (positive aspects and admitted failures) could be used for implementation of the second administrative territorial reform.

Demographic situation, an important problem for Latvian state, which has been identified in the research as a significant factor to be taken into account for planning and building county's municipalities, has been raised within the research and reflected in the article. Problems related to normative regulations of the administrative territorial reform, specifically violation of these regulations requirements and conditions and associated consequences, which have been identified within the research, are being analyzed in the article.

**Kopsavilkums**

**Latvijas administratīvās teritoriālās reformas izvērtējums**

***Atslēgvārdi:*** *administratīvā teritorija, reforma, pašvaldība, novadi, izvērtējums*

Raksts ir veltīts Latvijas Republikas 2009.gadā pabeigtās administratīvās teritoriālās reformas rezultātu izvērtēšanai. 2015.gada nogalē no Latvijas valdības puses ir izskanējusi ideja 2021.gadā organizēt un veikt otru administratīvi teritoriālo reformu, ar mērķi reformēt jau pastāvošās novada pašvaldības, to apvienojot. Lai to izdarītu ir nepieciešams apzināt un izprast jau īstenotās reformas sekas. Pētījumā reformas sekas un tās ietekme tika analizētas no tiesību, veselības un ekonomikas jomas skata punkta.

Rakstā tiek veikts pētījums par īstenotās reformas ieguvumiem un zaudējumiem, kuras ietvaros tiek pētīti un analizēti ar administratīvās teritoriālās reformas saistītie normatīvie akti un konstatētas to būtiskākas nepilnības. Lai pētījums būtu kvalitatīvāks, tās ietvaros tika aptaujātas visi Latvijā esošās novada pašvaldības (110 novadi), ar mērķi izpētīt un izzināt katras novada pašvaldības ieguvumus un zaudējumus no īstenotās reformas, kuru rezultāti (pozitīvie aspekti un pieļautās kļūdas) varētu tikt izmantoti īstenojot otro administratīvo teritoriālo reformu.

Pētījuma ietvaros tika aizskarta un rakstā atspoguļota Latvijai valsts nozīmīga problēma – demogrāfiskais stavoklis, kas kā pētījumā tiek konstatēts ir būtisks faktors, kas ņemams vērā plānojot un veidojot novada pašvaldības. Rakstā ir analizētas pētījuma ietvaros konstatētas ar administratīvās teriroriālās reformas normatīvo regulējumu saistītas problēmas, tas ir šo prasību un nosacījumu neievērošana un ar to saistītas sekas.

Making research was applied many further mentioned research methods. Administrative territorial reform prerequisites and its implementations necessary have been evaluated in article with historical method. Administrative territorial reform with related normative regulations has been analyzed with method of deduction, with goal to compare planning with real implemented reform benefits and losses and define significant flaws in its realization (requirement and condition non-observance and with it related consequences). For more qualitative research, in its frames has been interviewed all in Latvia current region self- government (110 counties), with goal to research and ascertain each region self-government benefits and losses from implemented reform, which

results (positive aspects and mistakes) might be used to implement second administrative territorial reform. Inductive method in result of application is ascertain and Latvia's country important problem has been reflected- demographic situation, which in research has been defined as significant factor, which is taken into account for planning and forming region self-government. Already six years have passed since the completion of territorial reform. Administrative and territorial reform of the transition from two-tier to one-tier municipalities: was eliminated 26 counties councils, but the city, the rural areas and parishes merged counties, as well nine cities scored republic city status. In addition, it was decided to rename the city of all rural areas of the parishes, to restore the historical names or add to existing parishes. Combined counties of the former municipality got the county administrative status. The process has been in dispute, contradictions and protests complete, performed in different views - for and against the reform as a whole and certain of its results.

Preparation of the administrative territorial reform started in 1992, when the Latvian Supreme Council established the administrative territorial division reform commission, which drafted the first proposals municipal mergers.

Local government reform concept in 1993 with regard to the territorial reform was aimed at: “The territorial division reform to be carried out in order to decentralize public administration, create opportunities to establish an optimal local government system, which would ensure local government’s financial, economic and social basis, given the opportunity them to operate independently, develop the necessary infrastructure to develop the interests of citizens living conditions.”

Since 1998, the adoption of the administrative and territorial reform law, administrative and territorial reform process adopted a number of laws, regulating the local governments on the establishment and contributed to municipal mergers. Amalgamated municipalities were given earmarked grants 107 million LVL newly created regional infrastructure projects, which accounted for LVL 200 000 for each region included in the parishes and the city. Recent work carried out 95% of the municipalities adopted decisions on county building in accordance with the Cabinet of Ministers approved the administrative territorial division of the project. However, the administrative and territorial reform process 31 local governments appealed to the Constitutional Court on the administrative and territorial reform of normative acts regulating non-compliance with the Constitution of Latvian Republic. The Constitutional Court held in administrative-territorial reform process to comply with the Constitution.

After lengthy discussions, allowing a number of compromises, parliament adopted the 2008 counties municipality reorganization laws and administrative territories and populated areas the law, reducing the local administrative area nearly five times the number. According to the adopted laws

were created 118 local administrative areas - 9 cities and 109 counties and districts were abolished and municipalities by 2010 reorganized counties municipal authorities. Amalgamated municipalities were created with very different population - ranging from just under two thousand Alsungas and Baltinava counties, to 38 thousands of Ogre counties.

For the adoption of administrative territories and populated areas law in 2008 were established 20 counties with the statutory criteria for non-compliant population - less than 4000 and 28 counties with the law ineligible for county development centers - the villages where the population is less than 2000th. Those counties were among the 13 counties that do not meet at the same time both the statutory criteria. Inadequate county building criteria were established in the two districts, the area is not geographically uniform.

In November 2010, the Saeima amended the administrative territories and populated areas by law, setting Rojas counties into two municipalities - Roja and Mersrags counties.

Created Mersrags counties supplemented the law inadequate number of countries that did not meet the statutory maximum population criterion, no statutory county development center criterion. Since January 2011, the entry into force of the amendment of administrative territories and populated areas of the law in force is 119 Latvian municipalities - 9 municipal districts and 110 counties.

Administrative territories and populated areas Law prescribes administrative area and county subdivisions of creation, tracking, boundary amendment, the administrative center of the determination of the conditions and procedures as well as settlement status, of their accounting procedures and competence of institutions in this area, which was also the basis for territorial reform. In accordance with Section 7, Paragraph two, and Clause 3 - county area is not less than 4,000 residents. This provision of the law has been breached in 23 of 109 counties, permanent population of less than 4,000 people, and in Latgale they are - Baltinava counties (1,351 in hab.) Varkava counties (2369 in hab.), Rugaji (2652 in hab.), Cibla (3309 in hab.) and others. The above also observed in other Latvian regions counties like Akniste counties (3311 in hab.).

In assessing the current situation in Latvian regions, it determined that it was an infringement of the provisions of this Law Article 7, the second paragraph of Item 4 - counties within a village, which has more than 2,000 permanent residents, or city - Baltinava - 721, Varkava - 658, Rugaji - 547, Cibla - 287, Aglona - 1065, Rauna - 1389, Mazsalaca - 1496, Zilupe - 1745th. Consequently, 21 percent of the counties, which were created in accordance with the aforementioned law does not comply with the provisions of that law and Even more incomprehensible why it is set up such small districts in terms of population, if these counties while creating a population already in 2000, when a census was lower than the statutory four thousand here for the creation, as well as the holding of elections they are illegal.

Baltinava Municipality is the smallest county with 1,351 residents, which for 2.96 times less than legal norms. Accordingly, a "small" regional creation was contrary to government administrative territorial reform concept aimed - territorial formations extension to citizens the same layout between regions. Immediately arises a question: "How long will exist any territorial formations - up to a population level of extinction?" At the same Baltinava region has a population of extinction accelerated a process that will be analyzed for the period doubled - 2000 - 2004 population loss minus 24.2 people per year, 2004-2007.g. - Minus 25, 2007 year is minus 29, 2008 year is minus 48, 2009-2010 - Minus 36. As a result, after 7-10 years the population of this region can be lowered to 1000 and the question arises as county continue to exist. Dispose of this region specified by the Cabinet order should not have to change the law itself, as well as other laws that are related to administrative territorial division or simply the country will exist in "empty" territory. Consequently, the "small" regional creation shows that the Latvian territorial division has been ill-advised process as the country as a whole, as well as violation of national interests, taking into account that the very smallest county on the border with Russia.

When Latvian existing regional surveys (surveyed were 110 counties, of which 46 counties responded to the survey, these questions, the rest either refused to provide survey information indicated (7 counties), or the answer was not given (57 counties)) it was found to be significant population decrease is observed: Rezekne (2010 (-277) 2011 (-499) 2012 (-213) 2013 (-263), 2014.g. ( -684) 2015 (-445), Dagda (2009 (-175) 2010 (-167) 2011 (-170) 2012 (-137 ) 2013 (-203), 2014.g. (-252); Vecumnieki region (2010 (-187) 2011 (-353) 2012 (-80) 2013 (-154), 2014.g. (-144) and others like Ligatne, Ilukstes and Aluksne counties. In turn, different regions of a growing population, for example, in Adazu counties (county from creation to the end of 2015 +2627); County (2010 (+235) 2011 (+170) 2012 (+237) 2013 (+237) 2014.g. (+304). A similar situation is also observed in Marupe and Kekava counties. This trend is attributed to the population flow to the larger cities, mostly in the vicinity of Riga and Riga region.

The author in his article remarked on population extinction, here also a clear example. Recently Daugavpils counties of documents deleted 'Deglu village'. This region will not be the last case, because really there is still 43 villages. The village is an administrative unit, which is the name of the conditions attached to existing or planned for construction, permanent residents and infrastructure. Most of the villages is extinct Tabore Parish - 12, followed by Demene with 11 villages. Ambelu parish died eight villages. In other regions there is no shortage of villages where there are three or four houses. About anyone can verify by looking up the State Land Service website. When Latvian existing regional survey showed that Jekabpils counties as a whole from the date of its establishment are excluded 14 villages (sweet, Dignaja, Cukuriņš, Tadenava, Izabelin, Mazslate, Silagals, Sili, Cervonka, Spelen, Akmeņares, BERZONE, Gerkan, Kalvans); Apes

counties – Lizespasta village; Aknistes region - Ruka; Smekerstani; Striki; Suseja ; Tunkeli; Valdaiki; Vilkupe; Ancisi (Kriskane); Kanepaites; Kalnageidani; Kalnaracini; Kalnaraupi; Kungudruvas; Krankali; Pasuseja; Sturageidani; Navickas (Lukstaraupi) as well as a Bubuli, Dominiek, Kazemaki, Koknese, Patmalnieks and Vangazi.

However, neither the population density of areas, not rural emptying impact on the political process and the economy, has not been analyzed. Statistical data are collected only the local government, so that the real picture of each one can imagine and interpret in their own way.

On the other hand, contrary to those principles of the reform occurred in the creation of counties with a population of more than 20 thousand, an administrative area and the locality rule resulted in 16 counties, including Latgale: Kraslava with 19,811 in hab., Daugavpils county with 28,211 in hab, and Rezekne with 31 602 inhabitants. As shown in the “large” counties were established not only in accordance with the above law, but two of the 16 major regions in Latgale existing - Kraslava (11.12.2001) and Daugavpils (29.05.2007) was developed in the past, taking into account the provisions of the Cabinet of Ministers. Consequently, not the equivalent county is a deliberate creation of Environmental Protection and Regional Development Ministry policy that distorts its own territorial reform and meaning except chaos and conduction loss of the state it can’t give. Realizing administrative territories and populated areas of the new Law on territorial division of inferiority, authors of the bill given the transitional provisions of the Law wrote in paragraph 5, which stated that up to July 1, 2009, the Saeima of the county may also areas that do not comply with this Section 7, the second parts 3, 4 and 5 of the rules as a whole, individually or in any combination, however, consistent with the rest of that article that part of the criteria "). But in terms of the above 23 counties until July 1, 2009 were not made any specific decisions and, consequently, the existence of these regions is not justified.

Administrative territorial reform has brought profound impact fields, especially in Latgale, which results in 600 development centers instead turned 16, was thus destroyed their contribution to improvement of the territories and promote faster rural “purging” of the population. The fact that the flow of goods and services and to facilitate the visa regime is not developed in the European Union’s Eastern border is a macroeconomic problem that causes the scam and smuggling. Latgale development depends on the flow of goods and people power from Russia, since these areas advantage of being able to develop services that are not available in Russia. Territory development hinders the government distrust of local decisional capacity. Centralized reallocation of funding led to the fact that some local governments have been pampered, but another, 15 years have not realized any project. Territorial reform in Rezekne counties closed: Daugaviesu elementary school, elementary school Ilzeskalna, nails Elementary School, Willow Elementary School and Struzani elementary school in a small number of children in private and Kraslava counties, Piedrujas

Elementary School, Ludza more than Blontu primary. When the Latvian regional survey it was found that a number of educational institutions were also closed Bauska, Jekabpils, Gulbene, Akniste, Aluksne, Bauska and other counties.

In many parishes have been closed paramedics - midwives points that provide primary medical care for the population, it's like Dagda counties Andzelu parish, the local population now to be measured 10km long road to buy him the necessary medicine. After Aglona creation was disbanded local non-profit company "Aglona rural hospital".

Assessing and determining the administrative territorial reform realized results may indicate the following. Although the administrative and territorial reform process was substantially improved Latvian government system, sharply reduced local quantity with a population of up to 4 000, the majority of local governments increased ability themselves to deal with complex functions of enforcement issues, to organize a European Union fund project learning, to make their administrative areas attractive to investors, however, it can be concluded that certain issues should have been resolved in the reform process are not met: established in a large number of counties that do not meet the statutory criteria for making the county; in many counties it is not strong development center, which significantly complicates the balanced regional development policy implementation; established in terms of population very heterogeneous county government system, which complicates further the public administration development process; government system population heterogeneity as a whole is unable to take over the future decentralized public administrative functions to the individual public administration functions to local governments will be a complicated process; created a relatively large number of small local municipalities, which have insufficient tax revenue base and are unable to independently, without delegation or joint municipal institution-building, to exercise their autonomous functions, to concentrate financial resources to carry out a rational, effective management. In addition, a number of polls within municipality pointed out that the reform of the population worsened the direct contact with the local government, as citizens of the smaller and more distant places in the county has become problematic to maintain direct contact with the local government. This also applies to institutions located further away from the district center.

It should be noted that the 2009 reform was planned in two stages - the county administrative territory reform and regional planning or second-tier local government creation that was postponed. This is viewed as a loss, because such districts were abolished and created in larger counties, but remained in regional planning competence of the Ministry. They have been established planning regions, but they have too little funding and legal powers to carry out regional planning function. From the above it can be concluded that combining or dividing the territory, were not taken into account a number of important factors, such as population and population density or infrastructure

facilities and other factors that are important in creating the optimum development options. There was no consistency on how small or large counties need to build. Administrative Territories merger should take into account many factors - infrastructure, the educational institutions, the identity of the historical relations and others. Also, the county government leader's ambitions and an effect on the parish merger.

Another sensible county reform model would be to evaluate the local government, which with its own budget, population and its growth dynamics and the European Union Funds are able to demonstrate the possibilities for long-term development opportunities. In addition, an important factor is whether the government is "donor" local government financial equalization fund, or vice versa - the beneficiary of it. These could be key factors in deciding whether a particular municipality is or is not appropriate to stay independent.

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# THE MAXIMUM AGE THRESHOLD OF A GUARDIAN AND AN ADOPTER

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**Abstract**

**The maximum age threshold of a guardian and an adopter**

***Key Words:*** *guardian, adopter, adoption, child, old age, family*

To provide a child with family-like environment, when they have lost their parents or when child's parents are deprived of custody rights, children can be assigned guardians or put for adoption according to the Civil Law. Adoption provides a stable and harmonious living environment for children who are left without parental care. Guardian's main mission is to substitute parents for the child as well as to represent child's personal and property rights. A person who adopts or a guardian has to provide a long-term stable and harmonious living environment for children, this person has to be familiar with child's needs and requirements in nowadays environment, in order to offer a proper childcare.
This article analyzes the necessity to set maximum age for adopter or guardian in the Civil Law.

**Kopsavilkums**

**Aizbildņa un adoptētāju maksimālais vecuma slieksnis**

***Atslēgvārdi:*** *aizbildnis, adoptētais, adopcija, bērns, vecums, ģimene*

Lai bērna nodrošinātu ģimenisku vidi, kad bērnam vairs nav vecāki vai bērna vecākiem ir atņemtas aizgādības tiesības, saskaņā ar Civillikumu šos bērnus var nodot aizbildņiem vai adoptācijai. Adopcija nodrošina bez vecāku gādības palikušajiem bērniem stabilu un harmonisku dzīves vidi ģimenē, savukārt aizbildņa galvenā misija ir aizstāt bērnam vecākus, tas ir aizvieto saviem aizbilstamajiem vecākus, kā arī pārstāv bērnu personiskajās un mantiskajās attiecībās. Savukārt par aizbildni vai adoptētāju ir jābūt tādai personai, kas bērnam var nodrošināt harmonisku un stabilu vidi jaunā ģimenē ilga laika periodā, kam ir plašākas zināšanas par mūsdienu bērnu dzīvi, kas līdz ar to sniegtu pilnvērtīgāku bērnu aprūpi.
Rakstā ir analizēta par nepieciešamību Civillikumā noteikt adoptētāja un aizbildņa maksimālo vecuma slieksni.

## Introduction

Legal relationship between parents and children, as well as relationship in general may occur not only upon the birth of the child to his natural parents, from the child's biological coming-into-being, but also upon his adoption. Children left without parental care normally have guardians appointed to implement their key mission - to replace the child's parents, i.e. to be in lieu of parents of their wards, as well as to represent the child in personal and property relationship.

As laid down in the regulatory enactments of the Republic of Latvia, the parent-child relationship may be established also by adoption. In the cases set out in the law children may be adopted also by foreign citizens. The main purpose of adoption is to ensure the child's development in a family environment (Lomanova 2002: 130).

Since it is in the best interests of the child to grow in a family environment, adoption is one of the alternative solutions, for there is a basis to expect that adoption will ensure real parent-child relationship.

Adoption is a civil act, pursuant to the Civil Law - a family agreement, whereby a person takes another person's child as his own child ( lat.adoptio – taking as one's own child) (Vebers 2000: 89).

The author believes that the primary aspect is the purpose for the adoption of a child, therefore, adopters, in the author's opinion, should be adequately evaluated, at the same time evaluating also the best interests of the child. It is important to identify potential abilities of adopters to ensure adequate care, favorable conditions for the child in accordance with the child's age.

The author of the thesis wishes to draw attention to the key motivational factors in the process of adoption, namely, to ensure a stable and harmonious living environment in families for children left without parental care.

In order to ensure a familial environment for the development of a child, adoption shall be supported pursuant to the first part of Section 31 of the Protection of the Rights of the Child Law (The Constitution of the Republic of Latvia).

Adoption is allowed to all persons, who may decide for themselves and their own property, while as laid down in the first part of Section 163 of the Civil Law, the adopter must be at least twenty-five years old, and be at least eighteen years older than the adoptee. Prior to making of amendments to the Civil Law of 29.11.2012, it was prescribed that the adopter must be 30 years old, but this age limit was reduced by the amendments of 29.11.2012. Those who have descendants or an adopted child, may adopt another only for the reasons admitted by the court as convincing. Important reasons may also serve as a basis for the adoption of several children at the same time. However, these restrictions no longer apply if the adopter adopts his own illegitimate children. They may be adopted without any restrictions, for an illegitimate child to be given the status of a legitimate child he becomes a family member by adoption, thus acquiring the adopter's surname and all rights and duties of a legitimate child. But adoption in fact does not give rise to or result in any legal relationship between the adoptee and other relatives, unless such rights and duties are expressly set out in the agreement.

The only exception is that, if a male adopter adopts his illegitimate child, the requirement regarding the minimum age of an adopter does not apply. Nonetheless, in this case the adopter must be of the age of majority, i.e. be able to exercise parental authority. The law does not regulate the maximum age of an adopter until which a person may apply to adopt a child, nonetheless, in approving adoption, an orphan's court or a court must take into account whether a too old age of the adopter would be an impediment to the fulfillment of his duties as an adopter and the protection of rights and interests of the adoptee, and, in adopting the child, it is logically necessary to ensure him a family environment for a long time.

The summary of the draft law to the Civil Law *Amendments to the Civil Law* (No. 386/Lp10) provided for the amendments to Section 163 of the Civil Law, prescribing for the maximum age of forty-five years between the adopter and the adoptee. The author believes that it was reasonable to

include this norm in the Civil Law, since adoption is understood to provide a harmonious and stable environment for the child in a new family for a long period of time, and the adopter must be able to bring up the child, and not incapable of qualitative raising the child due to his age, or illness, because a small child requires much forces.

In the situation where both parents are deprived of the right to care for their child, an orphan's court makes a decision on out-of-family care for the child, and pursuant to regulatory enactments there are the following types of out-of-family care: foster family, guardianship, out-of-family care institutions. As Latvian practice shows, the most popular type of out-of-family care is guardianship, since one of the near relatives is normally appointed as a guardian.

Since guardians are in most cases close relatives, being grandparents as a rule, who are elderly people, the practice shows that they experience problems in the process of raising children. Due to their old age, such guardians cannot ensure an adequate guardianship in the child's best interests. It was prescribed in Section 246 of the Civil Law prior to amendments of 29.10.2015 that, if a guardian is older than 60 years of age, he may refuse on a lawful basis to fulfill the duties of a guardian, but as the experience shows it is a rare occasion that he refuses guardianship. Therefore, the author believes that the Civil Law should be supplemented with a new norm, prescribing that "A person who reached 55 years of age may not be a guardian", since the guardian must be such a person, who possesses wider knowledge of the lifestyle of modern children, thus ensuring a more adequate care for the child, with the law certainly authorizing an orphan's court to decide on the age of the guardian, if guardianship is established for the child.

**Conclusions**

The author of the thesis discussed the problem that the maximum age of the adopter is not determined in the law, furthermore, institutions should take into account an old age of a potential adopter and analyze whether it will be an impediment to the fulfillment of the duties imposed upon the approval of adoption in the best interests of the adoptee. The author believes that such norm should be set out in the Civil Law, since adoption aims to ensure for children a harmonious and stable environment in a new family for a long period of time, and adopters should be able to raise the child and not be unable to ensure qualitative upbringing of the child due to an old age or health problems, namely, the Civil Law should be supplemented with a new norm, prescribing: "that persons who have reached the age of 55 may not be adopters or guardians", except for the right of an orphan's court to decide on the age of guardians, if any of the child's relatives is appointed as a guardian.

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# GUARANTEE LEGAL INSTITUTE: SOME PROBLEMATIC ASPECTS

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**Abstract**

**Guarantee legal institute: some problematic aspects**

***Key words:*** *guarantee, suretyship, reinforcement of obligations, Lithuanian civil law, Latvian civil law*

In post-economic-crisis period the needs for reliable measures of enforcement of obligations still exist in commerce practice and guarantees are most acceptable one. However, a great number of civil cases in national courts and rapid development of international commerce practice – these both lead to some fundamental problems of guarantee institute that are not assessed properly in legal doctrine yet, i.e. like the concept of guarantee and structure of such legal relationship or convergence problem of suretyship and guarantee legal institutes. So this article is oriented to analysis of these three general problematic aspects of fundamental basics of guarantee institute without detailed analysis of working specifics of guarantee mechanism. In order to reach this aim there is analysis of main legal sources of Lithuanian law comparing with international commerce practice based on soft law documents (URDG rules, UNCITRAL Convention) and Latvian law, that is unique, because it's regulation does not recognize suretyship legal institute. So in parallel investigation of article there is object to find out the influence of such position of Latvian legislator to guarantee institute development. The results of article analyse show clearly the necessity to some changes of laconic and uncompleted Lithuanian legal regulation while in Latvian law legal regulation of guarantee becomes much more deviant form it's true meaning without competitive suretyship institute.

**Kopsavilkums**

**Garantijas tiesiskais institūts: daži problemātiskie aspekti.**

***Atslēgas vārdi:*** *garantija, galvojums, saistību izpilde, Lietuvas Civillikums, Latvijas Civillikums*

Periodā pēc ekonomiskās krīzes tirdzniecības praksē joprojām pastāv nepieciešamība pēc uzticamiem saistību izpildes pasākumiem un garantijas ir vispieņemamākie no tiem. Tomēr lielais civillietu skaits nacionālajās tiesās un straujā starptautiskās tirdzniecības prakses attīstība ir radījusi dažas būtiskas garantijas institūta problēmas, kas nav pienācīgi novērtētas tiesību doktrīnā, t.i., piemēram, garantijas jēdziens un šādu tiesisko attiecību struktūra vai galvojuma un garantijas tiesisko institūtu konverģences problēma. Tāpēc šis raksts ir orientēts uz to, lai analizētu šos trīs vispārējos garantijas institūta būtiskos problemātiskos aspektus bez garantijas mehānisma darbības īpatnību padziļinātas analīzes. Šī mērķa sasniegšanai tika veikta galveno Lietuvas tiesību aktu juridisko avotu analīze, salīdzinot ar starptautisko tirdzniecības praksi, kas balstīta uz ieteikuma tiesību dokumentiem (URDG noteikumi (noteikumi "Par pieprasījuma garantijām), UNCITRAL (Apvienoto Nāciju Organizācijas Starptautisko tirdzniecības tiesību komisijas) Konvencija), un Latvijas likumu, kas ir unikāls, jo tā regulējums neatzīst galvojuma tiesisko institūtu. Tāpēc paralēli rakstā veiktajai izmeklēšanai tā mērķis ir noskaidrot šādas Latvijas likumdevēja nostājas ietekmi uz garantijas institūta attīstību. Raksta analīzes rezultāti skaidri norāda uz nepieciešamību veikt atsevišķas izmaiņas lakoniskajā un nepabeigtajā Lietuvas tiesiskajā regulējumā, savukārt Latvijas likumā paredzētais garantijas tiesiskais regulējums rada novirzi no tā patiesās nozīmes, nepastāvot konkurētspējīgam galvojuma institūtam.

## Introduction

The consequences of worldwide economic crisis in 2007 still exist in international and national markets by making commerce environment more unpredictable and insecure. In this conditions the questions about fulfilment of contractual obligations and the effectiveness of measures of enforcement of such obligations have become much more actual than ever before. As consequences, a popularity of guarantee has increased in commerce practice because of its "convenience" to creditor and guarantor in order to protect their interests. However, during this period an application of guarantee institute in practice, shows some fundamental issues of this civil law institute. Moreover, Lithuanian legal doctrine does not pay much attention to such problems of guarantee institute, like the concept, structure of such legal relationship or even convergence

problem of suretyship and guarantee instruments. The are no researches on these problems in Lithuanian legal doctrine. Laconic legal regulation and sparse case law on this question don't stimulate development of this civil law institute. On the other hand, it is necessary to note, that suretyship is very old enforcement measure of obligations and its roots can reach even ancient Romanian law and *fideiussio* institute of civil law. Despite this, Latvian legal regulation does not recognise suretyship as possible enforcement measure of obligations, so this article is a solid basic for discussions about the purpose of guarantee instrument as well as the necessity to establish of suretyship in Latvian civil law.

The **Aim** of this paper is to analyse some problematic aspects of fundamental basics of guarantee institute in Lithuanian law comparing it with international legal practice.

**Methods**: systematic, critical, analogic, logical, comparative and documents' analysis methods.

**Abbreviations**: CC of the RL – the Civil Code of the Republic of Lithuania; CL of the RL – Civil Law of the Republic of Latvia; SCL – the Supreme Court of Lithuania, URDG rules – ICC Uniform Rules for Demand Guarantees; UNCITRAL Convention – United Nations Convention on Independent Guarantees and Stand-by Letters of Credit.

**Discussion**

***Problematic aspects of the concept of guarantee***

In commerce practice the concept of guarantee is used in very broad way, i.e. using it to name each even verbal approval of some facts that can be trust by other contract party, or liability of manufacturer for the quality of selling goods, etc. Despite this, guarantee has a very narrow meaning in civil law and Para. 1 of Art. 6.90 of CC of the RL expressis verbis provides it, i.e. a guarantee is a unilateral obligation of a guarantor by which he binds himself within the sum indicated in the guarantee to be liable fully or in part towards another person (creditor) if a person (debtor) fails to perform the obligation, or performs it improperly and to compensate the creditor for damages under certain conditions (when the debtor becomes insolvent, and in other cases). Meanwhile in other countries this this concept is set in legal regulation in very different way, i.e. while in Latvian CL Section 1692 provides much more common type concept of guarantee then in Lithuanian law, in German law legislator has refused to set expressis verbis in legal regulation the special provisions for identify this legal relationship because of variety of it.

Meanwhile Art. 2(a) of URDG provides that a guarantee means any guarantee, bond or other payment undertaking, however named or described, by a bank, insurance company or other body or person given in writing for the payment of money on presentation in conformity with the terms of the undertaking of a written demand for payment and such other document(s) (for example, a certificate by an architect or engineer, a judgment or an arbitral award) as may be specified in the Guarantee, such undertaking being give at the request or on the instructions and under the liability of a party or at the request or on the instructions and under the liability of a bank, insurance

company or any other body or person acting on the instructions of a principal. The similar concept of guarantee to such detailed one is set in Art. 2(1) of UNICITRAL convention.

So, the concept of guarantee set in international commerce practice is much more detailed when it is set in national legal regulation and it eliminates all possible conditional type constructions of words that may link obligations under guarantee with fulfilment of contractual obligation secured by this instrument in order to strengthen the non-accessory characteristic of guarantee.

It is necessary to note that concept of guarantee is used in civil law as well as in other legal acts like legal regulation of custom activity. Para. 3 of Art. 74 of Law on Customs provides that in case of permission to establish a new depot, person shall apply to Customs a guarantee provided by Government or other competent institution. This is clear that guarantee concept in this legal act has another legal meaning than the one in CC of the RL that is more like a special legal security mean provided only by competent government institutions, so legal regulation like this shall be changed because it is inappropriate.

***The structure of guarantee legal relationship***

The structure of guarantee legal relationship is a system of three members that is based on two main contracts which is absolute independent form each other, i.e. in first place, there is a main contract between creditor and debtor and after that there is a agreement between debtor and guarantor who is going to be liable for debtor's obligation under main contract in case of his failure, meanwhile in case of bank guarantee there is special contract for providing guarantee (Kurkela, 2008: 98). In case of the second one, before providing guarantee financial institutions usually require from debtor to deposited a suitable some of money to guarantor or ensuring potential damage of financial institutions' in other way (Juodka, 2006:51).

It is necessary to note that in previous laconic legal regulation in CC of the RL of 1964 and case law based on this legal regulation, guarantee and suretyship were very similar to each other by understanding them as a contract type legal instruments, i.e. in case of guarantee case law evaluated guarantor's as will as well as creditor's will in order to establish this kind of legal relationship (see more in the Review of SCL issued on 20th of December 1995 No. A2-3). Meanwhile, present legal regulation of new CC of the RL of 2000 describes guarantee as a unilateral transaction, i.e. guarantor's will to be liable for debtor's obligation fulfilment is enough to establish guarantee without analysing creditor's will in this case (Para. 1 of Art. 6.90 of CC of the RL). Considering that Art. 2(1) of UNICITRAL convention as well as Art. 2(a) of URDG defines guarantee as a pure independent unilateral transition, Latvian legislator shall reconsider present legal regulation of Civil Law on this question because Section 1692 of this legal act provides expressis verbis mistakenly that guarantee is a contractual duty. Moreover, systematic analysis of legal regulation of guarantee in CC of the RL shows that it is not consistent enough in describing the structure of guarantee, because there are some legal provisions that describes guarantee as contract, e.g. Para. 2 of Art. 6.92

of CC of the RL that provides the limits of guarantee obligation or Para. 4 of Art. 6.93 of CC of the RL that provides special legal provisions for bank guarantee etc. Despite this, a new case law of SCL also is lack of this consistency, e.g. in the Ruling issued on 15th of March 2012 in civil case *T. K. v. V. S. and Z. Š.* No. 3K-3-97/2012 SCL describes guarantee as contract despite the fact that it makes some references to Para. 1 of Art. 6.90 of CC of the RL and interprets applicant's as guarantor's obligations and liabilities for debtor's failure to fulfil his obligations under credit contract.

On the other hand, understanding of guarantee as being bilateral transaction is not such a negative matter as can be seen referring to above-mentioned arguments. It is necessary to note, that legal doctrine does not provide a stick position on this question and scientists explain that a missing creditor's accept is his nonverbal actions (or no action) by which he expresses his will and agreement with guarantee establishment (Enonchong, 2011: 107). Moreover, some other authors argue that guarantee is usually a result of negotiation between guarantor and creditors, so creditor's will shall be in the same position as other in aspect of establishment of guarantee (Bertrams R. 2004: 59). The same position is in Latvian legal regulation (Section 1692 of CL of the RL). In detail analysis, if guarantor's will is enough for guarantee establishment, guarantee won't be invalid or it has other negative affect after expressing creditor's will on this question. As consequences of that it will have some positive affect because it will strengthen the effectiveness of guarantee, as reinforcement mean of obligations. So minimal requirements necessary for establishment of guarantee set by Lithuanian legislator shall not be interpreted as strict rule for guarantee characteristic and legal regulation shell provides some references to necessity of evaluation of creditor's will on this question.

***Guarantee and suretyship***

Legal doctrine as well as case law note constantly about the convergence of guarantee and suretyship because of their similar working mechanisms in practice. However, a real negative situation of this phenomenon shows further analysis of main classical criterions developed in legal doctrine:

- **obligation nature**: while guarantee is defined as unilateral consensual transaction, suretyship is a pure contractual obligation which establishment based on contract of suretyship between suretyship provider and creditor (Para. 1 and 2 of Art. 6.77 of CC of the RL). As it was mentioned before in section "The structure of guarantee legal relationship", previous case law and Lithuanian civil code of 1964 failed to separate these two instruments of enforcement of obligations form each other in this aspect. Moreover, present situation in Lithuanian legal regulation and case law is quite complicated because it these law sources is contradictory and inconsistent in this aspect, especially when there is a clear tendency to necessity to separate and evaluate creditor's will in guarantee establishment. So, Lithuanian legislator's efforts to grind this criterion is insufficient and case law does not perform it's role properly.

- **independence of obligation**: guarantee is independent obligation from the contractual debtor's obligation under secured contract while suretyship in contrary – it is accessory obligation. In commentary of URDG rules the independence of guarantee is defined as separate obligation from main contract between debtor and creditor secured by this guarantee as well as from internal relationship between guarantor and debtor (Affaki, 2001: 112). In Lithuanian law independence principle of guarantee is set in Para. 2 of Art. 6.90 of the RL as general legal provision for guarantee institute, while there is no such legal provision set for suretyship and even Para. 1 of Art. 6.80 of CC of the RL expressis verbis provides a duty to creditor to provide all necessary information about debtor's obligation performance. However, this criterion is no more so absolute, because case law has choose other way then legal regulation, i.e. in the Ruling issued on 29th of November 2012 in civil case *BUAB „Ikoda"* v. *UAB „GLC Logistikos centras"* No. 3K-3-537/2012 SCL noticed that this criterion this a basics for classification of each kind of guarantee, because in contrary to bank guarantee in case of simple guarantee this principle does not work in full power because of dependence (more or less) of such guarantee on principal obligation under main contract. Also, legal regulation provides some legal provisions that contradicts with independence characteristics of guarantee, like in Para. 5 of Art. 6.92 of CC of the RL that provides expressis verbis a right for guarantor to pay under guarantee according to creditor's demand after he receives a repeated demand of the creditor to perform the obligation and the proof that the obligation has not been terminated and continues to be valid. Moreover there is much more measures of enforcement of obligations that has no such independence as it is above-mentioned in international commerce practice – Uniform Rules for Contract Guarantees (URCG rules) that requires to provide the final judgement, order or award of a court or tribunal of competent jurisdiction, or the issue of a certificate of same debtor with his admission in order to satisfy debtor's demand to pay under guarantee. So independence of guarantee obligation is no more absolute criterion for separation of guarantee and suretyship instruments.
- **the nature of liability**: according to Para. 1 of Art. 6.81 of CC of the RL, surety together with debtor is liable as solidary debtors towards the creditor (creditor has a right to demand for obligation fulfilment from one of them or both) while in case of guarantee according to Para. 1 of Art. 6.90 of CC of the RL guarantor is subsidiary liable for damage, i.e. creditor shall demand to fulfil obligation from debtor in first place and only after that – from guarantor. However, this criterion is more like doctrinal type, because in practice especially in case of first demand guarantee (bank guarantee) there is no such subsidiary liability, because creditors shall provide a demand to pay under guarantee without submitting any evidences to grind this demand including evidences that he has applied this demand to debtor in first place (Goode, 2003: 87). So in practice, guarantor's liability for damage is modified from subsidiary to solidary type liabilities, that is a basic characteristic of surety liability.

- **the scope of liability**: according to Art. 6.81 of CC of the RL surety's liability is unlimited, i.e. surety is liable for interests' payment, damage compensation, penalties for beaching the contract and other obligations of debtors. Meanwhile in case of guarantee guarantor's liability is restricted by a sum of money set in guarantee text. However, this criterion is not so absolute in some case, i.e. according to Para. 2 of Art. 6.92 of CC of the RL in the event where the guarantor fails to perform his obligation under the contract of guarantee, or performs it improperly, his liability towards the creditor for damages suffered as a consequence of violation of the guarantee is not be limited to the amount for which the guarantee was issued. Meanwhile, in Latvian law Section 1698 Provides that guarantor is liable also for ancillary claims thereto, losses arising through the debtor's fault or default, and court costs. This legal regulation is inappropriate referring to essence of guarantee legal relationship and international commerce practice, because guarantee is independent obligation and guarantor can be liable for other negative consequence caused by debtor, expect above-mentioned one.

So, above-mentioned classical criterions of separation of guarantee and suretyship developed by legal doctrine and case law are quite conditional and less absolute than it is was before. Since this situation makes legal practice more difficult and brings less definiteness, but civil relationship is one which transforms the most in adapting to practical needs, so less restrictions makes guarantee and suretyship less formal and more flexible legal instruments. Moreover, there is no such difficulties in separation of these two instruments of reinforcement of obligations that cannot be solved if all these classical criterions will be applied systematically according to circumstances of each situation.

Moreover, civil law is dipositive and because of freedom of contract principle set in Art. 6.156 of CC of the RL and right to establish new measures of enforcement of obligations grounded in Art. 6.70 CC of the RL, in practice there many examples of modified such measures including hybrids of guarantee and suretyships. One of this is guarantee letters provided by insurance companies. SLC does not let these two instruments of enforcement of obligations assimilate with each other and in the Ruling issued on 20th of March 2007 in civil case *VŠĮ „Centrinė projektų valdymo agentūra" vs UADB „Industrijos garantas"* No. 3K-3-172/2007 it states that insurance companies' guarantee is not the same as bank guarantee referring to Art. 6.93-6.97 of CC of the RL because of inappropriate subject of guarantor, but insurance companies as other civil subjects cannot refuse to fulfil its obligations under such guarantee on formal grounds that it does not match formal requirements of legal regulations. So, since case law draw a strict limits between these two measures, but freedom of contract principle is places in first place. However, in some other cases this principle is restricted by imperative legal provisions, e.g. suretyships provided by banks in accordance to demand of state government institutions (e.g. The list of guarantors that have a right to provide guarantee and suretyship to National Paying Agency under the Ministry of Agriculture certified by order of Director of National Paying Agency under the Ministry of Agriculture issued

on 7th of December 2006). In case law in the Ruling issued on 28th of June 2004 in civil case *AB "Lietuvos draudimas" vs UAB "ERGO Lietuva" and UAB DK "L-ra"* No. 3K-3-394/2004 and later in the Ruling issued on 4th of July 2008 in civil case *UAB „Vilniaus autobusai" vs UAB DK „PZU Lietuva"* No. 3K-3-320/2008 SCL noted that suretyship-insurance legal relationship is a part of insurance legal relationship that establishes on basics of insurance contract. So in practice, corresponding with alternating demands of market and strong freedom of contract principle, there is less clarity in ratio between guarantee and suretyship and these two instruments becomes very similar to each other.

Talking about situation in Latvian law, Section 1691 of Civil law does not set suretyship as possible measure of enforcement of obligations and Sub-chapter 1 of CL of the RL provides only special legal provisions for guarantee. However, present legal regulation of guarantee institute without competitive legal regulation of suretyship similar to guarantee in Latvia is quit misleading and it does not match with understandings of guarantee as it is in international commerce practice and Lithuanian law. As it was mentioned before, Section 1692 of CL of the RL provides mistakenly expressis verbis that guarantee is a contractual duty, while others understand it as unilateral obligation. There are much more legal provisions that not match with independence principle of guarantee, i.e. Section 1696 of CL of the RL provides that the obligation of a guarantor shall correspond in general to the obligation of the principal debtor, or Section 1701 of the same legal act which set that a guarantor against whom a creditor brings an action may use all the defences of the principal debtor, except some circumstances, or Section 1702 that set a rule that When an action is brought against a guarantor, he may request that the creditor first bring an action against the principal debtor, if collection proceedings from him or her can be accomplished equally successfully and easily. All these legal provisions require to tie closer guarantor's obligations with principle obligations under main contract as well as it demands that guarantor concerns constantly with internal relationship between debtor and creditor, i.e. the fulfilment process of main contract, debtor's financial situation etc. Moreover, Section 1698 of CL of the RL provides that guarantor is liable also for ancillary claims thereto, losses arising through the debtor's fault or default, and court costs. This legal regulation is inappropriate referring to essence of guarantee legal relationship, because in international commerce practice guarantor's liability is restricted by the sum set in guarantee text and this ensures independence principle of guarantee realization in practice. So, in Latvia legal regulation of measures of reinforcement of obligations rights is inappropriate because on one hand it restricts the variety of possible measures that can be chosen by civil law subjects in order to reinforce their obligations rights in more efficient way, while on the other hand such legal regulation of guarantee institute without competitive legal regulation of suretyship leads to misleading and inappropriate regulation that does not correspond with international commerce practice.

**Conclusions**

1. Lithuanian legislator expressis verbis set a concept of guarantee in CC of the RL as a unilateral an independent obligation of a guarantor, but it is much more laconic and involves conditional type word constructions than in international Soft law documents, so it is necessary to regulate this concept in more detailed way as it is in international commerce practice. Also, present Lithuanian legal regulation requires some changes in equalization of usage of guarantee concept, because not all legal acts, like Law on Custom, provides the same meaning of this concept as it is in civil law.
2. CC of the RL expressis verbis provides that guarantee is a unilateral obligation without assessment of creditor's and debtor's wills in order to stress the peculiarities of guarantee instrument. However, legal regulation of CC of the RL as well as case law – both are lack of consistence in defining a structure of guarantee legal relationship, so it is necessary to review present legal regulation of CC of the RL in order to eliminate definitions of contractual type of guarantee and SCL shall be much more careful on this question.
3. On the other hand, referring to practice of other countries and legal doctrine position on contractual type structure of guarantee, minimal requirements for necessity of will of subjects in such legal relationship set in Para. 1 of Art. 6.90 of CC of the RL in order to establish guarantee, shall not be formulated and interpreted as absolute rule for definition of guarantee nature and shall be set some references to necessary creditor's will on this question.
4. The classical criterions development by case law and legal doctrine in order to separated effectively guarantee from suretyship – nature and independence of this obligation, the scope and nature of liability of guarantor (surety), are absolute no longer because of nature of civil law and results can be achieved by using systematically all these classical criterions and assessing each situation circumstances.
5. Latvian legal regulation of measures of reinforcement of obligations rights shall be changed by reconsidering the possibility to establish suretyship institute in it and this would extend the variety of possible measures that can be used to reinforce obligations rights in more efficient way and such new legal regulation with competitive legal regulation of suretyship would purify peculiarities and true meaning of guarantee institute corresponding with international commerce practice and Lithuanian law.

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# MEDIATION IN HEALTH CARE DISPUTES IN LATVIA

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**Abstract**

**Mediation in health care disputes in Latvia**

*Key words: mediation, health care, law, Latvia*

The aim of the article is to provide some insight into an opportunity to use mediation in healthcare disputes in Latvia. Mediation is a process or form of alternative dispute resolution. Mediation is not yet popular in Latvia, but in Europe the process has strong background. The number of applications in healthcare cases before the court is growing. It shows that there are some problems in healthcare legal system that should be improved. The article highlights the practical side of the problem to use mediation in disputes between patients and health care professionals.

The results of the paper shows that legislation allows apply mediation in healthcare disputes. Nevertheless in order to make mediation process more popular in health care disputes it is necessary to comply with several conditions which are mentioned in article.

**Kopsavilkums**

**Mediācija veselības aprūpes strīdos Latvijā**

*Atslēgvārdi: mediācija, veselības aprūpe, Latvija*

Darba mērķis ir piedāvāt ieskatu strīdu risināšanas sistēmā veselības aprūpē, piemērojot mediāciju. Mediācija ir alternatīvā strīdu risināšanas metode, kas Latvijā piemērojamā salīdzinoši nesen. Savukārt Eiropā mediācija ir ieņēmusi spēcīgu pozīciju dažādā veida strīdu risināšanā. Latvijā arvien vairāk pieaug strīdu skaits starp pacientiem un ārstniecības personām. Tas norāda uz zināmā mērā problēmām veselības aprūpes sistēmā. Darbā tiks aplūkota mediācijas procesa piemērošana veselības aprūpes strīdos, kā arī tiks iezīmētās būtiskākas problēmas sakarā ar mediācijas piemērošanu strīdos starp pacientiem un ārstniecības personām.

Darba rezultāti norāda uz to, ka Latvijas likumdošanas sniedz iespēju piemērot mediāciju veselības aprūpes strīdos, taču pamatojoties uz virkni problēmu, procesa piemēroša praksē ir apgrūtināta.

## Introduction

The article is devoted to application of mediation in disputes between patients and health care professionals in the field of health care. Mediation is a relatively new way of settling disputes out of court in Latvia, although it is rather popular in European countries.

There are several reasons why mediation is used. Firstly, because of effectiveness, secondly – efficiency. It should be noted, that there are another reasons of mediation advantages, for instance, time saving, money saving etc., can be pointed out.

In accordance with the current legislations the disputes occurring between patients and health care professionals are mostly handled by the general jurisdiction courts.

The practice shows that number of claims regarding medical services provided in poor quality is constantly growing, as demonstrated by the number of judgements made by the Latvian courts and the European Court of Human Rights. Latvia has lost in several cases considered by the European Court of Human Rights in the field of medical law. It indicates a series of problems in the health care law in Latvia.

In addition to that the legal relationships between patients and health care professionals in Latvia have changed with the adoption of Law On the Rights of Patients in 2010. Number of disputes between patients and health care professionals increased more.

In accordance with the Primary health care development plan 2014-2016, developed by the Ministry of Health, the patients are not satisfied with the quality of health care in Latvia. it should be noted that the legal framework that exists in Latvia for several reasons restricts the freedom of the patients in terms of dispute settlement possibilities.

At the same time the legal framework does not fully protect the health care professionals either. The regulatory enactments contain series of shortcomings, which complicates the legal proceedings between the parties, discouraging quick resolution of disputes or prevention of disputes. Taking into account the frequent changes in the regulatory enactments regulating the medical law, the issue concerns the formation of beneficial relationship between the patient and the provider of the health care services. The conditions for application of patient's rights are not always clear, causing disagreements in their interpretation. While at the stage of case proceedings at the general jurisdiction courts the patients lack legal reliability and confidence in the impartiality of the court or of the experts' opinions.

The study concerns a narrow field, which has not been described in the scientific literature so far. The novelty of the study is constituted by dispute settlement between the patients and the health care professionals through mediation.

**Purpose of the paper**

The purpose of the paper is to study possibility of application of mediation in disputes between the patients and the health care professionals and to identify preconditions for successful introduction of mediation in Latvia.

**Methods**

The paper will be based on scientific research methods such as analysis in order to find out the structure of the study object and the logical method, used to analyse the efficiency of mediation in disputes between the patients and the health care professionals.

**Health care disputes as complicated mediation object**

Health care sphere is complicated in terms of legal framework. The health care is based on the particular value such as human life, which is protected among other things by the UN Universal Declaration of Human Rights. The medical law concerns the rights of the person to life and health. Therefore this field is one of the most complicated ones, characterised by a considerable number of disputed. The disputes between the patients and the health care professionals are emotional, which may yet be prevented out of court, namely, at the mutual communication level (Trosens 2007). Special attention should be paid to neutralizing of destructive emotions and establishing of the true cause of the conflict.

Conflicts in the healthcare sphere occur often. The main parties in such kind of disputes are patients, their relatives, health care professionals etc.

One of the ways to settle such disputes is mediation process, which was implemented in the Latvian legislation based on the Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. The Mediation Law was adopted in 2014, therefore the legal framework in Latvia has provided the opportunity to apply alternative method of dispute resolution – the mediation.

Section 1 of the Mediation Law clearly stipulates that mediation is a structured co-operation process on voluntary basis whereby the parties attempt to reach a mutually acceptable agreement on the settlement of their dispute. The process is managed by the mediator. Paragraph II of Section 2 of the Mediation Law specifies that mediation may be used for the settlement of disputes in pre-trial proceedings, as well as in judicial proceedings, if not provided for otherwise in the special legal. Section 23 of the Civil Law stipulates that all civil disputes are subject to court. But it does not deprive the parties of the rights of mutual agreement on dispute resolution through mediation. It means that the legal framework has arranged the regulatory basis, opening the way to alternative models of dispute resolution, including the disputes between patients and health care professionals and medical institutions.

**Advantages of the mediation in health care disputes**

The mediation process encourages discovery of causes of emotional harm with further legal settlement of the issue. It is logical to assume that in order to find rational settlement of the dispute, all possible measures should be undertaken to lessen the initial emotional tension between the parties. Upon examining of the principles and methods of mediation process, it follows that mediation is directly related to the logical resolution of disputes mentioned above.

Application of mediation in health care field may not only serve as a mechanism of dispute resolution at the out-of-court stage, but also temporarily identify systemic errors or shortcomings which occur in the health care field as a result of legal communication of the patients and the health care professionals.

Mediation includes a very complex solution, which may mostly be characterised by several legal features of specific nature. The health care field is a complex legal category, including a lot of different professional activities in the field of medical service provision. It consists of series of complex processes such as medical examinations, preventive measures, organ and cell transplants, etc. The object of disputes between the patients and health care professionals mostly is the quality of the provided services, which is difficult to be measured, considering several indicators of medical nature (Hall, 2005). It includes also the sometimes limited possibilities of medicine in terms of service provision, as well as the individual health condition, bodily peculiarities and reactions to various manipulations of the patient.

The legal practice shows that disputes between the patients and health care professionals arise also due to unavailability of medical documentation, including of incomplete information in the medical documentation, due to the content of contracts signed by health care professionals. Thus successful application of mediation process in disputes between the patients and health care professionals is directly related to quality of independent medical expertise in the relevant disputes. The patients must have complete and undoubted confidence in the expert opinion. The opinion must be impartial, complete and qualitative. Despite the fact that the dispute may be considered through mediation, expert conclusions will be one of the preconditions for successful proceedings (Broekman 1997).

At the same time lack of communication and awareness of the patients and the health care staff plays just as important role in the disputes between the patients and health care professionals (Bolis 2007). Communication skills are one of the preconditions for successful application of mediation process.

Section 2 of the Law On the Rights of Patients also stipulates that favourable relationships between a patient and the provider of health care services should be promoted. In addition to that active participation of the patient in his or her health care should be facilitates, as well as to providing him or her with an opportunity to implement and protect his or her rights and interests. The decision of the patient regarding consenting to voluntary selection of process and participation in mediation depends on how qualitatively the health care professionals can explain the information that is important and necessary to the patient.

Through qualitative communication the health care professionals can educate the patient, thus providing him or her with the possibility of indirectly participating in the treatment and being informed. As a result of education the patient starts to understand the health care system. This in turn reduces the number of potential legal proceedings and increases the possibilities of applying mediation process. It should be noted that litigation is a very weak communication stage, as a result of which one party will always be dissatisfied, therefore permitting with great probability other legal proceedings. Another issue is the obligation of the health care professional to reveal the truth. At the same time it should be noted that health care professionals will rarely be open during the legal proceedings since the main task is to achieve a positive judgement. Revealing additional information may have impact on the outcome of the proceedings. Therefore the notion of dispute settlement model that has been forming for years ought to be changed by applying mediation process between the patients and the health care professionals.

Unsuccessful communication also serves as grounds for disputes among health care professionals. Therefore mediation may also be applied for settling disagreements among health

care professionals. It should be noted, that in Estonia mediation are used in disputes among members of health care staff. In such case the mediator is an employee of the medical institution.

The mediation process is based on the principle of volunteering. However, procedure of dispute settlements specified in the contracts that are being signed between the health care professional and the patient currently mostly provides for dispute settlement at the general jurisdiction courts. Therefore whether the mediation process will be accepted in the health care field and actively used in the health care disputes depends only and solely on the very health care professional that prepares the contracts between the patients and the health care professional.

One of the basic principles of mediation is confidentiality (Trosens 2007). Therefore the application of mediation process in health care disputes protects the health care professional from disclosure of information. The dispute that is mediated is confidential, while settling disputes at the general jurisdiction court causes the judgement made to be public.

**Conclusions**

1. Disputes in the health care system are very complex. When patients and health care professionals have a conflicting situation, in most cases (except for those specified in the regulatory enactments, for instance, in criminal cases) they have the rights to select the way of conflict resolution.
2. The patients will often choose mediation only if the system will show that it is able to function efficiently. Mediation is a new kind of dispute resolution. Therefore there is a great risk that mediation may cause incomplete result or shortcomings in the procedure. Insufficient experience creates a sceptical attitude towards mediation in general.
3. Efficiency of the system largely depends on economic availability of a very well-considered mediation, which is not always the most economically beneficial solution for the patient compared to dispute resolution at the general jurisdiction courts.
4. Application of mediation in disputes between the patients and health care professionals depends on the initiative of the patients and the health care professionals themselves. The health care institutions have been granted the legal authorization to apply mediation in several situations. But it requires substantive changes in the internal regulations of health care providers. For example, dispute resolution through mediation should be provided for in contracts that are being signed between the health care providers and their clients.
5. Mediation may be provided in the disputes between the patients and health care professionals in several forms.
    5.1. Mediation can be provided by a health care professional. Mediator can work for that health care professional;
    5.2. mediator can work by contract and be requested to participate in dispute;

5.3. Mediation in health care disputes can be provided by NGOs, law offices, associations or other organizations who work in health care sphere.

5.4. Mediation can be provided by organizations which are not related to health care. For instance mediation companies as local, as well as international.

6. Mediation could temporarily identify systemic errors or shortcomings that occur in the health care field as a result of the legal communication of the patients and health care professionals therefore improving the quality of the medical law.

Mediation opens new possibilities for resolution of disputes that have occurred between the patients and health care professionals. But it should be noted that there are still great risks and unclear issues in the application of the new process.

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# THE INFLUENCE OF DISPOSITION ON CONCEPTUAL AGGREGATION OF CRIMINAL OFFENCES QUALIFICATION

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**Abstract**

**The influence of disposition on conceptual aggregation of criminal offences qualification**

***Key Words:*** *Conceptual aggregation of criminal offences, aggregation of criminal offences, concurrence of criminal law norms, disposition of criminal law norms*

The topic of the paper is the impact of disposition on conceptual aggregation of criminal offences. The topicality of the paper is related to the amendments in the Criminal Law that came into force as of 3rd December 2015 excluding the further possibility of creating conceptual aggregation of criminal offences according to the part 3 of section 260 and part 2 of section 262, foreseeing liability for the abovementioned criminal offences under one single section of the Criminal Law thereby creating separate criminal offences. Conceptual aggregation of criminal offences is not of unchangeable nature and the qualification of the criminal offence can vary in accordance with the actual amendments in the Criminal Law – by making amendments to the disposition of Criminal Law norms, it is possible to form new sets or exclude the existing conceptual aggregation of criminal offences. It should also be mentioned that the concept of aggregation of criminal offences is rather misleading instead of providing clarity as the features of the concept aggregation are generalised and the contents of the concept are left to the interpretation of those applying the law. The types of aggregation of criminal offences have not been identified clearly which in the opinion of the author is one of the most significant drawbacks of the concept. The aim of the present paper is to identify the impact of disposition of Criminal Law norms on conceptual aggregation of criminal offences. Research methods such as comparative, logical, analytical, inductive and deductive methods have been applied in this research paper.

**Kopsavilkums**

**Dispozīcijas ietekme uz noziedzīgu nodarījumu ideālās kopības kvalifikāciju**

***Atslēgas vārdi:*** *Noziedzīgu nodarījumu konceptuālā kopība, noziedzīgu nodarījumu kopība, krimināltiesību normu konkurence, krimināltiesisko normu dispozīcija*

Raksta tēma ir dispozīcijas ietekme uz noziedzīgu nodarījumu ideālās kopības kvalifikāciju. Raksta aktualitāte ir saistīta ar Krimināllikuma grozījumiem, kuri stājās spēkā 2015. gada 3. decembrī, izslēdzot turpmāk iespēju veidot noziedzīgu nodarījumu ideālo kopību pēc Krimināllikuma 260. panta trešās daļas un 262. panta otrās daļas, paredzot atbildību par minētajiem noziedzīgajiem nodarījumiem vienā Krimināllikuma pantā, veidojot atsevišķu noziedzīgu nodarījumu. Noziedzīgu nodarījumu ideālā kopība nav nemainīgs veidojums un nodarījuma kvalifikācija var mainīties atkarībā no Krimināllikuma aktuālās redakcijas - izdarot grozījumus Krimināllikuma normas dispozīcijā, iespējams izveidot jaunu vai izslēgt jau esošu noziedzīgu nodarījumu ideālās kopības gadījumu. Tāpat jānorāda, ka noziedzīgu nodarījumu kopības jēdziens drīzāk maldina, nekā ievieš skaidrību, jo kopības jēdziena pazīmes ir vispārinātas un jēdziena satura noskaidrošana ir atstāta likuma piemērotāju ziņā. Noziedzīgu nodarījumu kopības jēdzienā nav skaidri nosaukti to veidi, kas, pēc autora domām, ir viena no būtiskākajām jēdziena nepilnībām. Raksta mērķis ir identificēt Krimināllikuma normas dispozīcijas ietekmi uz noziedzīgu nodarījumu ideālās kopības kvalifikāciju. Rakstā pielietota salīdzinošā, loģiskā, analītiskā, induktīvā un deduktīvā un pētniecības metode.

## Introduction

The topicality of this present paper is related to the amendments in the Criminal Law that came into force as of 3rd December 2015 excluding the further possibility of creating conceptual aggregation of criminal offences according to the part 3 of section 260 and part 2 of section 262, foreseeing liability for the abovementioned criminal offences under one single section of the Criminal Law thereby creating separate criminal offences (Amendments in the Criminal Law 2015: 227). Professor U. Krastiņš points out that one of the tasks while drafting the Criminal Law was to make it easier to understand and facilitate the application of Criminal Law norms in practice (Krastiņš 2009: 249). On the other hand in order to avoid overlapping of the qualification of the

offence and facilitate the determination of the punishment, a type of aggregation of criminal offences is used in the disposition of the Criminal Law norms when the features of the set of criminal offences as an conceptual aggregation of criminal offences are unified into a single criminal offence (Krastiņš 2000). By making amendments in the disposition of Criminal Law norms it is possible to it is possible to form new sets or exclude the existing conceptual aggregation of criminal offences.

The aim of the research paper is to identify the impact of disposition on the qualification of conceptual aggregation of criminal offences and propose solutions for the problems identified.

In order to achieve the aims the following tasks were set: 1) study the legal regulation of conceptual aggregation of criminal offences; 2) compare the legal regulations in Criminal Law section 260 before the passing of the amendments and after the amendments; 3) compare the legal regulations in the Criminal Law section 262 before the passing of the amendments and after the amendments; 4) study the court practice; 5) study the impact of the amendments to the Criminal Law on the qualification of the offence in the Criminal Law Section 260 and Section 262; 6) draw conclusions regarding the impact of disposition on the qualification of conceptual aggregation of criminal offences.

Research methods such as comparative, logical, analytical, inductive and deductive methods have been applied in this research paper.

**Overview of the legal regulation of conceptual aggregation of criminal offences**

The first part of the Criminal Law section 26 defines the concept of aggregation of criminal offences which states that the aggregation of criminal offences is constituted by one offence or several offences committed by one person, which correspond to the constituent elements of two or more criminal offences, if such person has not been convicted for any of these criminal offences and also a limitation period for criminal liability has not set in. The concept of aggregation of criminal offences is rather misleading instead of providing clarity as the features of the concept aggregation are generalised and the contents of the concept are left to the interpretation of those applying the law. The types of aggregation of criminal offences have not been identified which in the opinion of the author is one of the most significant drawbacks of the concept.

Professor U. Krastiņš points out that there are two types of aggregation of criminal offences – conceptual and factual, which differ from each other (Krastiņš 2007). Therefore according to the author it is necessary to amend the first part of Criminal Law section 26 and redraft it with the following wording: „Aggregation of criminal offences is constituted by conceptual and factual aggregation of criminal offences". In other words it is necessary to state the types of aggregation of criminal offences in Criminal Law and only then define the concept of these types of aggregation as it is done in the part two and three of the Criminal Law section 26.

Another deficiency with regards to understanding of the concept of conceptual aggregation of criminal offences should also be pointed out. The concept of multiplicity of criminal offences is defined in the first part of Criminal Law Section 24 which explains the term "offence". The term "offence" is also explained in the first part of Criminal Law Section 23 that defines a separate (unitary) criminal offence. However, the term "offence" is not explained with regards to the concept of conceptual and factual aggregation of criminal offences which is not correct in the author's opinion because as underlined by professor V. Malkovs the term "offence" as a basis of criminal law is used to refer to criminal offences in general (Малков 1974). The term "offence" in Criminal Law refers to something else.

For example, the concept multiplicity of criminal offences is defined as the commission (or allowing) by one person of two or more separate offences (act or failure to act) which correspond to the constituent elements of several criminal offences, or the commission (or allowing) by a person of one offence (act or failure to act) which corresponds to the constituent elements of at least two different criminal offences. On the other hand separate (unitary) criminal offence is defined as one offence (act or failure to act) which has the constituent elements of one criminal offence, or also two or more mutually related criminal offences encompassed by the unitary purpose of the offender and which correspond to the constituent elements of only one criminal offence.

It stems from the concepts of multiplicity of criminal offences and separate (unitary) criminal offence that offences are of two kinds that is expressed as an act or failure to act which is also highlighted in several monographs, text books and scientific publications of the author T. Lesņivska-Kostareva (Лесниевски-Костарева 2000). The intent of the legislator to clearly describe the term "offence" in some sections of the Criminal Law and to leave it to the interpretation of the law enforcers in other sections is not understandable. For example, the conceptual aggregation of criminal offences is defined as an offence committed by a person, which corresponds to the constituent elements of several different related criminal offences. It stems from the term "offence" as described in the concept conceptual aggregation of criminal offences that conceptual aggregation of criminal offences is constituted an offence (act or failure to act) committed by a person that corresponds to the constituent elements of several different related criminal offences.

One of the variants is to describe the term "offence" in the legal definition of conceptual and factual aggregation of criminal offences by providing the explanation in brackets – offence (act or failure to act). The other variant is to append the Criminal Law or Law "On the Procedures for the Coming into Force and Application of the Criminal Law" with the clause that defines the usage of the term in law as it is done other cases, e.g. section 1 of the Administrative Procedural Law (Administratīvā procesa likums [Administrative procedural law] 2014: 1). Since as rightly stated by

the prosecutor M.Leja of the Especially important cases investigation section of the Criminal law department of the General Prosecutor's office terms in the Criminal Law are used with differing stages of abstraction and the more general the term is the more complicated is the interpretation of the legal clause (Leja b.g.). For instance, J. Neimanis states that a legal clause has certain content which should be interpreted by the enforcer/implementer (Neimanis 2004: 141). Legal clauses are not texts without content or notions but the will of the legislator which includes certain content or notion which the enforcer/implementer has to interpret uniformly in a particular life situation and therefore the understanding of the terms used in Criminal Law and interpretation of the concept of conceptual aggregation of criminal offences have to be uniform and cannot be different.

The following features of conceptual aggregation of criminal offences stem from the existing definition of conceptual aggregation of criminal offences:

1) offence corresponds to the constituent elements of several criminal offences;
2) offence corresponds to the constituent elements of different criminal offences;
3) offence corresponds to the constituent elements of related criminal offences.

The author of the paper has pointed out the theoretical and practical issues regarding conceptual aggregation of criminal offences in several of his publications (Persidskis 2015). Contradictory features of conceptual aggregation of criminal offences have been worked out and defined in the Criminal Law and consequently implementers of Criminal Law norms interpret the conceptual aggregation of criminal offences differently which in turn leads to the inconsistent non uniform qualification of conceptual aggregation of criminal offences.

The conceptual aggregation of criminal offences should be understood as an offence (act or failure to act) committed by a person that corresponds to several simultaneously committed criminal offences, whose objective side in fact corresponds to some part. The objective side of the criminal offence is the external expression of person's behaviour that could cause harm or has already caused harm to objects protected under the Criminal Law.

**Conceptual aggregation of criminal offences in the third part of Criminal Law section 260 and second part of Criminal Law section 262 on before the Criminal Law amendments**

The part $1.^1$ and part 2 of the Criminal Law section 260 stipulated criminal liability for the violation of traffic regulations or provisions regarding vehicle operation if committed by a person operating the vehicle, and as a result thereof slight, moderate or serious bodily injury has been caused to the victim or the death of a human being has been caused by grading the harmful consequences based on the severity of the consequences.

For instance person A was convicted according to the part 2 of Criminal Law section 260 for violating several traffic regulation clauses while operating the vehicle such as driving the vehicle above the speed limit as a result losing control over the vehicle and going off the road and crashing

into an electric pole. As a result of the accident person D who was sitting in the front passenger seat suffered serious bodily injuries (Judgement of Ludzas city (district) court 2016: 11290026615).

The third part of Criminal Law section 260 stipulated criminal liability for offences committed under part 1.[1] and part 2 of the Criminal Law section 260 if such were committed under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances.

For instance person D was convicted according to part 3 of Criminal Law section 260 for violating several traffic regulation clauses while operating the vehicle and driving over and causing serious bodily harm to person E by way of reckless driving under the influence of alcohol, not adhering to traffic safety requirements, being unable to pay adequate attention to traffic, weather conditions and the situation and therefore choosing the inappropriate speed (Judgement of Jelgava city (district) court 2015: 11221187914).

The difference between the third part of Criminal Law section 260 and other parts of Criminal Law section 260 were the circumstances that the person committing the offence under part 3 of Criminal Law section 260 was under the influence of alcohol. Committing a criminal offence under the influence of alcohol does not only aggravated the liability for the criminal offence committed but reflected the severity of the punishment foreseen under this part of the section, but also overlapped with the basic features of part 2 of Criminal Law section 262 namely a criminal offence committed by a driver under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances.

The part 1 of Criminal Law section 262 was excluded from the Criminal Law as of 13th December 2012 (Grozījumi Krimināllikumā [Amendments in the Criminal Law] 2012: 202). The part 2 of Criminal Law section 262 stipulated criminal liability for operating a vehicle, or giving instructions regarding practical operation of a vehicle without having a vehicle driving licence (the vehicle driving licence has not been acquired or taken away according to specific procedures) and while being under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances.

Thus for example person B was convicted under part 2 of Criminal Law section 262 for operating the vehicle without a driver's licence while being under the influence of alcohol (Judgement of Rezekne city (district) court 2016: 11331104815).

The part two of the Criminal Law section 262 stipulates a prohibition from driving or giving instructions on driving a vehicle if the person does not have the driving licence for the corresponding category or has no driving licence at all, e.g. if the person had not acquired the driving licence pursuant to the procedures set by the law or the driving licence had been suspended pursuant to the procedures set by the law and while driving the driver had been under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances the presence of which

had been determined pursuant to the procedures set by the law. However in cases when the person driving a vehicle without a driving licence under the influence of alcohol violates traffic regulations and causes bodily harm then the court qualifies such offences under part three of Criminal Law section 260 and part two of Criminal Law section 262 as conceptual aggregation of criminal offences.

For instance person A was found guilty by a court judgement under the part two of Criminal Law section 262 and part three of Criminal Law section 260 for committing criminal offences of driving a tractor without the appropriate driving licence, which had not been acquired pursuant to the procedures, under the influence of alcohol and causing several traffic regulation violations and driving over two passer-by as result of which person B and person C suffered bodily injuries that could be classified as moderate in nature (Judgement of Riga city (district) court 2015: 11520027914). The conceptual aggregation of criminal offences in one and the same action gives rise to two common objective sides of criminal offences (Наумов, Никулин, Papor 2006: 44). The conceptual aggregation of criminal offences of all criminal offences in their objective side in fact always fully corresponds to some part.

The common objective side of part three of Criminal Law section 260 and part two of Criminal Law section 262 was driving the vehicle under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances as pointed out by court practice (Judgement of Kraslava city (district) court 2015: 11240022615, 11181044215). Persons with one and the same actions i.e. driving the vehicle under the influence of alcohol was the factual objective side of the criminal offence that linked both the criminal offences. In other words conceptual aggregation of criminal offences was constituted by factual partly common objective sides of both offences as illustrated in the figure below where A marks part three of Criminal Law section 260 and B marks part two of Criminal Law section 262 as they were before the amendments to the Criminal Law.

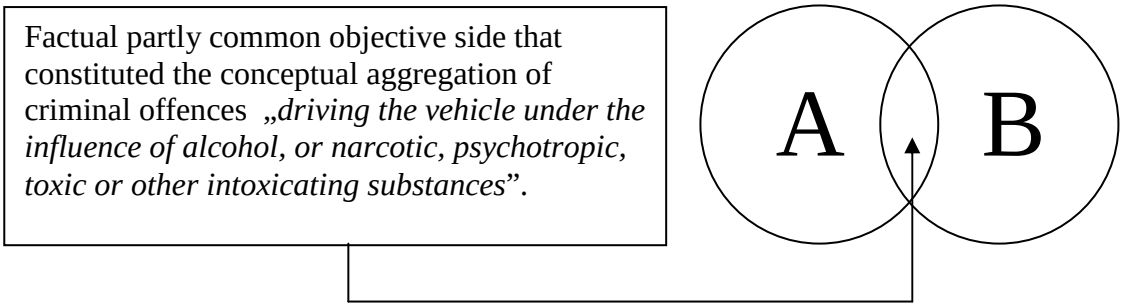


Figure 1**. Factual partly common objective sides**

The part three of Criminal Law section 260 does not encompass all the features of part two of Criminal Law section 262 – driving a vehicle without a driving licence. On the other hand part two

of Criminal Law section 262 does not encompass all the features of part three of Criminal Law section 260 – committing traffic regulation violations while driving a vehicle as a result of which causing slight, moderate or serious bodily harm to a person or causing the death of a person. However the objective sides of part three of Criminal Law section 260 and part two of Criminal Law section 262 overlap - driving the vehicle under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances, and therefore the criminal offence must be qualified under part three of Criminal Law section 260 and part two of Criminal Law section 262 as conceptual aggregation of criminal offences.

**Qualification of criminal offences under section 260 and section 262 of the Criminal after amendments to the Criminal Law**

Preparing the draft of Criminal Law amendments the working group of the Ministry of Justice discussed several novelties pertaining to the content and wording of the sections 260 and 262 of the Criminal Law and the guilt of persons under both criminal offences (Krastiņš 2015: 295). The Criminal Law section 260 still continues to stipulate criminal liability for violations of traffic regulations or provisions regarding vehicle operation.

The dispositions and sanctions in the part one of Criminal Law section 260 have been left unaltered and continue to stipulate criminal liability for violations of traffic regulations or provisions regarding vehicle operation, if the violations was committed by the person driving the vehicle as a result thereof slight bodily injury has been caused to the victim and a punishment for the guilty person of deprivation of liberty for a term up to two years or temporary deprivation of liberty, or community service, or a fine.

The disposition of part $1.^1$ of Criminal Law section 260 has been left unaltered and continues to stipulate criminal liability for violations of traffic regulations or provisions regarding vehicle operation, if the violations were committed by the person driving the vehicle as a result thereof moderate bodily injury has been caused to the victim. However, the sanctions stipulated in this clause have been amended reducing the maximum term of deprivation of liberty from five to three years and stipulate a punishment for the guilty person of deprivation of liberty for a term up to three years or temporary deprivation of liberty, or community service, or a fine. The disposition of part two of Criminal Law section 260 has been left unaltered and continues to stipulate criminal liability for violations of traffic regulations or provisions regarding vehicle operation, if the violations were committed by the person driving the vehicle as a result thereof serious bodily injury has been occasioned to the victim or the death of a human being has been caused thereby. However, the sanctions stipulated in this clause have been amended reducing the maximum term of deprivation of liberty from ten to eight years and stipulate a punishment for the guilty person of deprivation of liberty for a term up to eight years as well as appended an additional punishment – depriving the driving licence for a term of up to five years.

The reduction in maximum term of deprivation of liberty under the part 1.[1] and part two of Criminal Law section 260 is reasoned by the fact that although these criminal offences cause significant threat to traffic the person committing the offence did it due to carelessness as the person did not wish to cause harm and therefore it is not justified to isolate the person from the society for a long term for criminal offences committed due to carelessness (Draft project „Grozījumi Krimināllikumā" 2015). As correctly pointed out by A. Buls, deprivation of liberty often leads to irrevocable changes in an individual's personality which not only affects the individual's relatives but also the society as a whole (Buls 2002: 5). Therefore the reduction of maximum term of deprivation of liberty for criminal offences committed due to carelessness is to be acknowledged as positive.

Amendments were also made to the part three of Criminal Law section 260 which has been replaced by a new wording that stipulates criminal liability for violations of traffic regulations or provisions regarding vehicle operation if the violations was committed by the person driving the vehicle as a result thereof the death of two or more human beings has been caused and punishing the guilty person by deprivation of liberty for up to a term of twelve years and depriving the person of driving licence up to a term of seven years. The qualifying feature – if committed under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances - has been excluded from the part three of Criminal Law section 260.

In accordance to the wording of the Criminal Law section 262, criminal liability for driving a vehicle without having a vehicle driving licence (the vehicle driving licence has not been acquired or taken away according to specific procedures) and while being under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances has been moved from the part two to part one of this section excluding criminal liability for giving instructions regarding practical operation of a vehicle without having a vehicle driving licence and while the driver is under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances. The sanctions have not been amended and stipulate punishment for the criminal offence with its previous wording.

The part two, three, four and five of Criminal Law section 262 stipulate criminal liability for violations of traffic regulations or provisions regarding vehicle operation if the violations were committed by the person driving the vehicle under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances, as a result thereof slight, moderate or serious bodily injury has been occasioned to the victim or the death of a human being has been caused or the death of two or more human beings have been caused.

As correctly pointed out by professor U. Krastiņš, while qualifying an offence it is necessary to compare the factual actions of the subject with the constituent elements of the criminal offence stipulated in the Criminal Law provisions (Krastiņš 2008). The constituent elements of each

criminal offence stipulated in the Criminal Law is a set of objective and subjective features that is necessary to qualify the person's offence as a criminal offence (Krastiņš b.g.: 13). Comparing the constituent elements it stems that part one of Criminal Law section 262 constitutes concurrence of criminal law provisions with the other parts of Criminal Law section 262, as the circumstances do not influence the qualification because the disposition of part two, three, four and five of Criminal Law section 262 does not mention the element - the operation of a vehicle without having a vehicle driving licence. Liability for the criminal offence stipulated in part two, three, four and five of Criminal Law section 262 is constituted if the subject driving the vehicle with a driving licence or without a driving licence violates traffic regulations or provisions regarding vehicle operation while being under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances and causes the harmful consequences foreseen in the respective above mentioned clauses. Only the first part of Criminal Law section 262 mentions the circumstances of the vehicle driving licence not being acquired or taken away according to specific procedures as a mandatory element of the criminal offence.

Professor U. Krastiņš has indicated that theoretical framework of criminal law on concurrence of criminal law provisions that does not allow to qualify one and the same act or omission to act as criminal offence in accordance to two criminal offence elements also plays a the significant role in adherence of the principle of justice (Krastiņš 2005). Comparing the contents of disposition of Criminal Law section 260 and part two, three, four and five of Criminal Law section 262 it could be seen that they do not any more constitute a conceptual aggregation of criminal offences and constitute a case of concurrence of criminal law provisions.

The contents of dispositions of part two, three, four and five of Criminal Law section 262 sequentially encompass the contents of dispositions of part one, $1^1$, two and three of Criminal Law section 260 and therefore constitute a concurrence of criminal law provisions and not a conceptual aggregation of criminal offences. The part two, three, four and five of Criminal Law section 262 define independent criminal offences that independently stipulate violations of traffic regulations or provisions regarding vehicle operation, if the violations were committed by the person driving the vehicle under the influence of alcohol, or narcotic, psychotropic, toxic or other intoxicating substances as a result thereof slight, moderate or serious bodily injury has been occasioned to the victim or the death of a human being has been caused or the death of two or more human beings have been caused.

As pointed out by professor U. Krastiņš, each independent criminal offence should be qualified separately in accordance with the offence (Krastiņš 2009: 125). Therefore the part two, three, four and five of Criminal Law section 262 offences should be qualified as independent criminal offences if the person driving the vehicle under the influence of alcohol, or narcotic,

psychotropic, toxic or other intoxicating substances has committed violations of traffic regulations or provisions regarding vehicle operation as a result causing bodily injury to the victim or the death of one, two or more human beings.

**Conclusions**

1. The concept of aggregation of criminal offences is rather misleading instead of providing clarity as the features of the concept aggregation are generalised and the contents of the concept are left to the interpretation of those applying the law. The types of aggregation of criminal offences have not been clearly identified which in the opinion of the author is one of the most significant drawbacks of the concept. Therefore it is necessary to amend the part one of Criminal Law section 26 and rephrase it in the following wording: *"Aggregation of criminal offences is constituted by conceptual and factual aggregation of criminal offences"*.
2. The content of the term „offence" has not been elaborated for the concept of conceptual and factual aggregation of criminal offences. The term „offence" is elaborated in the multiplicity of criminal offences and separate (unitary) criminal offences. The term „offence" should be understood as an act or failure to act of a physical person.
3. Conceptual aggregation of criminal offences is not of unchangeable nature and the qualification of the criminal offence can vary in accordance with the actual wordings of the Criminal Law provisions – by making amendments to the disposition of Criminal Law norms, it is possible to form new sets or exclude the existing conceptual aggregation of criminal offences.
4. It is not further possible to constitute conceptual aggregation of criminal offences in accordance with part three of Criminal Law section 260 and part two of Criminal Law section 262 as the disposition of both clauses have been amended to such an extent that part two, three, four and five of Criminal Law section 262 fully encompass the contents of dispositions of part one, $1^1$, two and three of Criminal Law section 260 constituting a concurrence of criminal law provisions.

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# MEDIATION AS AN ALTERNATIVE PROCEDURE IN THE CRIMINAL PROCESS

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**Abstract**

**Mediation as an alternative procedure in the criminal process**

***Key words:*** *legal proceedings, alternative procedure, mediation, criminal conflict, restorative justice, participants of the legal proceedings, the victim, the accused*

The article researches a legal nature and implementing problems of mediation in the legal procedure of resolving conflicts in the European countries and Russian Federation. On the basis of the notion "restorative justice" and taking into account all the possibilities of this alternative method of conflict resolution, and basing on the purpose of criminal proceedings, the conclusion has made about the legal implementation of the mediation in the criminal proceedings of Russian Federation. Authors propose to consider mediation not only as a complex conciliation procedure, but also separately, as an opportunity to redress the harm caused to the victim.

**Kopsavilkums**

**Mediācija kā alternatīva procedūra kriminālprocesā**

***Atslēgvārdi:*** *krimināla tiesvedība, alternatīvā procedūra, mediācija, kriminālais konflikts, atjaunojošs taisnīgums, kriminālprocesa dalībnieki, cietušais, vainīgais*

Publikācijā tiek pētīta mediācijas tiesiskā daba un tās piemērošanas problēmas tiesvedības stadijās, risinot juridiskos konfliktus, Rietumu Eiropas valstīs un Krievijas Federācijā. Pamatojoties uz jēdzienu "atjaunojošs taisnīgums" un ņemot vērā minētā alternatīvā krimināltiesisko konfliktu noregulēšanas paņēmiena iespējas, kā arī izmantojot krimināltiesiskās tiesvedības nozīmi, autori izdara secinājumu par nepieciešamību paredzēt Krievijas Federācijas kriminālprocesā mediācijas piemērošanas iespējas. Autori piedāvā uzskatīt mediāciju ne tikai kā kompleksu samierināšanas procedūru, bet arī piedāvā pētīt to atsevišķi, proti, kā kaitējuma atlīdzināšanas iespēju, kurš tika nodarīts cietušajam.

Mediation - a type of alternative, non-judicial dispute resolution. During this procedure a neutral person, the mediator, assists the parties together to find a solution for the dispute, but mediator does not offer his conflict resolution variants and doesn't giving any advises to the parties. His work is to help arguing parties rationally and effectively negotiate, and, ultimately, reach a consensus. The decision, in the implementation of which will be interested both sides, should be mutually acceptable and mutually beneficial.

To solve these problems various forms of state and non-state institutions are involved.

Mediation is moving in several ways, ultimately leading to its international recognition and wide distribution. Ultimately what methodology will get the most widely recognition - it is a question of culture, and, foremost, the culture of conducting disputes.

In the countries of Common Law (USA, UK, Australia), mediation has been practicing since the early 60s of the twentieth century. In the countries of Roman-German legal system (France, Belgium, Germany) mediation has known since the last century. Proponents of the mediation consider it as an essential element of building and developing civil society. According to them, the mediation establishes new informal connections between people, which are designed to search for

joint innovative solutions. These solutions lead to a mutually acceptable result, conflict resolution, that will satisfy both sides. What, ultimately, ensures a social stability.

Among the distinctive features of the Common Law - the dominance of a legal precedent to all other sources of law, the predominance of issues of procedural law on questions of material law, lack of a clear separation of the legal system on divisions of law, lack of the separation on public and private law (because of the private law's involvement in the public law). The content of the law is complex and casual (Harutyunyan 2012).

The difficulty lies in the fact that, for example, mediation in England isn't settled by any legal rules. It is an initiative of lawyers, theorists and public enforcers, that's why an English criminal process includes various options for mediation, depending on local circumstances and conditions.

In the Common Law legal system a judicial mediation is used in all types of cases. It is closely associated with such features of the process like the deposition of the proclamation of the sentence and sentencing only after the recognition of the guilt. In other words, between the consideration of the two key issues of criminal proceedings - the guilt and punishment – there are necessary to gather information about the identity of the guilt person and collect evidences about his involvement in the crime. This activities usually takes a long period of time. At the same time the probation service (or any "profile" public organization) tries to go-between the victim and the convicted, persuading the convicted to compensate the damage, caused by his criminal act.

If mediation is successful, the mediation agreement is prepared and signed by the parties. At this point judge, making his decision about sentencing, should consider the actions of the convicted person as a remorse. In the Common Law legal system both sides of the criminal proceedings get satisfaction, **because the victim is involved in deciding on the extent of penalties for the convicted person and victim gets the amount of compensation**, which he defines as a condition of the agreement.

Benefits for the guilty person are also evident, because the repentance and reparation of the damages reduces the punishment, and sometimes exclude criminal liability at all.

The current stage of the development of criminal proceedings is characterized by the search for the most effective mechanisms for achieving the main purpose of criminal perpetration. It is resolution of the conflict and maintenance of law and order in society. Proponents of the mediation consider it as an essential element of building and developing a civil society. According to them mediation establishes new informal connections between people, which are designed to search for joint innovative solutions, that lead to a mutually acceptable resolution of the conflict. Ultimately mediation ensures a social stability.

A Roman-German legal system, which includes the countries of continental Europe, also makes the same use of mediation. According to the European understanding of mediation, it is a

tool to achieve the objectives of legal proceedings in the civil society, resolving criminal and other types of conflicts.

In Germany there is the term “reconciliation of the victim and the criminal”. In English it is called “support for the victims”.

That is, by the means of mediation to the forefront are put interests of the victim. At the same time in the traditional criminal proceedings the interests of victims are often not so important. That’s why mediation in the criminal law is very important to the victim.

In 2001 in Germany was established the International association of integrated mediation. The founder and chairman of this organization is Arthur Trossen (Germany). Currently the organization has more than two hundred members - legal entities and individuals from more than ten countries.

Arthur Trossen is a developer and coordinator of the project of European Community On the introduction of mediation in Latvia. The successful experience of this project was the subject of interest of neighboring countries. Mediation in the criminal cases is typical for Latvia, Lithuania and Kazakhstan.

In Latvia in the area of criminal law mediation is even more developed, than in the area of civil law. This statement is confirmed by the statistics of criminal cases in the years 2012 – 2013.

The Russian Federation has the same trend in the search of alternative forms of justice. In the 2010 Russia has passed the Federal Law № 193-FL of July 27th, 2010 “On alternative dispute resolution process, involving a mediator (mediation procedure)”.

Subsequently legislator has approved The Mediator training program, designed for the creation of professional experts, who will be involved in the settlement of legal disputes on the territory of Russian Federation.

In 2014 Russian Prime Minister Dmitry Medvedev has approved the Concept of development of network mediation services until 2017 for the restorative justice for children under the age of criminal liability.

Concept defines the main goals, objectives and directions of creating a network of mediation services, organizing its work, stuff preparation, as well as involvement of mediation (retributive) practices in work with children and adolescents.

Despite the fact, that the question of the necessity and the real possibility of usage of this form of alternative resolution of criminal cases has been discussed by the society more than a decade, the provisions of this concept doesn’t mention the usage of mediation in the criminal proceedings.

The concept concerns civil, commercial, labor and family disputes, but doesn’t affect the criminal proceedings. The mediation of the offender and the victim (the accused and the victim) is going beyond the legal regulation of the concept.

It is obvious, that the general principles of Russian Federation's law make obstacles for the usage of mediation.

For instance, in some European countries before the beginning of criminal proceedings state institutions evaluate the necessity of involvement and possible outcome of the criminal proceedings. This principle of expediency is an important legal basis for the beginning of reconciliation programs between the accused and the victim at a very early stage - as soon as the police received a signal about any wrongful act.

This principle means, that the police or the prosecutor may refer the case to mediation and, if mediation is successful, state oficial can not initiate a criminal case.

In the Russian criminal procedure this principle isn't included, criminal procedure is based on the principle of legality: in a case if act of criminal behaviour is occured, the authorized official (investigator, prosecutor) is obliged to initiate a criminal case (article 21 of Russian Criminal procedure code).

The same principle applies in other legal procedures: for example, in accordance with the Law „On Principles of Prevention of neglect behaviour and juvenile delinquency" (article 9, part 2, &5) in a case of detection of offenses, committed by persons uder legal age, schools are required to notify the police.

Further, if the action may be brought under the Criminal Code, police are obliged to initiate a criminal case. The main priority is given to the „legality" - the duty of the authorities to initiate criminal proceedings, rather than resolving the conflict between the people (Kurnosova 2013)

Consequently, in the Russian Criminal law legal system are dominated the rules of retributive justice concept.

In modern legal systems it is common to allocate the two basic concepts of justice - punitive and restorative.

The retributive justice is focused on the protection of state interests, ignoring not only the rights of the accused, but also ignoring rights of victims. The retributive justice originally is intended on the retribution, not on reparation of the inflicted harm.

Restorative justice, on the contrary, seeks to restore the rights and legitimate interests of the victim. Initially, mediation has been applied in the civil legislation area, but gradually began to penetrate into the formal criminal justice system. This approach of responding on the criminal crimes began to develop around the world in the second half of the XX century. Various trends, concepts and practices, based on the idea of harmony and reconciliation, in the beginning of the 80s were combined by the term „restorative justice" (Zehr 2002; Wright 2007).

Punitive justice has shown its ineffectiveness, forcing lawmakers to evolve new procedures, based on new methods of coping with crime.

Today the „restorative justice" is increasingly recognized in international politics in the field of criminal justice.[1]

Although the restorative justice as a theoretical concept is opposed to the punitive justice, the realization of this concept is impossible without cooperation with the official justice system.

The authors conclude, that the general principles of Russian law make obstacles to the usage of mediation.

Community center „The Judicial and legal reform" is the first organization in the Russian Federation, that initiated the usage of restorative justice programs in the social area and in the educational institutions in the form of school reconciliation services.

From the 1997 to the present days, the Community center „The Judicial and legal reform" develops and distributes in the Russia and in the former Soviet Union republics the ideas of rehabilitation technologies and resolution of conflicts in criminal conflicts.

Currently in Russia takes place an intensive process of exploration and development of restorative practices through the creation of regional and school reconciliation services.

Currently this process is accompanied by new regions. New associations of experts are created, there are also evolving a local interagency cooperation models of different structures, that works with juveniles and their families. All this initiatives involves services of reconciliation, as well as different rehabilitation programs.

At the initiative of the center „The Judicial and legal reform" in various regions of Russia (Moscow, Perm and Tyumen, Volgograd region, Krasnoyarsk, Ural, Kazan, Novosibirsk, Petrozavodsk, Samara region, Cheboksary, Lipetsk, Kirov, Republic of Sakha (Yakutia), the Rostov Region, Stavropol, Cherepovets, Makhachkala, Barnaul, Gorno-Altaisk, Yuzhno-Sakhalinsk, Saratov) new groups has created. These groups comprised from representatives of municipal social institutions and educational institutions.

These groups implement restorative practices in criminal matters and in criminal conflicts, involving minors, in cooperation with the courts, Commissions on juvenile affairs and protection of their rights. These groups help to create the school reconciliation services in educational institutions.

In June 1st, 2012 an official document has been released – a Presidential Decree „On the National Action Strategy for Children in 2012-2017."

[1] For the further information please look in the Recommendation N° (99) 19, adopted by the Committee of Ministers of the Council of Europe on 15 September 1999 // www.sprc.ru; ECOSOC Resolution 2002/12 „Basic principles on the use of restorative justice programmes in criminal matters" // http://www.un.org/ru/ecosoc/docs/2002/r2002-12.pdf.
In December 8th, 2000 the international non-governmental organization „European Forum for mediation between victims and offenders and restorative justice" has been established (now – "European Forum for Restorative Justice", http://www.euforumrj.org/). This organization has a significant impact on the policy of Council of Europe and the European Union in the field of criminal justice.

This document proposes an establishment and development of a network of reconciliation services in order to implement the restorative approach. Decree assumes an implementation of rehabilitation technologies and approaches in the work of commissions for minors and protection of their rights, as well as the development of restorative justice programs for children under the age of criminal responsibility. In the paragraph, that is dedicated to the commission on juvenile affairs and protection of their rights, decree clearly states the need to redress harm, inflicted to the victims. Decree also defines a necessity of carrying out the work with the victims, using the rehabilitation technologies, rehabilitation approaches and reconciliation programs as a helping tool.

Currently specialists of the Center „The Judicial and legal reform" in cooperation with representatives of regional associations are developing proposals for the regional projects, that helps to implement the provisions of the National Action Strategy.

Thus, the active role of community groups is pushing lawmakers to adopt legal acts, that would facilitate the implementation of conciliation procedures in the administration of criminal justice and would facilitate a development of the concept of restorative justice.

These problems it is possible to solve only through the amendments in the concept of the current criminal legislation. The authors stresses also, that an existing regulation of the Code of Criminal Procedure hasn't contribute to the usage of mediation in the criminal proceedings.

According with the amendments of Criminal Code (and, accordingly, Code of Criminal Procedure), that has been passed in December 2011, prosecutor has a right to release the accused from a criminal liability in a case, if successful reconciliation with the victim has been performed.

According with the Federal law Nr.420, passed in December 7th, 2011, the article 15th of Criminal Code ir completed with Part Nr.6. According with these changes, the court, taking into account the real circumstances of the offense, the degree of the public danger and circumstances, that mitigate the guilt, and in a case, if court can't define any aggravating circumstances, can change crime category on less serious (but not more, than on the one category of crime) (SZ THE RUSSIAN FEDERATION. 2013. No. 30. St. 4066).

This possibility is depending on the term of punishment, imposed by the court.

These changes in the legislation were preceded by the other important amendments to the Criminal Code, that reduce the potential of punitive policy and allows the court to use a more differentiated approach to the sentencing.

According with the Federal law Nr.26, passed in March 7$^{th}$, 2011, in the 68 crimes, regulated by the Criminal Code of the Russian Federation, the lower limits of sanctions in the form of imprisonment has been completely excluded.

Changes has been included in the General part of the Criminal Code of the Russian Federation, relating to the categories of offenses, replacing one kind of punishment to others,

revising the content of corrective work, involving a new form of punishment - forced labor, sentencing to imprisonment, changing the rules of sentencing for multiple offenses, proposing an exemption from criminal liability in cases of economic crimes, proposing a postponement of punishment to drug addicts and formulating the rules of abolition of probation and parole from punishment (Bulletin of restorative justice 2009).

The Special part of the Criminal Code of the Russian Federation (Criminal code of the Russian Federation of 13 June 1996 No. 63-FZ) has also undergone significant changes: in some articles lower limits of imprisonment, hard labor and arrest has excluded, sanctions of some articles has supplemented by such kinds of punishments as fines and corrective work, decriminalized certain socially dangerous acts; parts Nr.24 and Nr.25 of the Criminal Code are supplemented by articles Nr.226.1 and Nr.229.1; selected articles has refined content.[2]

Legislation changes, produced by the legislator, expand framework for the non-punitive response to crime.

The Criminal Procedure Act prescribes to the court before sentencing and in addition to other the issues, to resolve the issue whether there are any possibilites to change the category of the crime, which the defendant is charged, on the less serious category, using as a basis the sixth part of Article 15th of the Criminal Code of the Russian Federation.

However, the law does not say anything about how parties of the conflict could come to the reconciliation; mediation in the Russian criminal procedure law hasn't provided. Therefore, there is no any legitimate procedure how to transfer criminal cases from the structures of the criminal procedure to the reconciliation service.

Authors make a conclusion, that practice of mediation in criminal cases in the restorative justice concept began to form in the test mode, based on the spirti, rather than the letter of the law.

Indeed, if we will consider this concept in common, we will make a conclusion, that justice - this is the main function of the court, reflecting as a fair resolution of the dispute. This means, that justice - isn't only the restoration of all possible violations of the rights of the victims, especially taking into account, that numerous of criminal cases (especially consisting of serious or very serious crimes) aren't propose any possibilities for prevention of the inflicted harm.

Resolution of the criminal conflict includes such components as a compensation of harm to a person, against whom the illegal act has been committed, restoration of the violated order, recovery

[2] For the additional information about answers on questions, received from the courts about the application of federal laws on March 7, 2011, please look in the № 26-FZ "On Amendments to the Criminal Code of the Russian Federation" and on December 7, 2011 № 420-FZ "On Amendments to the Criminal Code of the Russian Federation and Certain Legislative Acts of the Russian Federation" (approved by the Presidium of the Supreme Court of the Russian Federation in June 27th, 2012) // Bulletin of the Supreme Court. - 2012. - N 11. - [Electronic resource].

of normal daily activities of the victim after the crime, the resocialization of the convicted person in order to prevent him from any illegal activites in the future.

At the same time it should be mentioned, that the commited crime causes the legal conflict, that is based on the damage, inflicted to the victim.

Solving these problems is possible only through changes in the concept of the current criminal procedural legislation. The usage of existing regulations of the Code of Criminal Procedure isn't giving possibilites to achieve these results. At the same time it should be taken into account, that the effect of the commited crime is the legal conflict, which is based on the damage, caused to the victim. That's why we can only talk about the maximum compensation of the damage, caused by the crime.

During the mediation procedure, the parties, involved in the conflict, independently come to a mutually acceptable resolution. Conflict resolution is achieved also, using the experience, knowledge and skills of a mediator. Resolution of the dispute depends entirely on the will of the parties themselves.

These opportunities are not only fully adoptable in the criminal proceedings, but also are necessary for the application, because we should not forget the existing problems in criminal cases. Among them the main are length of investigation and trial, dissatisfaction with decision of the court, acquittal of the offender and etc.

Legalization in the criminal proceedings of the reconciliation procedure with the participation of a mediator, allows to compensate harm, inflicted to the victims. The suspect (accused, defendant) will be provided with an opportunity to be free from criminal liability. Reconciliation procedure will reduce the burden on law enforcement agencies, on courts and on penal system in common. Indeed, the introduction of mediation in criminal proceedings may provide opportunities to the participants of the criminal procedure. However, the advantages of the mediation can't be attributed solely to the reconciliation.

Mediation gives the parties more opportunities, especially if victim isn't ready to forgive the accused and make peace with him, but after participation in the mediation procedure the victim changes his thoughts.

The need for introduction of mediation in the criminal procedure law indicates a high level of crime in the country, including juvenile delinquency, insufficient protection of the interests of victims (Markvicheva 2009). Also it should be noted, that the Russian criminal process is characterized by the trend of differentiation of legally procedural form, allocation of simplified production, that gives an opportunity to speed up proceedings in certain cases, to an increase of optionality in the criminal process, i.e. to widen the possibilities of the participants of the criminal proceedings to influence on its course and outcome.

Russian criminal procedure and criminal law have the potential for the development of forms of alternative resolution of criminal conflicts.

In particular, article 25 of the Code of Criminal Procedure states, that the court, prosecutor and investigator with the consent of the head of the investigation institution and an investigator with the consent of the public prosecutor are entitled to, on the basis of statements of the victim (his legal representative), to stop the criminal proceedings against the person, suspected or accused of committing a crime of minor or moderate gravity, in the cases under article 76 of the Criminal Code, if the person is reconciled with the victim and compensated the harm, caused to him.

The application of mediation is possible both at the pre-trial and at the trial stage of the criminal process. Moreover, the sooner the possibilities of mediation will be used, the faster the victim is compensated for the damage and fewer the public funds are spent on the criminal proceedings (Shirkin 2015).

Resolution of criminal legal dispute can be considered by two main criteria:

1) as a constructive form of criminal conflict resolution using non-punitive approach;
2) as a certain compensation for harm to victims, considered in the future, in the resolution of the criminal case, as a mitigating circumstance.

Criminal procedure legislation of the Russian Federation in need of reform, whose main purpose is to find the most appropriate, including compromise, forms of achieving goals of the criminal proceedings, established by article 6 of the Code of Criminal Procedure (Petrukhin, Kharisova, Flamer 2003). The application of mediation as a way of implementation of restorative justice could solve many modern problems of criminal justice. This aim could be achieved only by the inclusion of mediation in criminal procedure legislation of the Russian Federation.

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# SUMMARY OF THE QUESTIONNAIRE ON THE EVALUATION OF CRIMINAL OFFENCES IN LATVIA'S ELECTRICITY MARKET

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**Abstract**

**Summary of the questionnaire on the evaluation of criminal offences in Latvia's electricity market**

***Keywords:*** *questionnaire (interview), criminal offences, electric energy market, specifics, Latvia*

Recognized criminal offences in the field of electrical power engineering services do harm to energy supply merchants, users of electric energy, human lives and health, and leave negative effect on economic development.

According to Directive 2009/72/EC of the European Parliament and of the Council of 13th July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC cancellation requirements, doing historically important electric energy market opening process, it is significant and important to promote more effective prevention of security threats and criminal offences to energy supply objects.

Latvian energy supply security is one of the keywords to implementation of energy policies for the next seven years, and leaded by these aims, Ministry of Economics has worked out Energy development guidelines for 2016-2020 (2016), giving suggestions to Latvian government's basic political principles, aims, and action directions in energy for the next five years. The Cabinet of Ministers has confirmed the guidelines.

In order to carry out successfully the abovementioned basic principles, it is necessary to develop the prevention of threats to energy supply security, and the specifics of counteraction should be examined within the framework of prevention and combating of crimes, thus contributing to economic development.

The author did the research in order to find out specialists` opinion about criminal offences, specifics and possible solutions.

The research was conducted in 2015, when Latvia achieved historically significant electric energy market opening process.

Analysing the results of the questionnaire and statistical data, it can be concluded that successful combating of criminal offences in electric energy market, in majority, depends on police resources, energy supply merchant's technical solutions and specialists` cooperation.

**Kopsavilkums**

**Apkopojums par veikto aptauju par noziedzīgo nodarījumu elektroenerģijas tirgū novērtējumu Latvijā**

***Atslēgas vārdi:*** *aptauja, speciālisti, noziedzīgie nodarījumi, elektroenerģijas tirgus, īpatnības, Latvija.*

Noziedzīgi nodarījumi konstatējamie elektroenerģētikas pakalpojumu sfērā nodara ļaunumu energoapgādes komersantiem, elektroenerģijas lietotājiem, cilvēku dzīvībai un veselībai un atstāj negatīvu ietekmi uz tautsaimniecības attīstību.

Latvijai, atbilstoši Eiropas Parlamenta un Padomes Direktīvu 2009/72/EK (2009. gada 13. jūlijs) par kopīgiem noteikumiem attiecībā uz elektroenerģijas iekšējo tirgu un par Direktīvas 2003/54/EK atcelšanu prasībām, paveicot vēsturiski nozīmīgu elektroenerģijas tirgus atvēršanas procesu, ir būtiski un nozīmīgi veicināt energoapgādes objektu drošības apdraudējumu un noziedzīgo nodarījumu efektīvāku novēršanu.

Latvijas energoapgādes drošība ir viens no atslēgas vārdiem enerģētikas politikas īstenošanā nākošajos septiņos gados un šādu mērķu vadīta Ekonomikas ministrija izstrādājusi, savukārt Ministru kabinets ir apstiprinājis Enerģētikas attīstības pamatnostādnes 2016.-2020.gadam, sniedzot priekšlikumus Latvijas valdības politikas pamatprincipiem, mērķiem un rīcības virzieniem enerģētikā nākamajiem pieciem gadiem.

Lai sekmīgi īstenot minētus pamatprincipus ir nepieciešams veicināt energoapgādes drošības apdraudējumu un noziedzības novēršanas un apkarošanas ietvaros būtu jāaplūko pretdarbība noziedzīgo darbību specifikai, tādējādi sekmēt tautsaimniecības attīstību.

Lai noskaidrotu speciālistu viedokļus par noziedzīgo nodarījumu elektroenerģijas tirgū īpatnībām un iespējamiem risinājumiem situācijas uzlabošanai, autors veica pētījumu.

Pētījums veikts 2015.gadā, laikā kad Latvijā panāca vēsturiski nozīmīgu elektroenerģijas tirgus atvēršanas procesu.

Analizējot aptaujas rezultātus un statistikas datus, var izdarīt secinājumus, ka sekmīga noziedzīgo nodarījumu elektroenerģijas tirgū apkarošana lielā mērā ir atkarīga no policijas resursiem, energoapgādes komersanta tehniskiem risinājumiem un speciālistu sadarbības.

**Introduction**

The questionnaire on criminal offences in the field of electric power engineering services in Latvia was elaborated by the authors to determine the significance of this problem and evaluate the efficiency of various categories of measures to solve the aforementioned problem.

Specialists from Latvia's law enforcement institutions (police, prosecutor's office) and employees of energy companies (JSC "Latvenergo", JSC "Sadales tīkls") represent the population of the empirical research.

Data obtained through internet questionnaire of corresponding respondents (http://aptaujas.du.lv/index.php/813329/lang-lv) make up the empirical basis for the questionnaire.

A priori put forward hypotheses which were confirmed during the research:

- protection of electric energy market through criminal law is important and topical both for energy supply companies, and police officers;
- there is a necessity for legislative framework modernization in order to prevent crimes and criminal offences in electric energy market;
- an appropriate provision of police resources is necessary to prevent crimes and criminal offences in electric energy market and to ensure effective protection of the aforementioned objects through criminal law;
- there are differences in the evaluation of the efficiency of various groups of measures used to solve the problem of crimes and criminal offences in electric energy market;
- there is interdependence between the evaluation of the problem of illegal usage of electric energy and the effective application of various groups of measures to solve the problem of illegal usage of electric energy.

Questionnaire materials, which were sent to 421 respondents, out of them 317 specialists replied – 112 (35,3 %) specialists from law enforcement institutions and 205 (64,7 %) employees of energy companies – within the period from November 24, 2015 till December 15, 2015, were used for the research.

The age of law enforcement institutions' specialists, who participated in the research, varies from 18 to 59 years, in relation to the average age of 36,5; average length of service – 15 years.

The age of employees of energy supply companies varies from 24 to 74 years, average age – 44 years, average length of service – 19 years.

Representatives from all the regions of Latvia participated in the questionnaire, the sample is stratified. The sample is representative in relation to population (Ядов 2007).

A software package *IBM SPSS Statistics 23 for Windows* was used for the statistical analysis of data and presentation of the research. (Наследов 2005), (Бююль, Цёфель 2005), (Крыштановский 2006).

Data analysis, carried out during the research, consists of such stages as adaptation of the questionnaire, intelligence analysis which allows to formulate the research hypotheses, as well as direct proving of hypotheses.

P-level (level of statistical significance) equal to 0.05 is adopted as a permissible error for the results observed in the whole population. If $0.05< p < 0.1$, dependence is reviewed at the level of statistical tendency.

41 questions were included in the questionnaire to obtain as much as possible a full image on respondents' opinion, which gives opportunity for the analysis of:

- the significance of the problem of criminal offences in electric energy market;
- the efficiency of various groups of measures to solve the problem of criminal offences in electric energy market.

**Analysis of the significance of criminal offences in electric energy market problems**

In order to analyse the factor structure of the questionnaire, an exploratory factor analysis of both its parts was carried out.

The Kaiser-Meyer criterion of sampling adequacy for the first part of the questionnaire is equal to 0,798, which indicates purposefulness of the use of factor analysis for the analysis of the structure of vision on the problem of criminal offences in electric energy market.

Factor analysis provided opportunity to determine a five-factor structure of the researched problem. The distinguished factors reflect:

F1 – the level of significance and topicality of the problem.

F2 – the level of resource provision.

F3 – the level of judicial competence of the society.

F4 – the level of the impact of objective factors on the problem.

F5 – the level of society awareness about the danger caused by the problem.

Factor loadings of indicators, which determine the semantics of the distinguished factors, are given in Table 1.

The first of the distinguished factors (F1) explains total variance 15 %, factor F2 – 11,8 %, F3 - 11,6 %, F4 – 9,4 %, F5 – 9,2 %. The total variance rate explained by the distinguished factors is 57 %.

The values of Cronbach's alpha criterion, given in Table 1, are within the range from 0,806 to 0,907, which indicates high enough coherence of separate questionnaire items. The indicators of the distinguished factors are derived as arithmetic means of corresponding indicators.

Table 1. **Factor structure and factor loadings of indicators which reflect the problem**

| | | F1 | F2 | F3 | F4 | F5 |
|---|---|---|---|---|---|---|
| F1 | Criminal offences significantly damage not only energy supply merchants, but also public economy | ,785 | | | | |
| | Electric energy losses are significant and affect attraction of energy supply merchant's resources for other important energy supply problems | ,745 | | | | |
| | There is a necessity for legislative framework modernization related to crimes and criminal offences in electric energy market | ,657 | | | | |
| F2 | Energy supply personnel does not have serious motivation to disclose criminal offences in electric energy market and is not interested to accomplish effective tasks to improve the situation | | ,796 | | | |
| | There is no practical training for the personnel of energy supply merchant on the analysis of criminal offences and setting tactical goals | | ,781 | | | |
| | Investments of energy supply merchant into security are insufficient | | ,748 | | | |
| F3 | Illegal services are provided for population to create unlicensed connections to electric energy | | | ,768 | | |
| | Population is more interested to provide help to criminals, so that they would have an opportunity to avoid liability, than to energy supply merchant | | | ,695 | | |
| | Society is not aware of the seriousness of criminal offences | | | ,561 | | |
| | Society has not enough public information about criminal offences | | | ,543 | | |
| F4 | The number of committed criminal offences is related to tax policy | | | | ,808 | |
| | The number of committed criminal offences is related to economic situation | | | | ,722 | |
| | Police officers are not particularly aware of the seriousness of criminal offences in electric energy market and do not have serious motivation to accomplish effective tasks to improve the situation | | | | ,475 | |
| F5 | Criminal offences are dangerous to the society | | | | | ,816 |
| | Energy supply security is important for the society | | | | | ,765 |

Table 2. **Descriptive statistics of factors which reflect the problem**

| | | F1 | F2 | F3 | F4 | F5 |
|---|---|---|---|---|---|---|
| Arithmetic mean | | 4,21 | 3,01 | 2,51 | 3,72 | 4,42 |
| Median | | 4,00 | 3,00 | 2,50 | 4,00 | 4,50 |
| Mode | | 4,00 | 3,00 | 2,50 | 4,00 | 4,00 |
| Standard deviation | | ,621 | ,724 | ,509 | ,610 | ,479 |
| Range | | 3,67 | 4,00 | 3,00 | 3,33 | 3,50 |
| Lowest sample variance | | 1,33 | 1,00 | 1,00 | 1,67 | 1,50 |
| Highest sample variance | | 5,00 | 5,00 | 4,00 | 5,00 | 5,00 |
| Percentiles | 25 | 3,83 | 2,67 | 2,25 | 3,33 | 4,00 |
| | 50 | 4,00 | 3,00 | 2,50 | 4,00 | 4,50 |
| | 75 | 4,67 | 3,33 | 2,75 | 4,00 | 5,00 |

According to the Kolmogorov-Smirnov criterion, the distribution of all the factors, which reflect the evaluation of the problem, differs significantly from normal.

Furthermore, respondents gave the highest evaluation to the factor F5, which reflects the level of awareness of the society about the danger caused by the problem. The evaluation of this factor varies from 1,5 to 5, but not less than half of respondents evaluate this factor higher than 4,5. The lowest variation of the aforementioned factor is (σ=0,479) and the highest average value (v=4,42). The results of the questionnaire suggest that respondents understand and are aware of the danger of criminal offences in electric energy market and the importance of energy supply security for the society.

The lowest evaluation respondents gave to the factor F3 which reflects the level of judicial competence of the society. The evaluation of this factor varies within the range from 1 to 4, but half of respondents evaluate it with no more than 2,5, and 25 % of respondents` evaluation does not exceed 2,25. The lowest average value of this factor (v=2,51). The highest variation (σ=0,724) has the factor F2 which reflects the level of resource provision. Half of respondents evaluate this factor not higher than with 3, it has the highest amplitude of variations and it is equal to 4 (Table 2).

According to the Mann-Whitney criterion, the evaluation of all factors, except F3, has statistically significant differences among police officers and employees of energy supply companies. The factor F3 is evaluated equally low by all respondents. The average evaluation of this factor by police officers is 2,58, but by employees of energy supply companies – 2,47. Moreover, representatives of police structures evaluate factors F2 and F5 lower than the average, but employees of energy supply companies – higher, whereas police officers give higher evaluation to factors F1 and F4.

It was established that the aforementioned differences are regular, as specialists of law enforcement institutions evaluate higher the positions on the significance of damage and relation of criminal offences to economic situation, they also believe that they do not have serious motivation to accomplish effective tasks to improve the situation, in turn, employees of energy supply companies evaluate higher the danger caused by criminal offences, the importance of security and the situation when energy supply personnel does not have serious motivation to disclose criminal offences and is not interested to accomplish effective tasks to improve the situation. However, in spite of the abovementioned, the questionnaire results suggest that respondents` opinion does not differ significantly and 92,8 % of respondents are aware of the seriousness of the problem of criminal offences in electric energy market and believe that it significantly damages not only energy supply merchants, but also public economy.

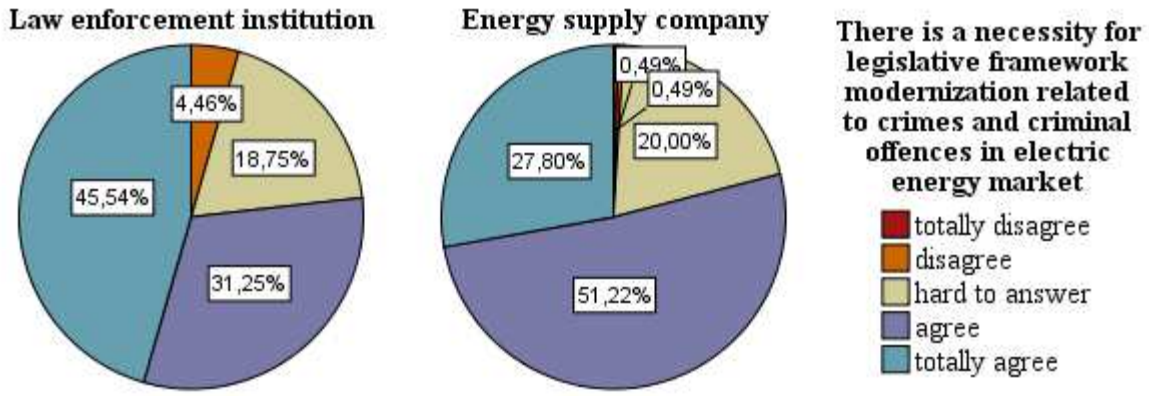


Fig.1. **Distribution of answers on the necessity for modernisation of normative legislative framework among the representatives of police and energy supply companies**

The analysis of the answers on the necessity for modernisation of normative legislative basis among the representatives of police and energy supply companies shows that approximately 77 % of police officers and 79 % of employees of energy supply companies agree or totally agree that normative legislative basis should be modernized (fig.1.). This evaluation indicates that almost 80 % of respondents support the necessity to improve legislative framework related to crimes and criminal offences in electric energy market.

**Analysis of measures used to solve the problem of criminal offences in electric energy market**

Factor analysis of indicators which reflect the measures to solve the problems of criminal offences provides an opportunity to determine six homogeneous clusters (groups).

Measures which are used to solve the problems of criminal offences from the viewpoint of their efficiency are grouped as follows:

E1 - the efficiency of public communication and importance of correct information.

E2 - the efficiency of cooperation and resource provision.

E3 - the efficiency of modern technical aids provision.

E4 - the efficiency of preventive measures and improvement of legislative framework.

E5 - the efficiency of management peculiarities and importance of security analysis.

E6 - the topicality of other possible propositions.

Factor loadings of indicators which determine the semantics of the distinguished factors are reflected in Table 3.

The first of the distinguished factors (E1) explains total variance 17 %, factor E2 – 12 %, E3 – 11,7 %, E4 - 8,3 %, E5 -7,8 %, E6 -7,2 %. The total variance rate explained by the distinguished factors is 64 %.

The values of Cronbach's alpha criterion, given in Table 5, are within the range from 0,786 to 0,930, which indicates high enough coherence of separate questionnaire items. The indicators of the distinguished factors are derived as arithmetic means of corresponding indicators.

Table 3. **Factor structure and factor loadings of indicators which reflect the efficiency of measures to solve the problem**

| | | E1 | E2 | E3 | E4 | E5 | E6 |
|---|---|---|---|---|---|---|---|
| E1 | Before testing clients` objects, it is necessary to publish information in mass media on complex of measures taken to detect cases of illegal usage of electric energy | ,779 | | | | | |
| | Municipalities must protect low-income persons and provide them with remuneration for minimum electric energy consumption | ,707 | | | | | |
| | Energy supply merchants should provide police with the necessary information, provide correct data and evidences to eliminate doubts | ,707 | | | | | |
| | Police needs to be provided with additional resources | ,641 | | | | | |
| | Energy supply merchants should provide an opportunity for citizens to inform electric energy system operator via special telephone number about suspicious cases of possible crimes in electric energy networks | ,627 | | | | | |
| E2 | The personnel of energy supply merchant should go not only through theoretical, but also practical training, it is necessary to analyse criminal offences and to set tactical goals, to control the application of knowledge in practice, and to carry out certification | | ,717 | | | | |
| | Energy supply merchant should motivate its employees, which are involved in the detection of criminal offences, by linking wages to individual work results | | ,698 | | | | |
| | The security service of energy supply merchant and police should develop closer cooperation in detection and prevention of criminal offences in electric energy market, in case of need agree upon the necessary provisioning (equipment, fuel, etc.) | | ,628 | | | | |
| | Police officers should undergo professional training and courses | | ,593 | | | | |
| E3 | It is essential for energy supply merchant to install control measurement devices at transport and distribution points | | | ,832 | | | |
| | Energy supply merchant should transfer measuring devices out of client's territory | | | ,767 | | | |
| | Energy supply merchant should continue the program on replacement of current meters with smart meters, which are able to provide information on the actual electric energy consumption | | | ,723 | | | |
| E4 | Regular unauthorized connections to electric lines by offenders should be criminalized | | | | ,841 | | |
| | It might be effective, if a criminal liability warning would follow administrative punishment for illegal usage of electric energy | ,553 | | | ,588 | | |
| | Publications of preventive character on danger caused by criminal offences should be published in mass media, which would describe the consequences and liability, thus promote informative and instructive work with the society and increase the awareness of population about their rights | ,437 | | | ,531 | | |
| E5 | Energy supply merchant should continue reconstruction of overhead lines into cable lines | | | | | ,765 | |
| | Energy supply merchant should dismantle networks at objects where services are no longer provided (disused objects), thus preventing offenders from stealing electric energy and cables | | | | | ,630 | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| E6 | The number of criminal offences has increased within the last 5 years | | | | | | ,752 |
| | Those places where criminal offences are committed regularly should be included in police inspection routes | | ,479 | | | | ,597 |
| | Energy supply merchant should recruit detectives | | | | | | ,550 |

Table 4. **Descriptive statistics of factors which reflect the efficiency of various groups of measures used to solve the problem**

| | | E1 | E2 | E3 | E4 | E5 | E6 |
|---|---|---|---|---|---|---|---|
| Arithmetic mean | | 4,00 | 3,98 | 4,34 | 4,05 | 3,96 | 3,34 |
| Median | | 4,00 | 4,00 | 4,67 | 4,33 | 4,00 | 3,33 |
| Mode | | 5,00 | 4,00 | 5,00 | 4,33 | 4,00 | 3,00 |
| Standard deviation | | ,742 | ,511 | ,708 | ,584 | ,574 | ,616 |
| Range | | 4,00 | 3,25 | 4,00 | 4,00 | 3,33 | 3,33 |
| Lowest sample variance | | 1,00 | 1,75 | 1,00 | 1,00 | 1,67 | 1,67 |
| Highest sample variance | | 5,00 | 5,00 | 5,00 | 5,00 | 5,00 | 5,00 |
| Percentiles | 25 | 3,40 | 3,75 | 4,00 | 3,67 | 3,67 | 3,00 |
| | 50 | 4,00 | 4,00 | 4,67 | 4,33 | 4,00 | 3,33 |
| | 75 | 4,60 | 4,25 | 5,00 | 4,33 | 4,33 | 3,67 |

According to the Kolmogorov-Smirnov criterion, the distribution of all the factors, which reflect the evaluation of the problem, differs significantly from normal.

Respondents gave the highest evaluation to the factor E3 (the efficiency of modern technical aids provision). Half of respondents evaluate this factor not lower than 4, 67, but not less than 25 % of respondents believe that these measures are effective. The lowest evaluation respondents gave to the factor E6 (the topicality of other possible propositions). Half of respondents evaluate this factor lower than 3,33. The highest dispersion of values is observed for the factor E1 (the efficiency of public communication and importance of correct information). Half of respondents evaluate this factor not lower than 4,25 % - higher than 4,6, but there are 25 % of respondents whose evaluation does not exceed 3,4 (Table 4).

The factor E1 (the efficiency of public communication and importance of correct information) is evaluated by police officers higher than on average, whereas employees of energy supply companies evaluate this factor lower than on average. Not less than half of police officers evaluate this factor not lower than 4,8, at the same time the evaluation of this factor by employees of energy supply companies does not exceed 3,8.

It should be noted that the largest support out of the factor E1 indicators from respondents is given to the statement that energy supply merchants should provide police with the necessary information, provide correct data and evidences to eliminate doubts, it is positively evaluated by 87 % of respondents, in turn 82,7 % of respondents believe that police needs to be provided with additional resources.

The largest support out of the E2 factor (the efficiency of cooperation and resource provision) indicators from respondents is given to the statement that energy supply merchants should motivate

their employees, which are involved in the detection of criminal offences, 86,8 % of respondents support it, whereas 84,5 % of respondents believe that the security service of energy supply merchant and police should develop closer cooperation in detection and prevention of criminal offences in electric energy market, in case of need agree upon the necessary provisioning (equipment, fuel, etc.)

The factor E3 (the efficiency of modern technical aids provision) is evaluated higher by the police officers, not less than half of them give the highest evaluation to the aforementioned factor, however 75 % of employees of energy supply companies evaluate this factor not lower than with 4. At the same time 87 % of respondents agree that energy supply merchant should transfer measuring devices out of client's territory and continue the program on replacement of current meters with smart meters, which are able to provide information on the actual electric energy consumption. Positive evaluation indicates that it is necessary for the energy supply merchant to constantly improve the effective application of technical aids according to present-day requirements.

According to the Mann-Whitney criterion, the evaluation of factors E1, E3, E4, E6 has statistically significant differences among police officers and employees of energy supply companies. Factors E2 and E5 are evaluated equally by all respondents.

The analysis of the answers given by police officers and employees of energy supply companies about the necessity to criminalize regular unauthorized connections to electric lines given in the factor E4 (the efficiency of preventive measures and improvement of legislative framework) shows that approximately 67 % of police officers and 40 % of employees of energy supply companies believe that criminal liability is a very effective mean. 21 % of police officers and 48 % of employees of energy supply companies evaluate the aforementioned measure as effective. Such evaluation suggests that criminal liability should be applied for illegal usage of electric energy; it has received support from almost 90 % of respondents.

The results of questionnaire items indicated in the factor E5 (the efficiency of management peculiarities and importance of security analysis) suggest that 80,4 % of respondents agree that energy supply merchant should dismantle networks at objects where services are no longer provided (disused objects), thus preventing offenders from stealing electric energy and cables, and 79,2 % of respondents agree that energy supply merchant should continue reconstruction of overhead lines into cable lines.

Within the questionnaire framework it was established that indicators of the factor E6 (the topicality of other possible propositions) about the necessity to recruit detectives by energy supply merchant are supported only by 13,6 % of respondents, but the necessity to include in police inspection routes those places where criminal offences are committed regularly is supported only by 51,7 % of respondents. These results indicate that the aforementioned proposals are not topical.

Significant correlation was established between the factors which reflect the evaluation of the problem and factors which reflect the efficiency of various groups of measures used to solve the problem (Table 5). For example, correlation between factors F3 and E4 has reflexive character (r=-0,230), which means that the higher respondents evaluate the level of judicial competence of the society, the lower they evaluate the efficiency of preventive measures and improvement of legislative framework. Such correlation was established also between factors F2 and E1 (r=-0,466), that is, the higher respondents evaluate the level of resource provision, the less effective they believe are those measures which are related to correct information and public communication. Direct correlation was established between factors F1 and E1 ((r=0,553), the higher respondents evaluate the level of problem significance, the more effective they believe are those measures which are related to correct information and public communication. Correlation between factors F1 and E3 is also direct (r=0,584), the higher respondents evaluate the level of problem significance, the more effective they believe are those measures which are related to the provision with modern technical aids. In the same way, direct correlation was established between factors F4 and E4 (r=0,349), the higher respondents evaluate the level of the impact of objective factors on the problem, the more effective they believe are those measures which are related to the efficiency of preventive measures and improvement of legislative framework.

Table 5. **Correlation coefficient of factors which reflect the problem and factors which reflect the efficiency of various groups of measures used to solve the problem**

| Workplace | | **E1** | **E2** | **E3** | **E4** | **E5** | **E6** |
|---|---|---|---|---|---|---|---|
| Law enforcement institution | **F1** | ,797** | ,403** | ,718** | ,602** | ,184 | -,277** |
| | **F2** | -,136 | -,237* | -,129 | -,085 | -,155 | -,003 |
| | **F3** | -,155 | -,289** | -,062 | -,171 | -,041 | -,040 |
| | **F4** | ,676** | ,336** | ,618** | ,423** | ,258** | -,123 |
| | **F5** | -,348** | ,132 | -,377** | -,123 | ,229* | ,185 |
| Energy supply company | **F1** | ,354** | ,347** | ,445** | ,403** | ,276** | ,084 |
| | **F2** | -,452** | -,126 | -,180** | -,136 | -,059 | ,071 |
| | **F3** | -,107 | -,185** | -,081 | -,260** | -,100 | -,054 |
| | **F4** | ,378** | ,123 | ,190** | ,266** | -,010 | -,078 |
| | **F5** | -,275** | ,049 | -,117 | -,033 | ,070 | ,287** |

**. Correlation is significant at the 0.01 level (2-tailed).
*. Correlation is significant at the 0.05 level (2-tailed).

The analysis of correlation between the factors, which reflect evaluation of the problem, and factors, which reflect the efficiency of various groups of measures used to solve the problem, according to the evaluation by police officers and employees of energy supply companies allows to distinguish the following regularities:

- correlation character is not sensitive to respondent's workplace: direct correlations observed among police officers are also direct among employees of energy supply companies;
- direct correlation was established between factors F1 and E1, F1 and E2, F1 and E3, F1 and E4,

F4 and E1, F4 and E3, F4 and E4, but stronger correlation was observed among police officers than employees of energy supply companies, that is, for police officers the coherence between the vision of the problem and the efficiency of various groups of measures to solve this problem are stronger that for employees of energy supply companies;

- The factor F2 significantly correlates only with the factor E2 among police officers, it is a reflexive correlation, which means that the higher respondents evaluate the level of resource provision, the less effective they believe are those measures which are related to resource provision;
- significant reflexive correlations were observed between factors F2 and E1, F2 and E3 among employees of energy supply companies, that is, the higher respondents evaluate the level of resource provision, the less effective they believe are those measures which are related to correct information and public communication, as well as modern technical aids;
- significant direct correlations were observed between factors F4 and E2, F4 and E5 among police officers, but among employees of energy supply companies these correlations are not statistically significant.

**Conclusions**

After the overall assessment of the questionnaire results, hypotheses were confirmed and the following conclusions drawn:

1) According to the importance of the evaluation of the situation on criminal offences in electric energy market, it was established that:
    1.1. There are regular differences in respondents` opinion about the importance of the evaluation of the situation on criminal offences in electric energy market, as specialists of law enforcement institutions evaluate higher the situation on the importance of damage and the relation of criminal offences in electric energy market to economic situation and believe that they do not have serious motivation to accomplish effective tasks to improve the situation, in turn, specialists of energy supply companies evaluate higher the danger of criminal offences, security and the situation when the personnel of energy supply companies does not have serious motivation and is not interested to accomplish effective tasks to improve the situation. However, the evaluation of 92,8 % of respondents suggests that criminal offences significantly damage not only energy supply merchants, but also public economy.
    1.2. Security of electric energy market and protection of electric energy market through criminal law is important and topical both for energy supply companies, and law enforcement institutions.

1.3. There is a necessity for the improvement of legislative framework in order to prevent crimes and criminal offences in electric energy market

2) Analysing the efficiency of measures to solve the problems of criminal offences in electric energy market it was established that:

2.1. Respondents gave the highest evaluation to the factor about the importance of technical aids provision; however other further mentioned factors also got high evaluation.

2.2. There is interdependence between respondents` opinion about the evaluation of illegal usage of electric energy and the evaluation of the efficiency of various groups of measures to solve the problem of regular illegal usage of electric energy, it was established that criminal liability should be applied after warning to the offenders for regular unauthorized connections to electric lines.

2.3. Police needs additional resource provision to carry out effective preventive measures, to establish and summarize the determinants of criminal offences, to reduce and prevent their impact.

2.4. There is a necessity to motivate the employees of law enforcement institutions and energy supply merchants to disclose criminal offences in electric energy market and to rouse their interest to accomplish effective tasks to improve the situation.

2.5. Energy supply merchants should provide police with operational data and correct information on criminal offences in electric energy market, as well as close cooperation with police on the peculiarities of criminal offences in electric energy market and opportunities for their disclosure and prevention would be necessary.

3) In order to reduce criminal offences in electric energy market, the energy supply merchant should:

3.1. Provide not only theoretical, but also practical training for the personnel, analyse criminal offences and set tactical goals, and control the application of knowledge in practice.

3.2. Before testing clients` objects, it is necessary to publish information in mass media on complex of measures taken to detect cases of illegal usage of electric energy.

3.3. Install control measurement devices at distribution points.

3.4. Transfer measuring devices out of client’s territory.

3.5. Continue the program on replacement of current meters with smart meters, which are able to provide information on the actual electric energy consumption.

3.6. Continue reconstruction of overhead lines into cable lines.

3.7. Dismantle networks at objects where services are no longer provided (disused objects), thus preventing offenders from stealing electric energy and cables.

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# THEORETICAL AND PRACTICAL ASPECTS OF PAPILLARY LINE PATTERN PRINT TRANSFER METHOD APPLICATION

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**Abstract**

**Theoretical and Practical Aspects of Papillary Line Pattern Print Transfer Method Application**

***Key words:*** *human skin, iodine fumes, direct transfer, method*

The aim of the article is to research and analyse the theoretical and practical aspects of direct transfer method application. Thus, in order to reach the aim the following objectives are set: to sum up and analyse the experience of foreign scientists about application of direct transfer method; to analyse the possibility of application of this method on a skin of living human being and of a deceased person; to analyse and get aware of advantages of transfer method application and risks of its application. In the work the author has analysed the opinions about theoretical and practical aspects of latent papillary line pattern print transfer method application of such scientists as I.Indulēns, M.Centoricka, J.Reichardt, J.C.Carr, E.G. Stone, H.J. Hammer, W.C. Sampson, K.L. Sampson, J.L.Larsen, D.Wilkinson, A.Misner and others. In the paper the author has also researched by analysing positive and negative aspects the approach of different authors concerning the direct transfer method application. Basing on the examples described in the article, in the end of it the author makes an analysis and description of positive and negative aspects of iodine fuming and silver plate transfer method application on the surface of the skin of a living human being and of a deceased person.

**Kopsavilkums**

**Papillārlīniju rakstu pēdu pārkopēšanas metodes pielietošanas teorētiskie un praktiskie aspekti**

***Atslēgas vārdi:*** *cilvēka āda, joda tvaiki, tiešā pārkopēšana, metode*

Autores raksta mērķis ir izpētīt un izanalizēt tiešās pārkopēšanas metodes pielietošanas teorētiskos un praktiskos aspektus, līdz ar ko mērķa sasniegšanai tika izvirzīti sekojoši uzdevumi: apkopot un izanalizēt ārzemju pētnieku pieredzi tiešās pārkopēšanas metodes pielietojumā; izanalizēt metodes pielietošanas iespējamību uz dzīva un miruša cilvēka ādas; apzināt un izpētīt tiešās pārkopēšanas metodes pielietošanas priekšrocības un apzināt metodes pielietošanas riska faktorus. Autore savā darbā pētīja tādu pētnieku kā I.Indulēna, M.Čentorickas, G.J.Reichardta, J.C.Kara, E.G.Stouna, H.J. Hammera, V.C.Sampsona, K.Sampsones, Dž. L. Larsena, D.Vilkinsones, A.Misnera un citu autoru viedokļus par latentu papillārlīniju rakstu pēdu tiešās pārkopēšanas metožu pielietošas teorētiskajiem un praktiskajiem aspektiem. Autore savā darbā pētīja arī dažādu autoru pieeju tiešās pārkopēšanas metožu pielietošanā, analizējot šo metožu pozitīvos un negatīvos aspektus. Raksta nobeigumā autore, balstoties uz praktiskiem piemēriem, kuri aprakstīti rakstā, veic tiešās latentu papillārlīniju rastu pēdu pārkopēšanas metodes un joda tvaiku un sudraba plāksnes pārkopēšanas metodes pozitīvo un negatīvo aspektu uzskaitījumu šo metožu pielietošanā uz dzīva un miruša cilvēka ādas virsmas.

## Introduction

Nowadays optical, physical and chemical methods are very often used for visualisation of papillae pattern prints on different surfaces. Application of each method shows both positive and negative aspects. In order to identify a person it is necessary before or after visualisation of papillary line pattern prints to fix and to lift them for further research. One of the ways is print transfer method. Whereas, the type of the print and surface the prints are on allow us to choose the necessary transfer material and the transfer method. For example, three-dimensional prints or prints on a rough surface are better to copy by using casting silicone that both will successfully make imprint of a three-dimensional print and will transfer overlapping prints from the rough surface. Speaking about overlapping prints on the surface there are two papillary line pattern print transfer methods. One of them and at the same time the most used method is transfer of visualised papillary line pattern prints using dactyloscopic tape or other transfer material. The second transfer method is

transfer of latent papillary line pattern prints using transfer material to visualise them on the material they have been transferred to.

The author of the article has observed that in Latvia in practice mainly the method of transfer of visualised prints has being used. However, analysing and researching practice materials a series of experiments done by foreign researchers the author concludes that it is recommended to apply the method of transfer of not visualised prints in the case if latent papillary line pattern prints are on a human skin. Thus**, the aim of the** author's **article** is to research and analyse theoretical and practical aspects of direct papillary line pattern print transfer method. Whereas, **the tasks set in the article** are to sum up and analyse the experience of foreign scientists about application of direct transfer method, to analyse the possibility of application of this method on a skin of living human being and of a deceased person, to analyse and get aware of advantages of transfer method application and risks of its application.

**Methods and materials:** analysis of scientific literature, results of previously made researches and practice materials. The following theoretical methods have been used in the article: historical and comparative methods, modelling.

**Discussion**

By transfer method we understand transfer of both visualised and not visualised prints to one of a transfer material because in any case a print gets transferred. However, in the scientific literature the term "direct transfer method" is applied regarding the transfer of not visualised prints. Although it is ambiguously because this term is also used regarding the transfer of a print processed by iodine fumes to a silver plate and before the transfer the print has been visualised by iodine fumes. Indeed, it should be mentioned that papillary line pattern prints, which are processed by iodine fumes, stay visible only for 10-15 minutes (Indulēns 1972: 35). Further in applying this method they work with the copy of print transferred. Thus, in this situation it can be spoken about direct print transfer.

In the author's opinion it is possible to speak about direct transfer method in the case when a print has been transferred in its initial state. However, by the print initial state such print state is understood as the state of a print has been left independently on whether a print is visible, plainly visible or latent. Optical methods could be an exception for visualisation of papillary line pattern prints. The task of these methods is to find probable papillary line pattern prints without changing them. By the application of this method prints are preserved in their initial state, it helps to detect a print and gives a possibility for further research and also for direct print transfer. Applying the direct transfer method a print forming substance is also transferred to a transfer material. In the case of latent papillary line pattern prints it is sweat-sebaceous substance.

Then the papillary line pattern print got in the result of direct transfer is visualised. Respectively, not the print itself is visualised, but its copy transferred. Depending on the material of transfer the method of visualisation of the copy of papillary line pattern print – physical or chemical – is selected.

There are several opinions among the researchers about the papillary line pattern print direct transfer method and its practical application in latent papillary line pattern print lifting and visualisation on a living human skin and on a skin of a deceased person.

Already in 1978 researchers G.J. Reichardt, J.C. Carr and E.G. Stone described in detail possibilities of a new method in their article „A Conventional Method for Lifting Latent Fingerprints from Human Skin Surfaces.". In the article the transfer method to KromeKote card was described and it already showed positive results in practice. Several interesting cases were described in the article.

In March 1976 the criminalists of Public security department of Dade County, Florida, the USA drove to a crime scene of burglary where they found an old woman being tied and there was a gag in her mouth. On the released woman's skin they searched for probable papillary line pattern prints of a suspect. As the result papillary line pattern prints were found on the woman's wrist but they were not identified. During the same month other group of criminalists drove to other crime scene of murder and they found for identification valid papillary line pattern print of palm on a shin of a victim. Despite the fact that for this crime three persons were convicted, the detected papillary line pattern print of palm was not identified. However, two months later on one murder victim's young lady's thigh the papillary line pattern print of finger was found. Later in the process of identification it was found out that the print had been left by a victim herself. Although the last case did not show a positive result for clarification of a possible suspect, it once again confirmed that papillary line pattern prints stay and are preserved on a human skin (Reichardt, Carr, Stone 1978).

In their article researchers G.J. Reichardt, J.C. Carr and E.G. Stone described the process of transfer method by using different direct transfer materials.

For the direct transfer method such transfer materials as KromeKote cards and cash-register tape were used. For visualisation of prints transferred magnetic and non-magnetic fingerprint powders as well as magnetic and glass fibre brushes were used.

Latent papillary line pattern prints can be lifted from a human skin by pressing a clean KromeKote card against a location of possible latent papillary line pattern prints on a surface of a human skin and in such a way prints are transferred to the KromeKote card. Then the Kromekote card should be lifted so carefully that a non-visualised papillary line pattern print does not get smeared out. It is better at first to raise one of the card sides holding the second card side so that it does not glide. Then the lifting should be continued till the card is wholly removed from a skin

surface. Then the KromeKote card is processed by a dactyloscopic powder to visualise latent prints. For visualisation of latent papillary line pattern prints it is recommended to put the KromeKote card with prints transferred on a smooth surface and to stick the corners of it with a tape in order to prevent its movement. The print is being visualised very slowly. If there appear white lines on a grey background, then the print was covered too quickly. In order to save the visualised print the KromeKote card is to be covered with a polymeric tape. Describing the transfer method the authors mentioned that the advantage of it is the accessibility of materials applied. However, for implementation of this method practical skills are needed. The authors also pointed out that by applying the direct transfer method and transferring latent papillary line pattern prints to KromeKote card or cash-register a mirror image of prints has been got. It means that before the identification of prints transferred the visualised papillary line pattern prints are to be inverted and so the right image will be got (Reichardt, Carr, Stone 1978).

In his publication „About visualisation methods of latent fingerprints on a human skin" the researcher H.J. Hammer also describes the direct transfer method and mentions that a photo paper can be used as a transfer material. Non developed photo paper is placed on the surface in the places where latent papillary line pattern prints can be located. The photo paper is pressed against skin surface and so possible papillary line pattern prints are transferred. Then by processing the surface of a photo paper with dactyloscopic powder transferred to a photo paper papillary line pattern prints are visualised. The author also points out that before applying the photo paper it would be recommended to fix and dry it. H.J. Hammer also notes that by applying of a photo paper as a direct transfer material also negative results were obtained. Two days after murder (the cause of death was mechanical asphyxia – suffocation by hands) papillary pattern prints from a victim's neck were transferred to a photo paper and then they were visualised by processing with a dark magnetic powder. A person was not identified. In the second case of murder 16 hours after a committing a crime they managed to lift a partial finger papillary line pattern print with four distinctive marks from a victim's forearm. Despite the fact that the body was placed in an open place and the skin was wet from thaw, some papillary line pattern prints were found. Despite the fact that in this case found on a victim and visualised papillary line pattern print was not considered as valid for a person's identification, however, this case once again confirmed that papillary line pattern prints are to be searched for on a human skin and there should be an individual approach in each case (Hammer 1980).

The author M.Centoricka in chapter „Human surface skin" in her monographs „Methods and means of detecting and lifting of fingerprints" also gives an opinion that the transfer method can be used for detection of papillary line pattern prints. Several transfer papers are used in the process, for example, with plastic coated papers, plastic coated papers with the photo emulsion coating (photo

film), non-fixed photo paper, fixed photo paper, simple, smooth paper processed by nynhidrine, as well as silver plates. The paper on which the prints are transferred to is placed on the skin where prints can be located and by lightly pressing it is hold for 15 seconds. Then it is carefully lifted hold by the corners in order to avoid gliding and smearing out of the prints. The paper is placed on a smooth surface and is lightly processed with magnetic powder (Centoricka 2002: 92).

Whereas, in their article "Recovery of Latent Prints from Human Skin" W.C. Sampson and K.L. Sampson point out that in accordance with cases researched the most successful method of lifting of latent papillary line pattern prints is the direct transfer method (print direct transfer method).

W.C. Sampson and K.L. Sampson point out that, firstly, in each case at least one target place where a print will be lifted from is to be found and fixed on a body. For these purposes the target place is defined as an open skin place which was probably touched by a suspect. The determination of a target place is based on the following indicators, for example, position and posture of a body, evidence that a body was moved, partial clothing residues, naked body, disguised body, body location, witnesses' testimony. If a case is connected with a living person, then the probable location of latent papillary line pattern prints will be got from the information provided by a victim. The analysis of criminal cases has showed that victims are often kept by their extremities and as the results prints are lifted from the ankles, wrists and under the armpits. Prints were also found on a neck, stomach, breast bone, buttocks and inner site of thighs. Superficial blood spills, damages of skin, swelling can be indicators for possible location of latent papillary line pattern finger prints. However, the redness of a skin is mostly characterised for living persons.

The means of direct transfer is defined as any substrate (material) that is directly placed on a skin surface where a latent papillary line pattern print could be left to transfer the print from a skin to transfer material. The direct transfer method started with application of iodine-silver plate method and electrography. Transfer means were pressed to a human surface skin. In 1970th for this purpose the KromeKote cards were used (Sampson, Sampson 2005).

Location of a target place and experience of an expert may help by choosing the means of direct transfer. In several experiments and trials made in work groups and workshops it was established that, in essence, all the transfer means are the same. Their effectiveness mainly depends on application skills and know-how. In order to make the direct transfer process successful it is of great importance to be aware of it (Sampson, Sampson 2005).

Firstly, the visual research of a body takes place and during it the visible evidence is collected. Then the probable location of papillary line pattern prints is determined. The body temperature, environment temperature and humidity are measured. Applying the direct transfer method the transfer means (KromeKote card, paper, photo paper et.) is placed on a surface on the

skin in the place a latent print can be found. If the skin is warm, the cool direct transfer means is used. If the skin is cool, then the warm one is used. The transfer means should be pressed to the skin surface with the same strength of pressure. It is done by rolling or pressing, and then it is put away. In addition, a soft sponge or a colour wheel can be used by placing them on a transfer means uniformly and without changing the strength of pressure. If it is necessary, the second or the third lifting can be made by applying a new transfer means. Multiple lifting helps to remove excess moisture or oil layer from the skin surface. Then the transfer means is carefully removed from the skin surface and is placed a side, preferably at room temperature. This is necessary to free a transfer means from moisture. Then the prints transferred on a transfer means can be processed by dactyloscopic powder (usual or magnetic) (Sampson, Sampson 2005).

In order to confirm practical application of the direct transfer method and its importance for lifting of latent papillary line pattern prints in their article W.C. Sampson and K.L. Sampson mention examples from practice when it was managed to lift for identification valid papillary line pattern prints from a skin of a deceased person.

On 14th December 1993 a crime victim was found on the graveyard of Greensboro, North Caroline (the USA). Partial papillary line pattern print of palm was lifted from the victim's inner side of the thigh by applying the transfer means of warmed photo paper and putting it on a body cooled in the cold environment. Transfer means was delivered to the war controlled environment, left for 8 hours, and then the transferred print was processed. In February 1994 in the garbage in Miami, Florida (the USA) the corpse of a man of Spanish origins was found. By using a warmed photo paper as a transfer means and putting it on a cooled body in the environment with the temperature of 50° F (10°C) two partial papillary line pattern sprints of a palm were transferred from a victim's ankle. In November 1994 in the desert in the South East of the USA a crime victim was found. By using Ziploc freezer quart bag as a transfer material the papillary line prints of the left hand thumb and finger were lifted from the victim's neck. On 17th December 1994 in Miami, Florida (the USA) a female victim of a sexual offence was found. By applying the KromeKote card papillary line pattern print of a finger was lifted from the victim's skin surface of a thigh. On 25th December 1994 in Miami, Florida (the USA) there was a breaking in and entering committed in to the house followed by burglary and murder. Papillary line pattern print of a finger was lifted from the outer side of the upper part of the right arm of the woman murdered. The print was lifted by applying the transfer means of warmed photo paper and putting it on a body cooled in the cold environment (Sampson, Sampson 2005).

In the end of the research W.C. Sampson and K.L. Sampson conclude that no method is ideal for lifting of papillary line pattern prints from a human skin. That is why the choice of the method and of means of lifting of latent papillary line pattern prints from a human skin is determined by

several important factors, for example, environment, environment and a human skin temperature and humidity, as well as the skills, know-how and experience of an expert play a great role. Each case should be individually evaluated (Sampson, Sampson 2005).

The researcher and the author of the article "Recovering Latent Fingerprints from Cadavers" John Louis Larsen defines the direct transfer method as pressure-transfer lifting. In his article he describes the direct transfer method by using as a transfer means a spool of adding-machine tape.

Pressing lightly an adding-machine tape is rolled on a human surface skin where the latent papillary line pattern prints can be left. Then the used section of paper is cut and the direction in which the paper was rolled is designed, as well as the area of the body from which it was lifted is designed. Then the prints are processed using dark magnetic powder. John Louis Larsen points out that the Chicago FBI team has successfully used basic violet and Ultra-Blue magnetic powders. In the time span of 1989 to 2003 the Chicago FIB team had two cases when they successfully recovered for identification valid papillary line pattern prints from a human skin. One of such cases was on 25th April 1996 when the Chicago Police recovered the body of Patricia Scott (age 30, black female) from a trash bin behind Calumet High School. John Louis Larsen also indicates that the most important part of the process is applying even pressure of a transfer means to a skin surface because if there is too much pressure used, the latent papillary line pattern print will be compressed and will smudge. Thus, the print will not be valid for a person's identification (Larsen 2008).

The second popular papillary line pattern print transfer method is fuming of a papillary line pattern prints with iodine fumes and silver plate transfer. This method has been already described in 1877 (Eriksons, Risplings 2000) and it is based on absorption of iodine fumes by the fatty substances of the papillary line pattern prints. Absorption (lat. - absorptio) is the process by which one substance (an absorber) takes up another substance (Baldunčiks 1999:18). The peculiarity of iodine fuming method is that the prints get coloured for a short period of time – for 10 to 15 minutes (Indulēns 1972:35) and then they gain remain colourless and take their previous state before fuming.

Iodine –silver plate papillary line pattern print transfer method. The silver plate to which the visualised pattern is transferred should be very smooth, without scratches, from 0,01 to 0,02 cm thick. Transferring the print, the silver plate should be pressed to the skin as close as possible. The silver plate should be placed on one side of visible fingerprint and then slowly rolled on the area where prints are. Be careful of sliding the silver plate that can cause smearing out of prints. After transferring the plate is slowly lifted and put under strong light, for example, under the sunlight, ultraviolet rays, until the clear image of papillary line pattern print appears. The time of developing of transferred prints on the silver plate can fluctuate and depends on amount of iodine being absorbed by the transferred print, as well as on light intensity. If after the developing the print is

not valid for identification, the process is to be repeated by using more intensive concentration of fumes for fuming of prints. Conversely, if the print is processed by a very thick layer of iodine fumes and thus details of papillary line patterns are covered, the process is repeated without the secondary fuming. Prints are mirrored on a silver plate. Then the prints are photographed (Čentoricka 2002). The transferred prints to the silver plate can also be preserved in such a way: When the plate is lifted, the print is weakly visible. Then silver iodide reduces under the influence of light. The remaining finely decomposed silver on the fingerprint is visible then on a faint surface: the print is tarnished black or black brown colour. When the print has become visible, reaction should be stopped by rapid immersion in the developed photo fixation liquid, but then it should be rinsed in the water (Eriksons, Risplings 2000).

It should be taken into consideration that the valid papillary line pattern prints can be recovered only from skin area which is not wrinkled or covered with hair. The prints can be found on a surface of not embalmed corpse within 42 hours after touching the skin. However, the optimal time of searching prints after touching them is to 15 minutes of living human beings, on corpses to 4 hours if they are in the room. If a corpse was in the environment with the temperature of 6°C, the optimal time is to 16 hours. This should be taken into consideration to evaluate quickly as possible the necessity of searching of prints on a human skin. In general the processing of prints by iodine fumes is considered to be an inert method that allows using any other method for the further research. However, the processing with iodine cannot be longer than 5 minutes, as well as iodine prints cannot be fixed using 7,8 benzoflavone liquid because then the further processing of prints will be not possible. Iodine vapour is very toxic and generally not effective if the print is older than 24 hours (Čentoricka 2002).

Whereas, in their article “Iodine& A-naphthoflavone for Visualising Fingerprints on Human Skin.” researchers D.Wilkinson and A. Misner indicate that in the process of research by fuming a human skin with iodine fumes for 30 seconds where latent papillary line pattern sprints can be located it possible to see brownish finger outlines. Of course, iodine also reacts with a background skin, but letting it disappear for a few seconds the contrast between the visualised print and the background is enhanced. A-naphthoflavone is dissolved in chloroform or cyclohexane liquid and is dispersed on the surface. When A-naphthoflavone comes into contact with iodine it turns blue. Thus, it is easily visible on a pale, fair skin. The application of the method is limited on the blackish skin (Wilkinson, Misner 2003).

**Conclusions**

Having analysed the opinions of the researches mentioned about papillary line pattern print transfer methods the author concludes that although each method is determined in sequence, but

when it is about a human skin as a research object, each case requires individual approach, even despite the fact that situations and conditions may be similar.

In the author's opinion latent papillary line pattern print transfer methods should be divided in to two groups: methods applied on a living human skin and methods applied on a skin of a deceased person. The range of methods applied on a human skin is limited by the condition that some reagents used are very toxic and are not allowed to be used because their usage endangers the health and life of a person. The next factor of applying the methods is an expert's skills, know-how and experience in application of a particular method.

The author concludes that there are such positive aspects of the direct transfer method application: repeatability of transfer; application on a living human skin and on a deceased person's skin; application both on a crime scene and in the laboratory; no additional and complex materials and equipment are necessary. But, on the other hand, the author mentions as negative aspects that it is necessary precisely to locate the prints in order to transfer them wholly not partially. This is not possible if the print is no visible. There is a risk of damage or destruction of probable prints if in the process of transfer the material the print is transferred to glides; pressure strength used for transfer – higher pressure means a higher possibility that a structural pattern of a skin will be transferred more distinct and will suppress the possible papillary line pattern prints and prints will smudge. In the author's opining the mentioned above clearly confirms the fact that for applying transfer method very good skills and feelings are necessary directly at the moment of latent papillary line pattern print transfer because it determines the capabilities of the further research and visualisation aimed to identify a person.

Positive aspects of application of iodine-silver plate transfer method are: repeatability of transfer; the location of a print is visible before transfer. The author mentions as negative aspects that iodine fumes are toxic and it is not recommended to apply them for visualisation of papillary line pattern prints on a living human being skin; due to their toxicity it recommended to use them in the laboratory; temporary visibility of visualised prints and fixation. Thus, in the author's opinion iodine fuming for visualisation of latent papillary line pattern prints can be applied only under the laboratory conditions not only because of their toxicity, but also because of applied materials and technical equipment.

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# PEDAGOĢIJA / PEDAGOGY

# THE DEVELOPMENT OF CHILDREN'S MUSICAL CULTURE AT AN EARLY SCHOOL AGE: THEORETICAL ASPECTS

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**Abstract**

**The development of children's musical culture at an early school age: theoretical aspects**

***Key words:*** *development of children's musical culture, primary education, music pedagogy, cultural-studies approach*

A necessary prerequisite for a full development of child's personality, of his/her creative, artistic and aesthetic potential is child's initiating into the world of musical culture which, to a great extent, is provided by the system of music education. This paper presents the analysis of scientific literature on the development of children's musical culture at an early school age and deals with defining its theoretical and methodological basis. The author's long-time pedagogical practice in music education institutions and the analysis of the conceptions offered by researchers of musical culture allow him to maintain that the development of musical culture is an integral part of education and formation of child's personality. The topicality of the theme lies also in the fact that children's musical culture at an early school age in the 21st century, under the research in this paper, is a novel and little investigated human spiritual space, which requires rethinking of many musical, social and cultural phenomena within the framework of cultural-studies approach. In the paper, the characteristic features of children's musical culture have been analyzed and the need to explore this phenomenon has been identified and substantiated.

**Kopsavilkums**

**Agrīnā skolas vecuma bērnu muzikālās kultūras attīstības teorētiskie aspekti**

***Atslēgvārdi:*** *bērnu muzikālās kultūras attīstība, pirmsskolas izglītība, mūzikas pedagoģija*

Viens no svarīgākajiem nosacījumiem pilnvērtīgai bērna personības izaugsmei, viņa radošā, mākslinieciskā un estētiska potenciāla attīstībai ir bērna iesaistīšana muzikālās kultūras pasaulē, ko lielā mērā nodrošina muzikālās izglītības sistēma.

Šajā rakstā analizēta zinātniskā literatūra, kas veltīta agrīnā skolas vecuma bērnu muzikālās kultūras attīstības pētījumiem, kā arī tiek noteikti šīs attīstības teorētiskie un metodoloģiskie pamati. Pamatojoties uz savu daudzgadējo pedagoģisko praksi muzikālās izglītības iestādēs un veikto muzikālās kultūras pētnieku koncepciju analīzi, raksta autors uzskata, ka muzikālās kultūras attīstība ir neatņemama muzikālās izglītības un bērna personības veidošanās sastāvdaļa. Tēmas aktualitāte izriet arī no tā apstākļa, ka darbā pētītā agrīnā skolas vecuma bērnu muzikālā kultūra 21. gs. sākumā ir jauna un cilvēka garīgajā telpā maz pētīta tēma, un tā prasa daudzu mūzikas, sociālu un kultūras fenomenu pārskatīšanu kulturoloģijas pieejas ietvaros. Rakstā analizētas bērnu muzikālajai kultūrai raksturīgās īpašības, noteikta un pamatota šī fenomena pētīšanas nepieciešamība.

## Introduction

Music in primary school is one of the basic subjects that provides acquiring art as a spiritual heritage, moral standard and way of life of the humankind. The experience of emotional-imaginative perception of music, knowledge and skills acquired at learning it, the initial mastering of different kinds of musical activity contribute to understanding the inseparable interrelation between music and life, to the comprehension of world's cultural diversity. Music embodies a vast world of ideas, thoughts, images; it develops imagination, emotionality, thereby promoting the formation of child's spiritual world. The emotional experience gained in the sphere of music broadens the experience of life, orients children towards lofty moral, spiritual values, and forms their individuality. Human's need for communication with music is not an accidental phenomenon.

This is a way of life whose foundation is laid in an early childhood. The Hungarian theoretician and musician Kodaly (1983) asserted that a bad taste can hardly be corrected, while an early-developed good taste can hardly be spoiled, but the culture of a higher order, able to span broad masses, is attainable only through school.

One of the most important factors for the humanization of the school-life is to saturate it with music. Thus, education is viewed as a powerful factor of culture which should contribute to the development of child's self-identity, potential and abilities. Society's destiny depends on what cultural experience has been inherited in childhood, which aspects of culture become priorities. Therefore the question arises about the importance of developing children's musical culture, about its significance for developing general psychological properties (thinking, imagination, attention, memory, will-power) in order to teach emotional responsiveness, moral and aesthetic needs, namely, in order to shape an intelligent child's personality. Numerous scholars carrying out the research on the formation of musical culture (Matonis 1991; Aliev 1998; Schkolar 2001; Piliciauskas 2002; Zalys 2002; Leonhard 2005; Rinkevicius 2006; Allen 2007; Naidorf, Kusek & Passman 2009; Thall 2010; Brabec & Brabec 2011; etc) emphasize the active, almost spiritual side of child's musical activity where personality's musical culture is treated as the result of the performed creative activities, the subject that produces changes beyond and within oneself. Musical culture is an indispensable prerequisite for a full development of child's personality, of their creative potential, which, to a great extent, is provided by the system of education.

However, scientific research on theoretical studies of this phenomenon is insufficient. Therefore, the *aim* of this paper is to investigate the development of junior-age children's musical culture on the basis of scientific works by various scientists and by applying such *methods* as: extensive analysis and generalization of scientific literature *within the frame of cultural-studies approach.* The research theme is multi-disciplinary therefore the analysis of children's musical culture at an early school age is impossible without attracting a number of fundamental disciplines. They are: cultural studies, philosophy of culture, philosophy of music, history of music, music studies, semiotics, hermeneutics and others. The research on the influence of musical culture upon a child is almost impossible without involving psychology of music, social philosophy, sociology, aesthetics, psycho-physiology and other sciences.

**The Nature of Children's Musical Culture at an Early School Age**

Children's musical culture starts forming at an early age. Therefore it is vital to provide for a child a musical environment charged with positive emotions since early childhood. In the result of a well- organized musical activity in childhood, child's emotional sphere, the need for music and simple judgments about music are formed. The development of musical culture is especially significant for a spiritual and moral education of children, for a consistent broadening and

strengthening of their inner world, values, for developing their ability to evaluate and build up relationships towards oneself and other people.

The concept "children's musical culture at an early school age" is quite common in literature on methodology (Chominski & Lissa, 1955; Sokhor 1980; Kodaly, 1983; Rinkevicius 2006).

Though the research on musical culture of child's personality has been started comparatively recently, the contemporary science provides already numerous approaches to the concept "musical culture", however until now it still does not have a specific and precise definition. In cultural-studies the concept "musical culture" is used at characterizing different kinds of musical activity and its results (musical compositions, their creation, performance and perception), and also at characterizing people's musical consciousness formed during the process of this activity (interests, needs, positions, emotions, feelings, aesthetic assessments, tastes, ideals, opinions, theories); besides, the development of the emotional and sensual sphere of child's psyche also takes place (subtlety, sensitivity, ability to understand the depth of one's own and other people's emotional experiences through music) (Rinkevičius 2006; Kuzmickas 2013).

Musical culture in philosophical understanding, which enables viewing its formation within the unity of history-dependent aims and tasks, has been discussed in works by thinkers of the 18th - 19th centuries (Kant, 1790; Hegel, 1827; Schopenhauer, 1841; etc.), but knowledge about various sides and phenomena of musical culture has been reflected for the first time in research by the authors of different countries (Adorno 1958; Blaukopf, 1968; Knepler 1970; Marythy 1974; Webern, 1975 and others).

Lithuanian scientists (Jareckaite 1993; Katiniene 1998; Kievišas, Gaucaite 2000; Piliciauskas 2002; Velicka 2002; Balcytis, 2008.) also pay much attention to both the development of children's musical culture and problems concerning it. They have made a valuable contribution to solving these issues.

Documents on the reform of music education in the Republic of Lithuania (2010) emphasize the need to search for and introduce constructive ideas, positive practical experience, as well as the need for a constant renewal of the structure, content and methods of teaching. Changes in music education are important, since the level of children's musical culture at an early school age is quite low, and the aesthetic values are deformed, because the contradictions within the paradigms of classical education have reached the level where the education based on them can no longer satisfy the needs of personality and society. Therefore an effective development of children's musical culture at an early school age is topical and essential, and new methods of developing musical culture must serve this purpose.

The Dutch philosopher Huizinga maintains that initiating children at an early school age into the world of musical culture leads to the understanding of beauty, since both those who perform and

those who listen experience aesthetic delight. The abundance of signs in culture, the nature of artistic activity and the aesthetic potential of activity as represented in the philosophical conception by Huizinga bring into the focus the ideas of those researchers who interpret performing as a mechanism for imparting values to musical culture (see Petri, 2015). This gives the grounds for agreeing with the assumption that a child can be drawn into musical culture only through the process of creative activity.

Webern (1975) was searching for an answer to the question *What sense is it for a music-lover to increase the level of musical culture?* In the result of his investigations, he arrived at the conclusion that the sense lies just in learning to spot the depths behind the banalities. Such statements mean much today, since a contemporary child is obliged to live in the space of sounds (music) often having dangerous and uncontrollable aggressive background, which puts on the agenda such problems as the problem of protecting sound environment, the problem of maintaining physical and psychic health of the younger generation, the problem of the ecology of musical culture and a number of other problems.

Lissa (1957) states that every epoch defines music differently, but the most important functions of musical culture are the communicative and aesthetic functions, and the function to reflect human's inner world as well. Consequently, musical culture – is a totality of material, spiritual and social phenomena, objects, processes and knowledge about them.

According to Kodaly (1983), children's education would not be comprehensive without teaching them musical culture, and such education cannot be only a family's concern, it must be also the most important national task. He asserted that music is vital for a harmonious development of human's personality, and "it is not the object of luxury you can do without". Principles laid down by this outstanding musician have become the basis of the system of musical education adopted now in Hungary.

Such scholars in music science as Gruber (1941), Cukerman (1972) Sokhor (1980), and others also emphasize the great importance of children's musical culture at an early school age. Thus, Gruber made a distinct division between the notions "music" and child's "musical culture". He said that "musical culture" is a broader concept than "music", since it includes various manifestations of music itself and the areas of its influence as well, in a word – the whole sphere of music making, the whole sphere of musical practice.

Merriam (1964) said that no other human cultural activity is so all-penetrating. Musical culture often controls and forms child's behavior. Cross (2003) and Olsson (2006) stated that musical culture may be characterized as music which carries a message and fulfills its function.

They raised the issue about the individual understanding of different music in respect to individual's education, cultural experience and personal musical experience.

Consequently, the basic features determining the quality of children's musical culture at an early school age are the participation in musical creativity via different forms of musical activity, the development of moral and aesthetical sides of individual's personality under the impact of his/her musical and cultural potential, the high level of knowledge and notions about assessment in music. The development of children's musical culture at an early school age during the educational process has to become a purposeful activity of music education. The solution of this problem is extremely topical due to the fact that the defining of most optimal conditions and finding the most effective ways of solution are vital for a progressive development of the whole system of music education.

Telcharova (1991) is of a similar opinion, saying that musical culture is a cultural-creative activity, whose process and result spiritually enriches the society with values of art and specimens of culture, which, in turn, contributes to child's self-realization as the subject of cultural process.

Kabalevsky (2004) offered a new in principle pedagogical conception on music education where he related musical culture of child's personality to the spiritual comprehension of musical art. In his works, the author expressed the idea about the development of children's ability to perceive music as a live imagery art created by life and indissolubly linked with life. He tries to develop a special "sense of music" enabling people to perceive it emotionally, distinguish in it what is good from what is bad. On the basis of the contemporary paradigms of education, the author of this paper disagrees with Kabalevsky's opinion about "the good and the bad" in music. In the light of the present day, we can assume that the author has implied qualitative and non-qualitative music, however this is only a hypothesis and the question remains open for discussion. Kabalevsky considered also that it is just musical literacy that is musical culture, and it manifests itself in the quality of music perception. However, the author of the paper does not share this opinion. Musical literacy alone cannot be the measure of musical culture, since musical culture is multi-faceted while musical literacy is only one component element of it. Kabalevsky was the first who set as the major *aim* of music education – the development of children's musical culture as an integral part of their general spiritual culture.

The analysis of works by numerous authors leads to the conclusion that *creativity incorporating different kinds of musical, artistic, aesthetic activity is the integrative feature of culture.* At organizing the educational process of children's musical culture at an early school age we have to take into account the fact that this process is a system oriented towards integrating all elements, factors and components to make a personality richer.

**Criteria of the Development of Personality's Musical Culture**

The outstanding Lithuanian scientist, professor Rinkevičius (2006) has asserted that music is a phenomenon of culture, that musical culture is individuality's need and ability to choose, feel,

accept and understand the spiritual world encoded in music – the world of feelings, aspirations, attitudes and ideals. The most important features of children's musical culture are the spiritual influence of music, the desire and ability to "read" someone else's music and its inexplicable and mysterious world, to feel it and understand it. To achieve this the following tasks have to be performed:

- to educate pupils to feel love for beautiful music, to teach them to enjoy it;
- to arouse their desire and ability to sing and make music;
- to develop students' understanding of music and their culture of thinking;
- give specific knowledge of music;
- to develop their creative abilities.

In Rinkevičius' (2006) opinion, the content of music education consists of both the material and spiritual objects of musical culture: music compositions, theoretical knowledge of music, means of musical activity etc.

However, Cukerman (1972) considered that musical culture is part and parcel of art culture of the respective society in some specific period of time, and it represents the totality of values of music art accumulated by this society, as well as the activities of the people and the respective institutions oriented towards producing, preserving, distributing and consuming these values. Cukerman thought that functioning of musical culture is determined by the interaction between several factors:

- character and level of professional musicians' activity;
- situation in music education and in education of the population, including the system of professional training of musicians and the system of educating broad masses of population, as well as adequate material resources (concert and theatre buildings, means for music reproduction, polygraphic and trading institutions);
- frequency of communication with music by different groups of listeners;
- degree of their musical taste maturity.

The researcher of children's musical culture, Aliyev (1998) has identified the components of musical culture of child's personality: the individual socio-artistic experience determining the rise of high musical needs as an integrative quality, whose indicators are:

- "musical development" (love for music, emotional attitude, need for music, powers of musical observation);
- music education (skills of the techniques of musical activity, knowledge in art studies, a developed musical taste, critical attitude to music).

Petrova (1984) singles out the following components of children's musical culture:

- aesthetic perception;
- aesthetic taste;
- aesthetic needs and interests;
- aesthetic feeling;
- artistic-creative abilities;
- artistic-imaginative thinking.

Consequently, we can say that children's musical culture at an early school age is a multi-form, complex concept, a total combination of qualities of child's inner musical culture and musical-aesthetic activity. However, according to pedagogue and musician Shkolyar (2001), the fact that children are "advanced" in comprehending different sides of music does not ultimately form musical culture. The components of musical culture are to be generalized, they have to pithily express the most essential things in it, and be general in relation to the particular. Empirical data provided by scientists show that in the process of growing up and developing their musical culture the children's attitude to music acquires personal qualities, it becomes more conscious and more motivated. Shkolyar (2001) stresses that child's formation as a creator, as an artist (and just this is the development of musical culture) is impossible without the development of the fundamental abilities – the art of listening, art of seeing, art of feeling, and art of thinking. In author's opinion, the development of personality is impossible outside the harmony of personality's "individual cosmos" – I see, hear, feel, think, act.

As regards to musical culture of personality, Shkolyar (2001) thinks that the basis for its assessment may and must be the progress in child's spiritual world, developing due to the changes in the moral-aesthetic content of music in child's thoughts and feelings. In the structure of personality's musical culture, the scholar singles out the following components of children's musical culture at an early school age: musical experience, musical-creative development and musical literacy, which Kabalevsky (2004) has called "in fact musical culture" and which, indeed, is its core, its content expression.

**Conclusions**

The analysis of scientific works by different authors written on the theme "the development of children's musical culture at an early school age" allows us to maintain that the contemporary science provides numerous definitions of the concept "musical culture" viewed from different positions. However, science and praxis need a new interpretation of this phenomenon. It is not a matter of chance that the contemporary research testifies to the fact that the development of musical culture should be started as early as possible. The process of the formation and development of musical culture is a system oriented towards combining all elements, factors and components for

developing and enriching child's personality; moreover, each particular component exists per se and in the interaction, intercommunication and mutual enrichment with other components. This contributes to building the foundation for children's musical culture as part and parcel of their general spiritual culture in the future.

This paper is concerned with a theoretical research on the development of children's musical culture at an early school age as a system, which has resulted in a deeper understanding of its nature and peculiarities. In the course of the research, the author offers his own definition of musical culture of children's personality: a totality of moral and cultural values in all of their multiformity. The author interprets musical culture as a dynamically developing rather than a static phenomenon.

During the process of the research, the author has identified criteria as the structural elements of the system of the development children's musical culture at an early school age: aesthetic perception, aesthetic taste, aesthetic needs and interests, aesthetic feeling, artistic-creative abilities, artistic-imaginative thinking. In order to achieve an all-round development of child's personality through musical culture a pedagogue has to: a) to educate pupils to feel love for beautiful music; b) to teach them to enjoy it; c) to arouse their desire and ability to sing and make music; d) to develop pupils' understanding of music and culture of thinking; e) to give specific musical knowledge; f) to develop their creative abilities.

The individual socio-artistic experience which determines the emergence of high musical needs as an integrative quality whose indicators are: "musical development" (love for music, emotional attitude, need for music, musical power of observation) and music education (skills of techniques of musical activities, knowledge of musical studies, a developed musical taste, critical attitude to music). The author considers that discovering of definite tendencies and regularities in the functioning of musical culture system allows defining prospects for the development and improvement of the society, which, in turn, enables to impact the course and development of musical culture. A further research on the development of children's musical culture at an early school age might enrich pedagogical knowledge with new facts and data on the subject under the research, which, in turn, might promote further development and perfection.

In future, the author intends to develop the criteria, levels and indicators of the development of musical culture of child's personality at an early school age, and also elucidate in what way educational programs of music education institutions are oriented towards the development of children's musical culture.

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# THEORETICAL BASIS FOR THE DEVELOPMENT OF PRESCHOOL CHILDREN'S CREATIVITY

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**Abstract**

**Theoretical basis for the development of preschool children's creativity**

***Key words:*** *creativity, development, preschool children, music pedagogy*

The paper focuses on the problem of developing the preschool children's creativity, gives the analysis of the nature of creativity as viewed by psychology and pedagogy, and looks at the classifications and criteria as well as pedagogical aspects of developing creativity. Using the analysis of conceptions provided by various authors and her own pedagogical experience as the basis, the author of the paper maintains that creativity is inseparable from the process of comprehension, flexibility of mind, innovations, originality and simply from the possibility of being oneself. A vital factor for the development of children's creative abilities is its complex character, namely, a simultaneous perfection of several abilities which mutually complement one another. Thereby "multi-plane character and diversity" of activities in which a child is involved simultaneously appears to be one of the most important prerequisites for a complex and all-round development of child's abilities.

**Kopsavilkums**

**Pirmsskolas vecuma bērnu kreativitātes attīstības teorētiskie aspekti**

***Atslēgvārdi:*** *kreativitāte, attīstība, pirmsskolas vecuma bērni, mūzikas pedagoģija*

Šajā rakstā iztirzāta pirmsskolas vecuma bērnu kreativitātes attīstības problēma, tiek analizēta kreativitātes būtība no psiholoģijas un pedagoģijas viedokļa, dotas klasifikācijas un kritēriji, kā arī aplūkoti radošo spēju attīstības pedagoģiskie aspekti. Pamatojoties uz dažādu autoru koncepciju analīzi un arī uz savu pedagoģisko pieredzi, raksta autore atzīmē, ka radošā darbība ir ciešā saistībā ar izpratnes procesu, prāta elastīgumu, inovācijām, oriģinalitāti un vienkārši ar iespēju būt pašam. Bērnu radošo spēju attīstībā svarīgs faktors ir apstāklis, ka attīstība ir komplekss process, proti, vienlaicīga vairāku cita citu papildinošu spēju pilnveidošana. Turklāt aktivitāšu veidu "daudzie līmeņi un dažādība", kurās bērns iesaistās vienlaicīgi, ir viens no svarīgākajiem priekšnosacījumiem viņa dotību kompleksai un daudzpusīgai attīstībai.

## Introduction

At the beginning of the 21st century under the influence of the ever-changing world, a new type of a person's culture is being formed: free-thinking, conscious of himself/herself as a person and having found his/her place in the world. Within this context, the aim of modern education is the realization of opportunities inherent in the child through the development of his/her individuality and personality by education. Under the conditions of a rapidly changing society, the implementation of this aim requires new ideas and approaches to the music education field. Music classes are considered an important means in forming aesthetic and moral sense, developing children's consciousness and abilities. Childhood is the most optimal time for the initiation of a child into the world of beauty.

*The National Strategy for Education in Lithuania 2013 – 2022* emphasizes the opinion that education has to enhance strengthening of society's creative power. In order to implement this requirement an in-depth scientific research is needed, coming up with practical recommendations for pedagogues concerning creating conditions for the development of preschool children's

creativity and helping to develop their creative abilities. The Nobel Prize winner Lee Yuan Tseh says that until now creativity has been paid little attention to in education (Kilgour 2006).

Creativity, human creative abilities, creative personality, creative solutions to difficult problems are relevant research areas. What is creativity? What is a creative person? What is happening in the brain during creative activity? These and similar questions worry many thinkers.

The modern **conception** of creativity has been formulated in works by Csikszentmihalyi (1996), Simonton (2000), Amabile (2001), Sternberg (2006), Ponomarev (2006), Runco (2010), Cropley (2011). Some scholars (Cropley 2000; Sternberg 2010) have studied creativity as a kind of intellectual quality. Other scientists have explored it as a personality feature (Maslow 2006; Jovaiša 2007), still others created their own educational systems to develop the ability of creative thinking (de Bono 2008; Altshuller 2010).

In recent decades, creativity has received close attention of many scientists (Miller, 2001; Baille, 2002; Chenfeld 2002; Jalongo 2003; Renzulli 2003; Fodor 2004; Cortello 2005; Middleton 2005; Nijstad 2006; Akinola 2008; Caroff 2008; Hunter 2008; Levine & Perlovsky 2008; Smith 2008; Beghetto 2009; Dreyfus 2009; Goldstein 2009; Harrison 2009; Lubart 2009; Matthew 2009; Memmert & Perl 2009; Nelson & Rawlings 2009 and others).

Lithuanian authors have also investigated this problem (Almonaitienė, 1997, 2000; Juodaitytė, 2002; Petrulytė 2005; Grakauskaitė-Karkockienė 2006; Beresnevičienė, Beresnevicius, Bardinskienė & Gumuliauskienė, 2007; Jovaiša, 2007 and others).

Despite the keen interest in and the abundance of publications on this theme, the phenomenon of creativity at a preschool age still remains an unexplained phenomenon. Therefore, **the aim of the paper** is to explore and describe the specific features and the role of creativity in the process of the development of child's personality at a preschool age. This is just the age when the foundation for man's future life is being laid and children's personal, intellectual, physical, artistic-aesthetic and creative development is provided. At this stage child's initial spiritual values, understanding of the world and the sphere of interests are being formed. The formation of child's personal culture implies the development of the experience of value-oriented attitude towards the world.

**The principal conceptions of preschool children's creativity**

Creativity is a concept found today in different documents on education in Lithuania. In the "National Program of the Development", the stimulation of creativity is planned for 2014 – 2020, and it is also planned in the program "Lithuania 2030" and in the National strategies for education (Lithuanian National Strategy for Education 2013 – 2022 as well as in the strategic documents of the European Union (Arts and Cultural education at School in Europe, 2009 and in other documents). The context in which the definition of creativity is used is also extremely diverse – from the economy of the European Union to specific educational programs. The strategy "Europe

2020“maintains: “The EU economy is based on innovations and creativity, it is important to satisfy children’s curiosity and stimulate their creativity, to awaken creativity in the society and in its every member.”

As a quality of personality creativity involves openness to new experiments, impressions, independence, flexibility, dynamism, originality etc. Many researchers (Runco 2004; Girdzijauskiene 2005; Garkauskaite - Krakockiene, 2006; Jovaisa 2007) consider that creativity is a totality of abilities, a complex of intellectual and personal qualities incorporating a personal approach to life. It is worth mentioning that such individual features of a personality as originality, flexibility, facility, inquisitiveness, sensitivity, energy and independence, ability to resolve problems and take up new challenges determine creativity to a great extent. Creativity as a result involves a skill of producing something new, unusual and original (Garkauskaite-Karkockiene 2006).

The product of creativity may be different results of activity: ideas and material products of various spheres (art, science, everyday life). Such views on the diversity of creativity are typical of the educational process in preschool education. The peculiarities of children’s creative development depend to a great extent on how a teacher interprets creativity.

To define creativity in preschool education a detailed conception about it (Torrance, 1988; Amabile, 2001; Sharp, 2004) is needed, according to which every child is an artist in a wide sense of this word, and everyone has a creative potential. Besides, at developing this potential more time is devoted not to the process, but to the assessment of product’s quality. Having summarized the numerous definitions of creativity, Butkiene (2004) arrived at the following conclusion: creativity is a skill to produce a new, unusual product which “unfolds” when, as a rule, in the moment of inspiration you look deeper into the problem. We can interpret creativity as follows:

- boundless diversity in comprehending different information;
- great flexibility at analysing and forming decisions and unusual associations;
- transformation of information on the basis of all the knowledge, experience and imagination;
- creation of a new integrated product with all specifications, importance and exceptionality typical of it.

Jonyniene (2004) has formulated the nature of creativity as individual’s predisposition towards modelling something new, original and innovative. Its result is a new, unexpected combination.

Creativity is an essential, flexible human feature allowing to impart different meanings to things or phenomena and adopt different solution strategies; this is the opportunity to freely create new ideas and quickly, precisely formulate them, and to easily find solutions as well. A carefully

and analytically thinking creative personality is able to see the core of the phenomenon (Girdzijauskiene 2003).

Garskauskaite-Karkockiene (2002) emphasizes that the effectiveness of problem solution depends more on a specific ability to use information quickly and in various ways rather than on knowledge and skills. According to her, this is the function that was called creativity. Becker-Textor (2001) maintains that the term "creativity" does not yet have an unequivocal explanation and is used to denote unusual ways of problem solving, of identifying and search for new, original problem solving ways. Therefore, speaking about creativity, a constant search for a subjective novelty is needed.

We have to admit that children's creative manifestations can be stimulated through different methods. At developing child's creativity, it is of crucial importance to perfect child's critical thinking (Scott, Leritz & Mumford, 2004; Copple & Bredekamp 2009; Jautakytene 2013). The possibility to manipulate information, to draw and to tell stories, to play role games greatly contributes to the development of creativity (Crafts 2000; de Bono, 2009; Runco 2010). Children's creativity and imagination can be stimulated by questions promoting the development of divergent thinking; for instance, by asking open-type questions, encouraging to avoid standard answers, modelling creative thinking and behaviour, encouraging to experiment and giving praises to those who have found unexpected answers (Torrance 1988; Garkauskaite-Karkockiene 2006; de Bono 2009).

Scholars are of the same opinion that preschool education provides a child with maximum opportunities for self-expression and the development of creativity. Gardner (1993, 1999) states that every child is born with a creative potential, and that the age between three and five is the most essential period for the development of creativity. Children's creativity predetermines not only the innate self-expression, but also the need for knowledge, which, in turn, stimulates self-knowledge and knowledge about the world. The experience a child gains during the period of growing up often predetermines the whole course of a further development of his/her personality. Consequently, it is vital to start the development of children's creativity immediately, as soon as a child has made the first step. In the field of education, a teacher plays the major role, since children's creative activity and the end result of this activity depend on teacher's beliefs, creative orientation and ability to involve children in creative activities. Therefore, a more detailed analysis of how teachers of preschool education institutions understand creativity and how they actually work with children might contribute to identifying the ways of increasing creativity in the sphere of preschool education.

The strategy "Lithuania 2030" mentions that imagination, critical thinking, stimulation of people's creativity are to be considered an important resource of the country. According to Jonse &

Wyse (2013), a wish to develop a creative personality has to motivate and inspire teachers. The majority of the authors associate creativity with divergent thinking. The founder of modern research on creativity, Guilford (1987), related creativity to free thinking, flexibility, non-stereotypes and search for unusual problem solutions. Torrance 1987, too, studied divergent thinking as a characteristic feature of creativity. He thought that a creative personality is characterized by a flexibility and facility of thinking, originality, and by the level of specification and fullness of revealing. This implies that creativity manifests itself in child's ability to easily reconstruct the current experience by using associations, in the ability to easily create, develop and put into practice new ideas.

Other researchers (Amabile 1997; Grakauskaite-Krakockiene 2006) consider that creativity is the ability to use the experience, information, knowledge accumulated in a different situation or in a different environment, i.e. to think and act outside the framework of the mundane. Creativity involves also the ability to identify the interdisciplinary link which at first sight looks different, but having identified this link, to create new ideas, new behavior, to choose other than usual strategies for action.

**Factors Inducing Creativity**

Which are the factors that inhibit or encourage creativity? What are the barriers the creative thinking faces and how to overcome them?

The scholars (Guilford 1987; Petrulyte 2001; Grakauskaite-Karkockiene 2006; Pilkauskaite-Valickiene 2013) mention the following creativity inducing factors:

- child's experience;
- autonomy;
- independence;
- opportunity of free choice;
- stimulation of self-esteem;
- formation of the motivational, emotional and value system of education and creative qualities of personality.

The influence of the environment upon creativity is especially emphasized (Souza, 2000; Grakauskaite-Krakockiene 2006; Beghetto, 2007; Pilkauskaite-Valickiene 2013; Girdzijauskiene 2013). Children's creativity manifests itself only in a safe environment characterized by respect and trust, in the environment where children's innovations are encouraged. Jeffrey (2004), Cropley (2009) and Cheung (2012) also assert that creativity is stimulated in the environment where there are enough means as well as time.

Literature provides various information on factors inhibiting the development creativity. Gage and Berliner (1994) mention the factors involving the greatest risk for children's creativity:

- prejudice and fear to be mistaken;
- traditions;
- insecurity;
- lack of confidence in one's own forces;
- lack of support;
- nostalgia for conventional things;
- fear of changes.

Braziene (2004), Grakauskaite-Karkockiene (2006) and Pilkauskaite-Valickiene (2013) both agree about the above mentioned factors and also broaden the framework by adding to them:

- a negative pedagogue's reaction to criticism;
- lack of respect;
- constraints;
- unreasonable care for a child, oppressing child's own independence;
- conservative and meagre environment;
- overloaded educational plans;
- lack of time;
- great expectations;
- friends' intolerance;
- lack of confidence in oneself;
- fear;
- anxiety;
- psychological stress.

After summarizing the above said, it becomes evident that the factors contributing to the development of preschool children's creativity are a vital prerequisite for the self-development and self-realization of child's personality. Teaching organized on the basis of a creative activity provides a favorable environment for the development of personality's potential.

**Components of Creativity**

Since the time of Guildford and Torrance creativity has been traditionally treated as a skill. Most often, this is the prevailing approach to creativity. The latest research shows that creativity cannot be linked with only one human characteristic feature, therefore the search for its components has been carried out. Having analyzed works by different authors (Torrance 1988; Grakauskaite-Krakockiene, 2006; de Bono 2009), the following key components may be distinguished:

Table 1. **Components of Creativity**

| | |
|---|---|
| Internal motivation | The need to create for the sake of oneself, but not for the sake of other people's assessment, thirst for knowledge, inquisitiveness, need for novelty, playfulness, self-expression, communication. |
| Divergent thinking | Receptivity to problems, ability to identify and address them, to provide strategies for their solution, flexibility, originality, specification. |
| Tolerance towards ambiguity | No fear of risk, non-conformism, openness to new ideas, adaptation and good humor. |
| Concentration of attention | Creation of a product, devotion to the cause, relaxation. |
| Specific knowledge, skills and abilities | |
| General knowledge | Openness/broad perception, logical thinking, ability to analyze, synthesize, think, remember. |
| Knowledge | It is a starting-point of creativity because if you don't know anything about the sphere where you want to discover something new, you would not be able to create anything. |
| Development | Development of the style of thinking which would promote creating new viewpoints rather than observe rules established by other people. |
| Sensitivity to a problem | Ability to emotionally identify the problem and understand a situation. |
| Flexibility | A creative person is able to spontaneously adjust oneself to a new situation without concentrating much on the previous ones. |
| Originality | Being original involves having not only trivial but also intelligent ideas; these ideas deviate from the norm, they are multiform and unusual. |
| Sensitivity or heightened sensitiveness | An obligatory condition for creativity, a sensitive person is always open to and ready to accept what is going on and changing in the space surrounding him. |
| Ability to associate | A creative person is able to associate and create intercommunication, for instance, between things he has experienced before and those he observes at present; utopian ideas might cross his mind; he might produce crazy combinations. |
| Imagination | It is tightly linked with the ability to associate; all ideas are possible or impossible to the extent they are actually implemented; often they just remain in the imagination and dreams. |
| Humor | Creative people are often great optimists; those who possess a sense of humor are able to look at things from distance and be more objective; a sense of humor gives inner freedom. |
| Tolerance to conflicts | Conflicts are not blocked but handled. |
| Ability to analyze and synthesize | Reality is perceived through comprehension, discussion, analysis and experiments; a creative person wants to find a motive for satisfying his curiosity. |
| Facility | In the course of some period of time a lot of ideas and suggestions can be offered for the solution of the problem; a creative person is able to orally express his thoughts in detail and precisely. |
| Specification | Ability to take an insight into the core of the problem, to handle it differentially and intensively. |

The analysis of creativity components identified by various authors testifies to the fact that they all speak about the same qualities, and the difference lies only in their grouping. Most often the

authors are unanimous about such elements as: style of thinking and operation, motivation, adaptation and flexibility, knowledge and understanding, emotional orientation, enthusiasm, imagination, inquisitiveness and humor. All these elements are human psychological qualities which can be and must be developed.

**Conclusions**

Creative activity is one's own activity, the activity embracing reality changes and personality's self-realization in the process of producing material and spiritual values, and it contributes to broadening the boundaries of human's abilities. Creativity is inseparable from the process of comprehending, flexibility of mind, innovations, originality and simply from the opportunity to be oneself. An important factor in the process of developing children's creative abilities is a complex character, i.e. a simultaneous perfection of several abilities which complement each other. Moreover, the "multi-plane character and diversity" of kinds of activity in which a child is involved simultaneously appear to be one of the most essential prerequisites for a complex and all-round development of child's abilities. Creative abilities belong to the group which includes both educational and creative abilities proper. Creative abilities are interpreted as activities that determine the process of producing objects of spiritual and material culture, search for new ideas, discoveries and innovations. Children's creativity is based also on imitation which is an important factor for child's development, artistic abilities including. Child's creative imagination brilliantly manifests itself and is developed in different games, finding its concrete outcome in a purposeful conception of a game.

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# TEACHERS' CONTINUOUS PROFESSIONAL DEVELOPMENT AND USAGE OF ICT IN TEACHING/LEARNING PROCESS

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**Abstract**

**Teachers' continuous professional development and usage of ICT in teaching/learning process**

***Key words:*** *Teacher CPD model, ICT, Science and math teaching/learning process*

Acquisition of information communication technology (ICT) skills has become an integral part of the contemporary teaching/learning process. Ten years of experience of the Center for Science and Mathematics of the University of Latvia working in the field of teacher professional development shows that the teachers who have successfully mastered their ICT skills during teaching/learning process have accomplished several professional development stages since 2005. The first stage includes acquisition of various ICT usage tools, as well as identification of the resources available for the organization of the teaching/learning process in science and math. The second stage addresses development and enhancement of ICT skills for organization of the teaching/learning process and engagement of students with the content.

The purpose of the research is to observe ICT usage in the science and math teaching/learning process in a real classroom environment and to develop the next stage teacher continuing professional development (CPD) model according to the current needs. Lesson observations indicate: 1) limitation in ICT usage; 2) the need to create a next stage CPD training model, where teachers will be able to design their own lessons with purposeful application of ICT tools and resources in the teaching/learning process. The initial stage of the model is described in this article.

The research has been in progress since 2014 and is supported by National Research Program Project VPP 2014 - 2017.

**Kopsavilkums**

**Skolotāju nepārtrauktā profesionālā pilnveide un IKT lietojums mācību procesā**

***Atslēgvārdi:*** *skolotāju profesionālās pilnveides modelis, IKT, dabaszinātņu un matemātikas mācību process*

Informācijas komunikāciju tehnoloģiju (IKT) lietošanas prasmju apgūšana ir kļuvusi par neatņemamu mūsdienu mācību procesa sastāvdaļu. Latvijas Universitātes Dabaszinātņu un matemātikas izglītības centra desmit gadu pieredze skolotāju profesionālajā pilnveidē rāda, ka skolotāji, kas apguvuši un pilnveidojuši savas IKT lietošanas prasmes mācību procesā, kopš 2005. gada ir gājuši cauri vairākiem profesionālās pilnveides posmiem. Pirmais posms: apgūt prasmes lietot dažādus rīkus, kā arī apzināt dažādus interneta resursus, kas piemēroti dabaszinātņu un matemātikas mācību procesa organizēšanai. Otrais posms: attīstīt un pilnveidot IKT prasmes organizēt mācību procesu, kā arī iesaistīt skolēnus mācību procesā ar atbilstošu saturu.

Pētījuma mērķis ir, vērojot IKT lietojumu dabaszinātņu un matemātikas mācību procesā skolā, izveidot profesionālās pilnveides nākamā posma modeli. Stundu vērošana rāda: 1) IKT lietojuma ierobežojumus; 2) nepieciešamību izveidot nākamā posma profesionālās pilnveides modeli, kurā skolotāji paši spēj plānot un realizēt savās stundās mērķtiecīgu IKT rīku un resursu izmantošanu. Ir aprakstīts sākuma posms jaunajam profesionālās pilnveides modelim.

Pētījums turpinās no 2014. gada un tiek īstenots Valsts pētījumu programmas VPP 2014 - 2017 ietvaros.

## Introduction

ICT skills have become an integral part of the teaching/learning process in modern schools. Education experts focus on both the integration of ICT in the teaching/learning process and improving its efficacy when teachers and students use ICT (Becta 2006; Lemke, Coughlin & Reifsneider 2009). Supply with ICT equipment (computers, data loggers, sensors, interactive whiteboards, document cameras, clickers etc.) and support materials for the science and math classrooms for lower and upper secondary schools (grade 7-12) has been initiated and implemented in Latvia the period from 2005 to 2011 by support from EU structural funds. Teachers were offered courses for acquisition of ICT tools and software application skills.

The aim of this article is to analyze the purposeful of ICT usage in the science and math teaching/learning process in the schools involved in the research, as well as describe the next stage CPD model for teachers in that context. To achieve the aim, lesson observations were carried out as well as a review of previous research results and scientific literature.

In this article the authors: a) analyze targeted of ICT usage in the observed science and math lessons; b) give an overview of CPD stages for obtaining ICT skills, as well as focus on a new stage in CPD for science and math teachers.

**Methodology of Research**

The research has been in progress since 2014, and so far 64 science subject lessons (physics, chemistry, biology and geography) have been observed in grades 7 – 12. The study involved 10 schools from the same municipality in Latvia. The schools represented all types – small rural schools, large urban schools, as well as gymnasiums. A group of trained experts from the Science and Mathematics Education Centre of the University of Latvia carried out lesson observations. The aim of the research is to find answers to the following questions: 1) how purposeful was the usage of ICT tools in the science and math teaching/learning process; 2) what information do CPD course developers obtain.

The expert transcribed the teaching/learning process during the observation: he/she described activity in the classroom specifying teacher and student performance and actions. The lesson description was then used to analyze: 1) how the planned achievable outcome is communicated to the students; 2) how teacher and students determine if the planned outcome is achieved; 3) how effectual are the methods used in the lesson; 4) how deep is students` engagement in the teaching/learning process; 5) cooperation among students as well as between student and teacher; 6) how purposeful is the usage of ICT (if at all) in the lesson.

To identify the level of engagement with ICT by students in the classroom, availability of ICT tools for active construction of knowledge and development of new products an adapted rubric was used to analyse the data collected during lesson observation: (Table 1) Use of ICT for Learning (Microsoft Partners in Learning).

The experts transcribed the conversations with teachers after the lesson. Comments were coded and content analysis was used. Numerical data were processed using R.3.1.2. software.

Table 1. **Usage of ICT for Learning: Rubric**
(Microsoft Partners in Learning (2012). 21CLD Learning Activity Rubrics. ITL Research)

| Level | Criteria |
|---|---|
| 1 | • Students do not have the opportunity to use ICT for this learning activity |
| 2 | • Students use ICT to learn or practice basic skills or reproduce information, but they are not constructing knowledge. |
| 3 | • Students use ICT to support knowledge construction, but they could also construct the same knowledge without using ICT. |
| 4 | • Students use ICT to support knowledge construction and the ICT is required for construction of this knowledge. |
| 5 | • Students do create an ICT product for authentic users. |

**Usage of ICT in teaching/learning process**

Over the past decade a number of comprehensive studies on the use of ICT in the teaching/learning process have been carried out. The ICT impact report (European Schoolnet 2006) summarized the results of 17 international studies on the use of ICT in the teaching/learning process and its impact on student academic achievement. Some of the science related studies conclude the following: 1) the use of ICT in the teaching/learning process increases student motivation to engage in the learning process, develops digital literacy, independent learning and promotes cooperation. Students can take on more responsibility for learning, because they can master ICT usage skills at their own pace according to their desires and needs (Rodrigues 2010); 2) teachers can more readily differentiate the teaching/learning process by working with both advanced and weak students (Dias 1999).

Student basic skills, higher-level thinking skills, ICT skills, cooperation skills, and student involvement in the learning process with ICT have been assessed (Lemke, Coughlin & Reifsneider 2009). Studies show that investment in technology acquisition and its use is not sufficient alone to teach young people the necessary skills for today's competitive labor market. The availability of technology does not automatically ensure a change of a teacher's pedagogical approach (Campbell & Martin 2010).

**Context of Teacher Continuous Professional Development in Latvia**

The change and improvement in the standards and curricula of math and science subjects in primary and secondary education were implemented in Latvia by EU financial support.

- Development of learning content and teacher continuing education in science and mathematics subjects (2005 – 2008).
- Science and mathematics (2008 – 2011).
- Resource base and equipment for quality learning of science and mathematics subjects (2008 – 2011).
- Continuing teacher professional development (2012 – 2013).

During the development projects (2006 – 2011) science and mathematics teachers attended continuous training on application of ICT which focused on introducing technologies and practical skills of ICT usage in the classroom. It was one module of the program and it covered planning, evaluation, laboratory test, organization of modelling as well as other significant teaching/learning process related questions. Teachers who lack confidence and knowledge about a particular tool do not offer the students an option to use it in their lessons. The above mentioned training is first stage professional competency development program, a knowledge transfer model (Table 2) that helps teachers to understand the operation of a particular tool and learn the skills to work with it. The Internet offers different resources - videos, animation, virtual laboratories, etc. that can successfully be incorporated in science lessons. However, most of these resources are available only in English. Language might be an additional obstacle for the teacher and hinder the usage of ICT in the lesson. To help, the following support materials for teachers were developed within the ESF projects: video films, animations and presentations in Latvian according to the requirements of the subject and curriculum, as well as descriptions of laboratory tests, demonstrations and lesson samples which describe the methods, including how to use ICT to achieve the planned outcome. Consequently, the focus on the second CPD level (Table 2) lies on teacher skills to plan and organize teaching/learning process to include the available support materials in Latvian, learning from colleagues' best practices, modelling a teacher's own lesson fragments and offering use of available resources to students.

The teacher is the implementer, participant and co-creator of reforms in classroom practice. Teachers cannot develop their professional competence in the use of ICT from books, but in practical use of technology in the context of the subject (Duran, Brunvand & Fossum 2009).

Table 2. **Continuous professional development (2006 – 2011): A knowledge transfer model and support system model**

| | **Stage I (2006 – 2008)** | **Stage II (2008 – 2011)** |
|---|---|---|
| **ICT tools and resources** | To acquire the technical skills to use various tools:<br>- data loggers, sensors, interactive whiteboard, web camera, data camera<br><br>Teachers identify the resources available for the organization of the teaching/learning process in science and math:<br>- videos, virtual labs, animations etc. | To use the developed teaching materials, ICT tools and resources in the teaching/learning process (mostly in Latvian):<br>- lesson plans<br>- Worksheet for virtual labs etc.<br><br>To learn from colleagues' 'good practice' examples.<br><br>Students identify the resources available for the learning process in science and math:<br>- videos, virtual labs, animations etc. |

| | A knowledge transfer model | Support system model |
|---|---|---|
| **The aim of teaching and learning** | To use ICT in the teaching/learning process<br>- for visualization<br>- to demonstrate content to students<br>- to deliver information | To develop and enhance ICT skills for organizing the teaching/learning process:<br>- to plan according to the achievable outcomes<br>- to engage students with content<br>- to facilitate cooperation during lessons and beyond |

Therefore, teacher professional development is of the utmost significance. Learning of digital competencies in a rapidly developing ICT era is absolutely necessary to ensure the effectiveness of teachers – whether student teachers, new teachers, or experienced teachers (Ertmer & Ottenbreit-Leftwitch 2010). In addition, the use of ICT promotes improving student learning outcomes only when teachers have the knowledge about the efficient and purposeful use of ICT in the teaching/learning process (Ertmer & Ottenbreit-Leftwitch 2010).

**Results after Implementing ICT Tools in Science Classes**

Our previous research showed the following: 1) since 2006, ICT tools and resources have been incorporated in teaching/learning at schools. The main ICT tools used in teaching/learning of science subjects in schools in Latvia are multimedia, data loggers and sensors for experiments in science laboratories, the Internet as a tool for learning and cooperation, as well as specific software for the subject. An interactive set of e-materials prepared in a systemic way according to the curriculum coordinated in all science subjects is available on the Internet for every student and teacher; 2) the teacher`s path to regular ICT use in the classroom from the application of basic skills to specific ICT skills in the subject (Dudareva, Brangule, Nikolajenko, Logins & Namsone 2011).

In Latvia amount of time what students spend online during the teaching/learning process is on the average approximately half that of their counterparts in OECD countries as a whole. Data summarized based on PISA OECD Research form 2012 (Figure 1).

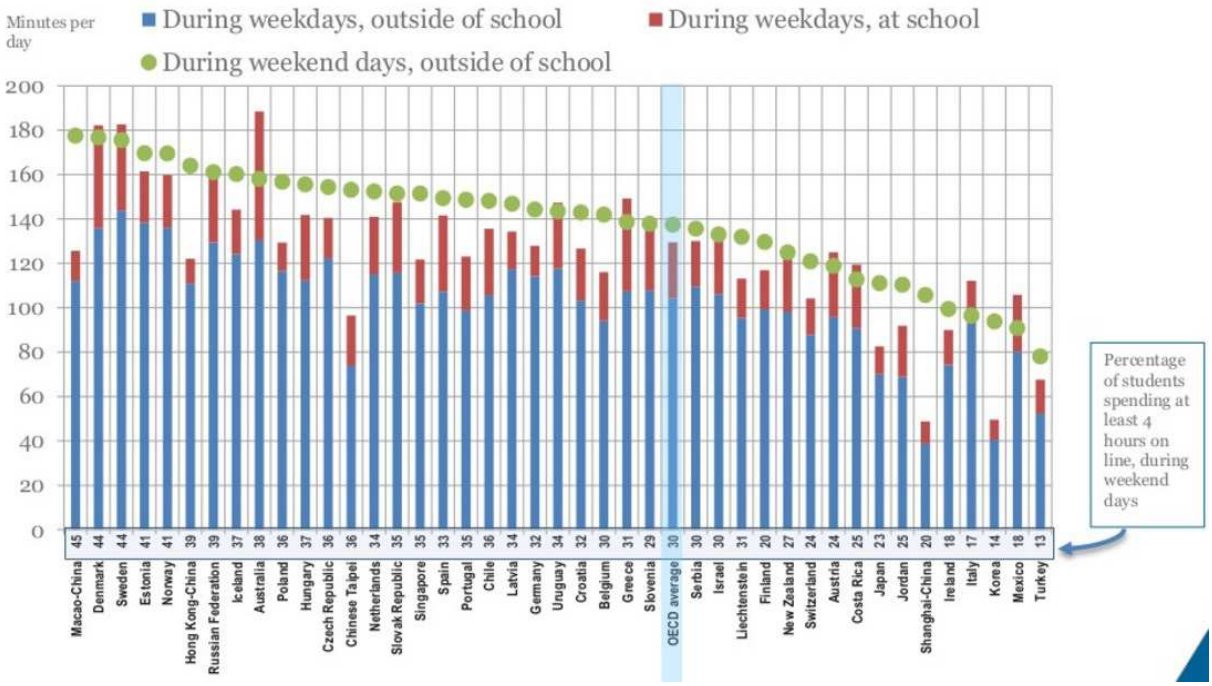


Figure 1. **Time spent online in school and outside of school (Schleicher 2015)**

**Discussion**

Analyses of the lesson observation data produced the following:

1. Lesson observations revealed the use of ICT in 78% of the 64 lessons. However, in only 22% of the cases was ICT used by students and in 94% of the cases by teachers (Figure 2).

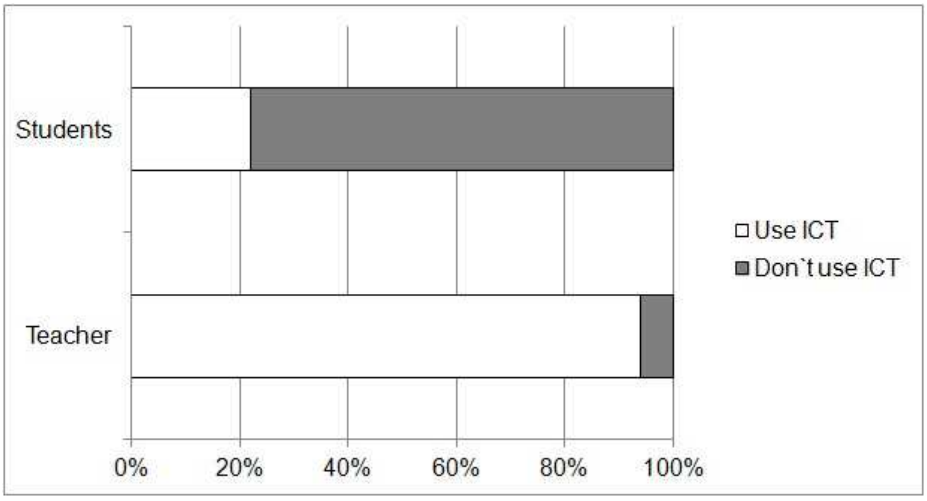


Figure 2. **The use of ICT tools in science lessons**

Teachers mostly used a computer with a projector, an interactive whiteboard, a web camera and a data camera for visualization and demonstration of images, tasks, solutions, as well as experiment devices and measurement tools. Students used sensors and mobile phones during laboratory work for data recording and processing; they performed tasks at the interactive whiteboard, used different applications and the computer to find information on the Internet and to

prepare presentations on the respective topics. This corresponds to the OECD PISA Research conclusions that regarding usage of ICT, the teaching/learning process is teacher centred.

2. During lesson observation, the experts used Likert scale to rate how targeted the ICT use was according to the learning goals (0 – pointless; 1 – capable without ICT; 2 – incapable without ICT; 3 – meaningful) and whether the ICT tool selection turned out to be the most effective means to achieve the goals (Figure 3).

40% of the lessons indicated that teachers use poor quality teaching materials with ICT or carried out activities that are capable without ICT (0 or 1 on Likert scale). Expert conclusions on the observed lessons described the use of ICT as ineffectual in many cases: *the presentation of more than 30 slides; the teacher uses self-developed teaching material, but images are unclear; presentation is required, but the problem is how it is used; tasks are formulated unclearly, therefore low efficiency of the process observed.*

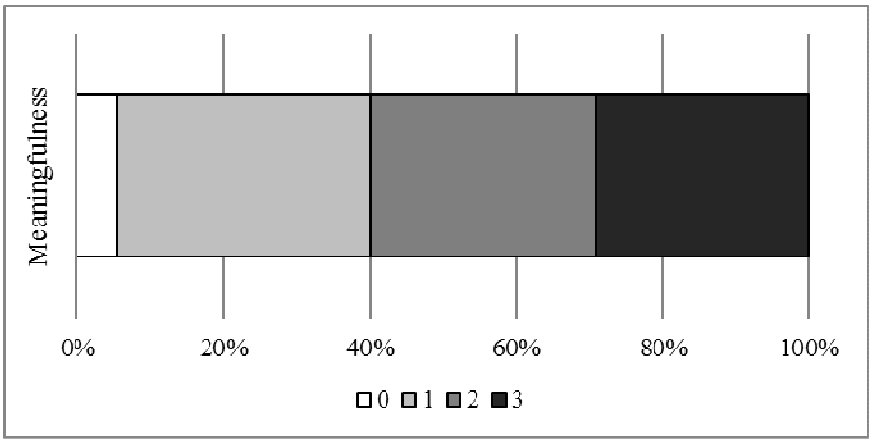


Figure 3. **Meaningfulness of ICT tools usage according to the learning goals (0 – pointless; 1 – capable without ICT; 2 – incapable without ICT; 3 – meaningful)**

Possible causes of the situation may correspond to the above mentioned views of other authors that purposeful use of ICT tools requires educated teachers – equipped in teacher training programs in college (Tondeur et al. 2012), professional development courses and sharing good practices on purposeful usage of ICT at the school (Horn and Little 2010; Resnick et al. 2010). Knowledge of a small size ICT model (12 h) is insufficient.

3. The obtained data were analysed based on the level of appropriateness of the use of ICT to the chosen teaching method, technique of methods and feedback. The use of ICT in the classroom will be purposeful if the teacher has the appropriate skills that allow him/her to choose the most efficient method for the lesson, and if the teacher knows how to apply this method in order to achieve the goals (Figure 4).

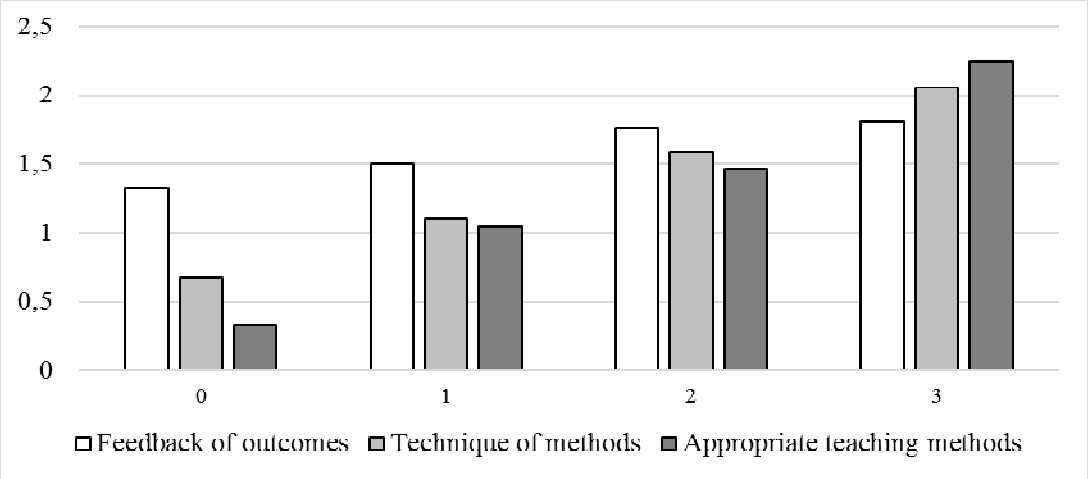


Figure 4. **The correlation between the use of ICT and implemented teaching methods**

Since 2006, teacher training has focused on teacher communication with students about the learning goals to the extent that students can understand the goal of the lesson and are able to follow the knowledge they are acquiring. This was supported by the results of this research. Even if the teacher fails to choose the most effective method to achieve the goals or he/she has not mastered the method completely, it is important that the teacher never forgets to provide feedback to students about the progress achieved.

It corresponds to the (Ertmer & Ottenbreit-Leftwich 2010) idea that if teachers have the knowledge of a meaningful use of ICT and if they can manage the teaching/learning process according to the goals, the students will perform significantly better.

4. Analyses of the observed lessons according to the rubric (Table 1) Use of ICT for Learning (Microsoft Partners in Learning) show that in most cases ICT is unavailable to students in the lesson (Level 1). However, when ICT is available, students use it to learn, improve their basic skills or reproduce information (Level 2). Usage of ICT to construct knowledge is extremely limited (see Figure 5).

One of the conclusions based on a PISA study shows that regardless of the fact that ICT tools are available on a daily basis and the youth has sufficient skills for the use of ICT tools, the application of ICT tools is not sufficiently included in formal education. One of the main factors influencing that is the level of teacher skills to both use ICT tools and, more importantly, develop and offer their students tasks and problems to solve using ICT tools. This conclusion supports the results of our research (see Figure 5).

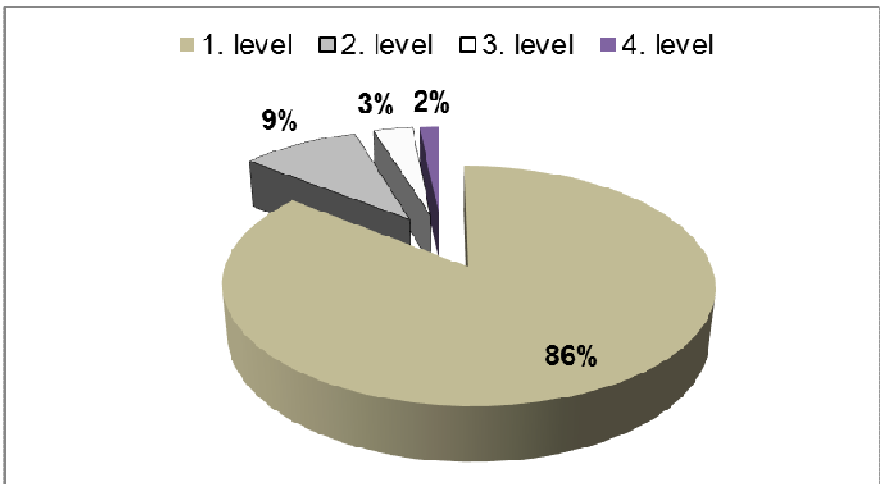


Figure 5. **Usage of ICT in science lessons according to the rubric criteria**

**Teacher professional development**

In our practice we act in the way research (Mayer 2010 etc.) says that it is not the technological medium itself, but the instructional method used, which supports and causes effective teaching and learning. Having learnt the existing situation in a classroom, the necessary support for working teachers and development of study programs for teachers-to-be can be offered. There is a clear need for science subject teachers to combine ICT use with focused pedagogical tasks.

Developing new types of CPD for teachers would be a good way to support teachers in learning more about ICT, helping them fully and purposefully integrate ICT into their teaching. Teachers need to be active agents, not just in the implementation of innovations, but also in their design (Schleider 2015).

Table 3. **Continuous professional development next stage: Deeper learning model**

| | **Stage III** |
|---|---|
| **ICT tools and resources** | To acquire the technical skills to use ICT tools for personalized learning (tablets, mobile phones, digital platforms etc.)<br><br>To identify and acquire new generation ICT education tools and resources for CPD, for example:<br>- Learning Designer (http://learningdesigner.org)<br>- InstaGrők (https://www.instagrok.com) etc. |
| | **Deeper learning model** |
| **The aim of teaching and learning** | To design own lessons with purposeful use of ICT tools and resources in teaching/learning process:<br>- to encourage students to think in new ways, to persist in the face of challenges<br>- to help students actively construct knowledge, to solve complex problems<br>- to encourage students to communicate effectively, to cooperate, to work well in teams<br>- to develop student skills to monitor and direct their own learning |

Therefore, the next stage of professional development should focus: 1) on 'next generation' ICT tools that encourage personalised learning and immediate feedback; 2) on developing assignments and problems that require usage of ICT and thus facilitate construction of knowledge and/or development of new products by students. Analyses of the data obtained during the research and evaluation of continuing education classes (commenced in 2005) help us develop the next stage of professional development (Table 3), which is currently under approbation in the teacher-leader group of the Centre for Science and Mathematics of the University of Latvia. Therefore approbation results will be relevant for discussion after some time passes.

**Conclusions**

The observed lessons allowed us to detect the presence of ICT in teaching and learning process compared to 2006 when it was virtually non-existent in Latvia. However, ICT is still mainly used by teachers as a tool for transmitting information and the involvement of students in the application of ICT is low. Thus, similarly to Europe, schools in Latvia are only in the beginning of the second stage towards the transition into a new educational paradigm. As widely acknowledged, change and transformation in education, which results in better learning and teaching, are long-term processes.

Since 2006, professional development for science teachers in Latvia has been practiced in two stages (Table 2): to master technical ICT usage skills and to use ready-made support materials to organize teaching/learning in the classroom. Lesson observation data show the need for the third stage that will have enhanced focus on achievement of pedagogical goals and will facilitate student involvement with ICT during lessons, including construction of new knowledge and development of new products.

Third level CPD program (Table 3) is currently developed in the initial stage, offered for piloting to a group of teachers. Further research will be carried out to investigate the progress of piloting.

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# CHILDREN SPORT EDUCATION IN LATVIA

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**Abstract**

**Children Sport Education in Latvia**

***Key words:*** *sport education, humanistic approach, peculiarities of sport education in Latvia*.The paper focuses on the characterization and analysis of the directions in sport education of Latvia within the context of the principles of humanistic approach. The contemporary system for the development of children-youth sport education in Latvia is based on educational programs comprising three directions. Though the Ministry of Education and Science in Latvia implements programs aimed at promoting physical activities among children and young people, the proportion of the learners having a satisfactory level of general physical activities is decreasing year by year.
The aim of the study: to characterize the directions of sport education in Latvia within the context of humanistic approach.

**Kopsavilkums**

**Bērnu sporta izglitība Latvijā**

***Atslēgvārdi:*** *sporta izglītība, humānā pieeja, sporta izglītības īpatnības Latvijā*
Raksts fokusēts uz sporta izglītības virzienu raksturojumu un analīzi Latvijā humānās pieejas kontekstā. Latvijas bērnu un jauniešu sporta izglītības attīstības sistēma balstās uz triju virzienu sporta programmām. Izglītības un zinātnes ministrija Latvijā īsteno programmas, kuras virzītas uz fizisko aktivitāšu veicināšanu bērnu un jauniešu vidū; tomēr ar katru gadu samazinās skolēnu fizisko aktivitāšu skaits. Sakarā ar to veselīga un fiziski aktīva dzīvesveida paradumu nostiprināšana sabiedrībā ir viena no prioritātēm.
Pētījuma mērķis: izpētīt sporta izglītības virzienus Latvijā humānās pieejas kontekstā.

## Introduction

Physical culture and sport activities have always been part and parcel of Latvian people's culture and as such is a social-cultural phenomenon exerting an enormous impact on the development and education of our population.

The topicality of physical culture and sport activities lies in the fact that under the conditions of social-economic and political transformations in the contemporary Latvian society the issues of maintaining one's own physical and mental health, and issues of adopting a healthy lifestyle occupy a special place on the scale of personal values. Consequently, strengthening the habits of healthy and physically active life style among the society is one of the priorities included in the *Latvian National Development Plan (for 2014 – 2020)* (LNAP 2012).

D. Stanley Eitzen (Eitzen 2014) first of all emphasizes the positive influence of sport upon school. In author's opinion, any organization, school including, needs to have unity and enduring traditions among its members. Undoubtedly, sport plays a very important role in this respect.

Though at present the Ministry of Education and Science in Latvia implements programs aimed at promoting sport activities among children and young people, several researches in the sphere of physical activities as well as the research on learners' habits show that the proportion of learners, the level of whose general physical activities could be considered sufficient (every day at least 60 minutes a day), is only 18.5% on the whole (22.0% - boys; 15.3% - girls) (Latvijas skolēnu

veselības paradumu pētījums 2013./2014. mācību gada aptaujas rezultāti un tendences, 2015). Latvian Doctors Association characterizes the situation regarding children's sedentary life as tragic and has decided to give children's health problems the state priority. They also look on children's physical activities as the most significant guarantor of health.

We should also mention the present tendency for humanizing education in Latvia, which, naturally, concerns sport as well. Undoubtedly, within the context of humanistic approach sport has to contribute to the formation and development of a free, active, creative, versatile and harmonious personality of a child. In the context of humanistic pedagogy, every child is unique, and the task of a teacher/trainer is to create prerequisites for self-actualization of a personality, as well as conditions for realizing the creative potential of each person and his different and multi-faceted abilities.

**Research aim:** to characterize the directions of sport education in Latvia within the context of humanistic approach.

**Sport Education in Latvia**

Physical culture and sport activities are an essential factor for promoting and maintaining children's health. Through sport as an activity, a child gets involved into social groups and social organizations and can also be involved into definite social relations. Sport activity as a factor of socialization poses and resolves the problems of personality's self-realization, self-determination and self-assertion (Grants 1997). During sport activities occurs not only learner's physical, but also his/her moral development. This development, first of all, is oriented towards shaping those socially important and value oriented qualities of a child which would then form his/her attitude to other people, to the society, to himself and surroundings.

The contemporary system for developing children-youth sport in Latvia offers educational programs including directions aimed at the development of children sport (see Figure 1).


Figure 1. **Directions of sport education in Latvia**

It is necessary to discuss about the specificity and features of all three directions of educational sport programs in Latvia.

**Sport as the Subject in General Education**

At present, there are two (40 minutes each) obligatory sport lessons in Latvian schools. The program of the sport subject is aimed at promoting the formation of learner's positive attitude towards sport and at enhancing the understanding about the indispensableness of physical activities. When implementing the program, the principal means used in accordance with learners' sensitive periods are games, plays, physical exercises, hurdles, and rings. At sport lessons, the basic movements – jumping, running, throwing, crawling and climbing - are to be trained and exercises of different sport kinds are to be acquired. Planning has to involve not only the skills to be acquired, but also a certain scope of knowledge, precursory and special exercises for learning different movements and developing physical qualities during the lesson and doing exercises at home (Basic Education Standard in Sport 2008).

In school of general education, sport subject is aimed at promoting and improving learners' health, enhancing the acquisition of knowledge by developing physical abilities and basic skills during systematic physical activities. To achieve this aim the following tasks are set for this subject:

- To go in for systematic physical activities adequate to the learner's state of health, thus strengthening and improving health, developing physical abilities, enhancing harmonious physical and mental development;
- To enhance understanding about the interaction between health, physical abilities, environment and exercises of the specific kind of sport;
- To enhance understanding about the necessity to observe behavioral and safety regulations at sport lessons as well as during the events of various physical activities;
- To acquire the basic skills of games and exercises of various kinds of sport;
- To acquire and improve skills of independent work and cooperation;
- To enhance interest in sport, and shape positive and active attitude to significant sport events in the region, Latvia, Europe and the world (Pamatizglītības standarts sportā 2008).

Physical activity at school has a crucial importance for educating a competent, integrated learner's personality. Sport lessons at school contribute not only to coping with tasks of maintaining and strengthening health, but also to raising the level of child's sociability and social action. The two obligatory 40-minute-long sport lessons envisaged by the program of the basic education in Latvian schools make up only 80 minutes a week in total (for instance, in Germany – from 3 to 4 lessons a week).

Though children are recommended to go in for physical culture no less than 60 minutes a day, for a lot of children these two lessons at school are the only physical load. According to P. Apinis (Apinis 2015), the level of children's immobility, excess weight, and obesity grows from year to

year. Two lessons a week do not provide the opportunity to increase children's physical activity and lessen their immobility, adiposity (obesity).

**Professionally Oriented Sport Education**

In Latvia, sport schools play a significant role in the work which is done with children of different age and social categories in the field of physical culture and sport, and with the assistance of these schools the modernization of children's physical education is most effectively carried out through the system existing in the country.

Sport schools, as a rule, are set up as educational institutions for providing additional education to children, and as such, in respect of the organization of educational process, have to follow the legislation existing in the sphere of education (Cabinet of Ministers Regulations Nr. 1036).

In the school year of 2012/2013 there were 68 professionally oriented sport education institutions in Latvia (44 municipal sport schools) in which 29 085 children and young people were trained in 37 kinds of sport (Sporta politikas pamatnostādnes 2014. – 2020. gadam, 2014).

The very specific and complex of sport school activities places them at the juncture of two processes – educational and the process of athletic training.

Work at this kind of institutions is organized by observing the basic pedagogical and athletic training principles:

- Pedagogical principles are oriented towards educating personality and creating conditions for implementing all child's potentialities;
- Athletic training principles are aimed at carrying out a maximally effective training process.

During the interaction between the two basic processes the following problems arise: a) the need to achieve high results in sport during the process of athletic training; b) striving for a comprehensive, harmonious development of child's personality.

Besides, the activities of contemporary sport schools are related to two important aspects:

a) The need of making children and young people healthier, to their social and physical adaptation to the conditions of contemporary world, the effectiveness of which may be assessed by certain parameters of population's health (reducing sick-rate among learners and students; maintaining a certain level of health; prolonging a life-span by preserving economic activity of population's age groups);
b) The necessity to create definite conditions for training high-class sportsmen and candidates for the national teams of the Republic of Latvia in different kind of sports. The effectiveness of this aspect, in its turn, is assessed by the competitiveness of national teams of Latvia on the international sports arena.

The basic goals of a sport school can be formulated like this:

1. Involving a maximally possible number of children into systematic sport activities, identifying their bents and suitability for further sport activities, inculcating children with strong interest in sports;
2. Forming children's need for a healthy lifestyle, encouraging a harmonious development of personality, inculcating a sense of responsibility and professional self-determination in keeping with learners' individual abilities;
3. Popularizing sport as a healthy life-style;
4. Providing the increase in the level of general and special physical training in compliance with the requirements of programs in sport kinds.

**Sport in Programs of Interest Education**

One more direction of sport education relates to the programs of interest education which include a definite content of sport education. According to the statistical data provided by the Association of Latvia's Big Cities, in 2012 sport programs in interest education were implemented in 49 interest education institutions (7 763 learners) and in 526 general education establishments (27 192 learners) in more than 23 kinds of sport (Sport Policy Guideline for 2014 – 2020 2014).

Interest education is informal education as a purposeful organized educational activity satisfying children's and youth's individual interests. On the whole, interest education is voluntary, in order to start it no education complying with some definite degree of education is necessary. Interest education programs are implemented in 6 spheres, sport education being one of them.

Interest education in world interpretation corresponds to the notion of informal education which in its turn has the following characteristics:

- Informal education –purposeful structured activities beyond formal education;
- Non-formal education - unorganized self-education, the acquisition of skills and abilities through interaction, at work, in the society (Clarijs 2008).

R. Clarijs (Clarijs 2008) maintains that interest education helps to develop competences as follows (see Figure 2):

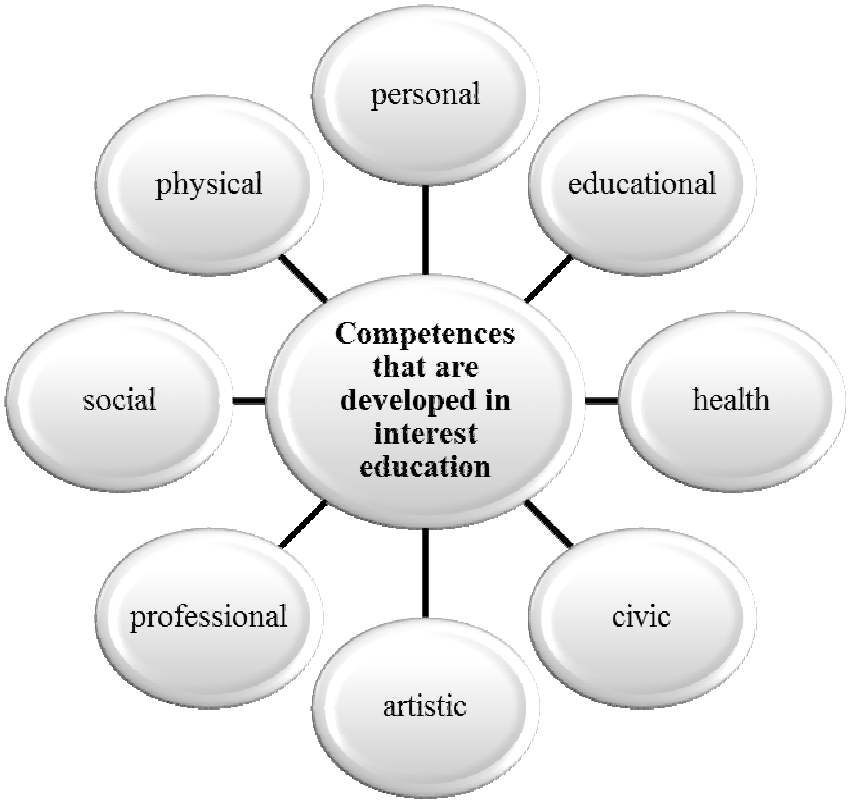


Figure 2. **Competences that are developed in interest education (According to R. Clarijs 2008)**

Among skills he mentions such as:

- leadership,
- communication,
- language learning,
- active listening,
- planning,
- team work,
- empathy,
- distance against social roles,
- conflict resolving,
- critical thinking,
- self-awareness,
- discipline,
- responsibility,
- emotional development,
- sensibility.

According to R. Clarijs (Clarijs 2008), these skills appear in a specific behavior and attitudes (e.g., respect, tolerance, spirit of togetherness, responsibility, autonomy, confidence, self-respect, nonviolent behavior, sense of belonging, open thinking).

M. Skatkins (Skatkins 1985) distinguishes three functions of interest education (see Figure 3).

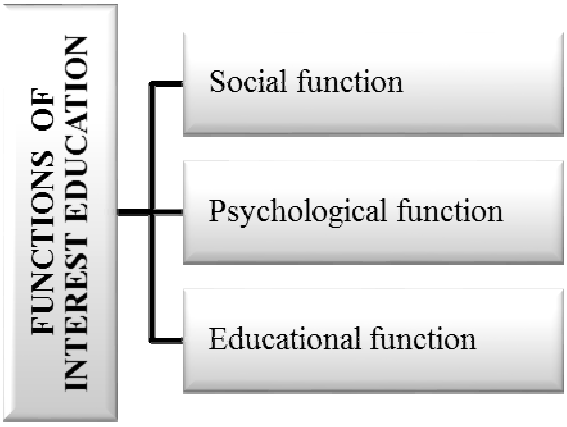


Figure 3. **Three functions of interest education** (According to M. Skatkins 1985)

After analyzing the experience of European countries and situation in the contemporary interest education, a team of Latvian researchers (Kalniņa and others, 2012) have identified two developmental directions. One is the direction taken by West European countries, where the informal education has developed differently and independently practically in every country. In these countries, the financial support for this sphere received from the state and local governments is insignificant. The financing is mainly obtained from projects and parent payments. The second – the countries of a former socialist block in Central and Eastern Europe. In these countries the well-established traditions and the structure of organizing leisure time have been maintained.

In Latvia, the Law on Education, paragraph 17, charges every local government with a duty to provide the opportunity for all children living on their administrative territory to implement interest education as well as to support out-of-class activities, children summer camps including.

Interest education programs are mainly implemented by interest education institutions and general education schools which are located in all regions, principally in big cities, but some programs are implemented also by general education schools in small villages. Interest education programs are implemented in all regional communities, however, the diversity of the programs offered differs – the more learners the regional community has, the greater the allocated financing and the diversity of offered programs are.

According to the data of 2012, 64 040 learners are involved in sport education programs implemented by state and local government educational institutions, among them – 29 085 (45.4%)

in professionally oriented sport education programs, 34 955 (54.6%) – in sport programs of interest education. Taking into consideration the fact that during this period of time the general and professional education establishments together have 252 074 learners per year (216 307 – in general secondary and 35 767 – in professional education), it follows that 25.4% of children and young people are involved in sport education programs at present (Sporta politikas pamatnostādnes 2014.-2020.gadam, 2014).

However, despite the considerable number of sport educational programs offered by educational institutions, the present situation concerning physical activities is alarming.

**Discussion**

The data of the 2010 survey on the physical activities of Latvian population obtained during the research on habits affecting the health of Latvian population, testify to the fact that the majority of the population is not sufficiently involved in physical activities: in general, for at least 30 minutes and at least 4-6 times a week sport activities are done only by 19.7% of respondents (22.7% - male, 16.7% - female), while done every day – by 12.2% of respondents (14.1% - male, 10.4% - female). According to the data obtained in the survey carried out by the center of Market and Public Opinion Studies (SKDS), almost half of population or 49% have informed that they do not do physical or sport activities at all. According to the data of *Eurobarometer* survey, in Latvia, 44% of the population do not go in for sport activities at all, while in the EU – 39%, on average. It has also been established that there are only 28% of population who do physical or sport activities at least 1-2 times a week, while in the EU this number is – 40%, on average. The way our people spend their leisure time is not very active either – the majority of our population (41.5%) read or watch TV in their free time. 42.1% of population have bicycle rides or take walks, and only 16.5% of them go jogging or do other kind of physical activities in their free time.

Besides, according to the 2009/2010 survey data about factors affecting teenagers' health, obtained within the framework of the research on *Health Behavior in School-Aged Children monitoring*, only 24.4% of boys and 16.0% of girls do physical activities at least 1 hour a day. In the questionnaire of this survey, a physical activity has been interpreted as any activity that quickens the heart rate and frequency of breathing (running, a rapid walk, participation in sport games and sport lessons, riding a bicycle, swimming, dancing etc.). And on the other hand, the survey results show that during a whole week Latvian schoolchildren spend quite a lot of time watching TV (including video and DVD). On the whole, on week-days 23.4% of schoolchildren (23.5% - boys and 23.2% - girls) watch TV, including video and DVD, for at least 4 hours, but on weekends – almost twice as many – 40.5% of schoolchildren (39.4% - boys and 41.3% - girls) do that. The highest proportion of boys and girls, who watch TV some 4 hours and more on weekdays, is in the age group of 13-year-old children: 25.4% - boys and 26.4% - girls. The 2009/2010 survey

has established how much time learners spend on computer games or game consoles. The average number of hours per day spent on computer games or game consoles have been 3.16 hours on weekdays (Sporta politikas pamatnostādnes 2014.-2020.gadam, 2014).

At present, all standards, once applied at sport lessons, have been canceled, therefore uniform criteria for assessing children's performance and controlling the quality of teacher's job do not exist. Each teacher individually – using his own judgment and competence – has to assess learners' knowledge, skills, attitude and dynamics of their development, which all together finally result as the assessment in the subject *Sport* (Sporta politikas pamatnostādnes 2014.-2020.gadam, 2014).

Problems in Latvian education system are a) an insufficient number of sport lessons, b) lack of proper quality and requirements of sport lessons, as well as c) the great number of the cases when at general education institutions learners have been excused from sport lessons and other sport activities. Whereas in sport schools, child's development is oriented towards results and achievements in sport. These schools are not always able to create proper conditions for a spiritual, physical, moral and complex perfection of children and teen agers in sport. Consequently, such a situation makes it possible to bring forward the issue about developing a new sport school model, where the traditional sport education model will be modified at the expense of changing educational programs, which would supplement each other by their orientation towards comprehensive physical and mental development of child's personality.

**Conclusions**

1. In Latvia, sport education programs are implemented in three directions:
    - Sport as the subject in general education;
    - Professionally oriented sport education;
    - Sport in programs of interest education.
2. The education of children's and teenagers' personality, which would be harmoniously developed in all aspects, is a lasting process, during which the "foundation" of the system for physical perfection is being built. Despite the great number of sport educational programs offered by various education institutions, the situation concerning physical activities is rather alarming in Latvia, and therefore the problem of a long-term comprehensive athletic training is extremely topical.
3. This research shows the need of development a new model of sport schools oriented towards physical and mental development of children's and teenagers' personality within the context of humanistic approach.

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# MANAGEMENT OF CREATIVITY IN HIGHER EDUCATION

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**Abstract**

**Management of creativity in higher education**

***Key words:*** *creativity, organizational creativity, higher education, educational management, knowledge management*

Creativity is an essential part of modern society from science to education and business. The importance of creativity for European higher education is highlighted in several strategic documents of last decade. European Union stressed that higher education should develop students' creativity, critical thinking, entrepreneurship and communication skills. Creativity is no longer related to arts but to every subject, not pure talent but a competence. Creativity in education was studied mostly from pedagogical perspective. This paper analyzes this subject in the context of education management. The researches on how to manage creativity resulted in the development of organizational creativity theory. Management of creativity in higher education has similarities with organizational creativity but at the same time it has specifics and a different structure. The problem of the research is how to adopt the principles of organizational creativity for education processes. The purpose of the study is to create the model of creativity management in higher education. Empirical part of this paper examines opinions of educators in one of the largest Higher Education Establishments in Latvia. The findings of the study describe all the factors characteristic to the management of creativity in higher education.

**Kopsavilkums**

**Kreativitātes menedžments augstākās izglītības jomā**

***Atslēgvārdi:*** *kreativitāte, organizāciju kreativitāte, augstākā izglītība, izglītības menedžments, zināšanu vadība*

Kreativitāte ir būtiska mūsdienu sabiedrības daļa - no zinātnes līdz izglītībai un uzņēmējdarbībai. Kreativitātes nozīmīgums Eiropas augstākajā izglītībā ir iezīmēts vairākos pēdējās desmitgades stratēģiskajos dokumentos. Eiropas Savienība uzsver, ka augstākai izglītībai ir jāattīsta studentu radošums, kritiskā domāšana, uzņēmējdarbība un komunikācijas prasmes. Kreativiāte vairs nav saistīta tikai ar mākslu, bet ar visām jomām, ne tikai ar talantu, bet arī ar kompetencēm. Kreativitāte izglītības jomā tika pētīta pārsvarā no pedagoģiskās perspektīvas. Šis raksts analizē šo tematu izglītības menedžmenta kontekstā. Pētījumi par to, kā jāvada kreativitāte, ir izveidojuši organizāciju kreativitātes teoriju. Kreativitātes vadībai augstākās izglītības jomā ir līdzības ar organizāciju kreativitāti, bet tajā pašā laikā tai ir sava specifika un atšķirīga struktūra. Pētījuma problēma ir kā adaptēt organizāciju kreativitātes principus izglītības procesos. Pētījuma mērķis ir izveidot kreativitātes vadīšanas modeli augstākās izglītības jomā. Pētījuma empīriskā daļa apskata šajā procesā iesaistīto pedagogu viedokļus. Pētījuma secinājumi apraksta visus raksturīgos faktorus kreativitātes vadībai augstākās izglītības jomā.

## Introduction

Creativity issues in education have been growing during many decades. Guilford (1950, 1967) and Torrance (1994) have set the standard for creativity research, and Sternberg (2000, 2003) has added to the field. Many countries around the world are focusing on creativity as a national priority (Kaufman & Sternberg 2010). In addition, the European Union designated the year 2009 as the European Year of Creativity and Innovation (European Union 2009). Still, preparing students for the needs of future workplaces comes through creative educational curriculum.

Integration of all attributes of creativity generated in the educational process is essential to develop the student's employability and aptitude to meet requirements of modern economy. Graduates should have an ability to demonstrate creativity as employers are placing attention on creativity as an important graduate's quality. Moreover, creative achievement is obvious in the arts but it is essential to achievement in all other fields including the sciences and business. Many businesses are seaking for courses to promote creative abilities, to teach the skills and attitudes that

are now essential for economic success but which the education sometimes is not designed to promote. Creativity in business refers to the ability to seek creative solutions that are context-driven and innovative practices, to facilitate and enhance product knowledge and productivity. (NCCCE 1999: 10-14).

Creativity is a driving force of higher education based on research and knowledge development. Nowadays creativity has become a topical issue, again. Some researchers analyzed the National education curricula (Pesanu & Menapace 2014, Rampersade & Patel 2014), some scientists researched the creative teaching tools (Adams 2006, Suciu 2014), others studied the relationships of creativity with other aspects of education process (Gundry, Ofstein & Kickul 2014, Fillis 2001). But the *problem* question of these studies was the same: how to manage creativity in education. The paper is *focusing on* the creativity processes in higher education. The *purpose* of the research is the creation of a specific model that would manage creativity processes in higher education institutions. The model will be based on research findings on the two *questions*: 1) How creativity could be determined in education? 2) Which management approach could be applied to creativity in education?

**Theoretical framework**

Literature review has been classified into three categories of theories: *Creativity*, *Educational management* and *Knowledge management*.

***Theories of creativity***

Although creativity is increasingly recognized as essential for competitiveness and has attracted considerable attention, there is still no consensus among researchers on how to define it in terms of what they perceive as its key conceptualization. As reported by Amabile (1996: 33), although it is wrong to say that little is known about creativity, given the considerable research on this topic, it is nonetheless true that we do not know enough to identify a precise, universally applicable definition of the term. Various authors (Beghetto &Kaufmann 2007: 73-78, Gomez 2007: 33-32, Sullivan &Ford 2005: 118-121) have different opinions about what should and should not be at the core of what constitutes *creativity*. One of the main reasons for these differences is that those who have contributed to the development to creativity literature come from different academic backgrounds, giving rise to ambiguous and different definitions of creativity. Therefore, it is quite difficult to conduct the research on this topic. Hence, the need for greater clarity on the domain and operationalization of the concept is significant.

This chapter attempts to fill the void in the literature by analyzing scholarly definitions of creativity and identifying areas of conceptual agreement by providing evidence of its conceptual categories and defining elements. Slavich (2009: 34-44) analyzed 94 definitions of creativity and

divided them into six categories: outcome, synthesis, creation, modification, interaction and engagement.

Most of the current definitions of creativity that fall into the conceptual category *outcome* are product-definitions, meaning that they are based on the creative product, rather than the creative process (Hennessey & Amabile 2010: 572-573, Oldham & Cummings 1996: 607-608, Sullivan & Ford 2005: 118-121, Woodman, Sawyer, & Griffin 1993: 293) and should produce effective surprise (Fillis 2001: 767). The product-definition implies that the judgments of novelty, appropriateness and originality refer to some public product rather than to a process or specific person.

*Synthesis* issue combines the following concepts: thought, imagination, knowledge, problem solving, improvement, discovery, invention, intuition (Slavich 2009: 38-40). In order to increase the understanding of this category, it should be first pointed out that most of the definitions that fall into this classification associate creativity with creative thinking (Adams 2006: 4-14, Mumford 2012: 30-47, Shaheen 2010: 166-169). Definition of creativity as a function of "creative thinking skills" involves a problem solving approach that helps one come up with new ideas (Amabile 1998: 78). From the literature study, it can be seen that creativity has to do with the development, proposal and implementation of new and better solutions to problems or with the experimentation of new ways of solving problems. For instance, creativity has been defined as a "special class of problem solving" characterized by novelty (Newell, Simon & Shaw 1994: 14-22) or as the "generation of alternatives that can be used in problem solving processes" (De Bono 1992: 237-239).

*Creation* means bringing into existence, originating, producing, generating and implementing new ideas or solutions and creation is the act of making something new or the ability to invent something new (Amabile 2005: 368). Many researches of creativity are associated with creation or creating, presenting creativity as the creation, production, development or generation of a valuable, useful new product, service, idea, procedure or processes (Amabile 2005: 367-372, Ford 1996: 1112-1142, Shalley 1991: 179-185, Perry-Smith & Shalley 2003: 89-106). For example, Amabile (2012: 2) defines creativity as "the generation of new and useful ideas concerning products, services, processes, and procedures in organizations". According to these considerations, most of the times definitions that fall under the category *creation* also fall under the category *outcome*, as the creation is linked with the specific qualities of a particular outcome.

*Modification* means that a product, idea, or procedure can be considered novel not only if it involves the production of something completely new, but also if it involves either a significant transformation or modification of existing materials. Slavich (2009: 41) defined creativity as a modification of existing materials or an introduction of new materials to the organization.

The category *interaction* includes all the definitions (or part of the definitions) that consider creativity as the creation of a valuable, useful new product, service, idea, procedure, or process by individuals "working together in a complex social system" (Woodman, Sawyer, & Griffin 1993: 293). Lately, research drawing from sociology and socio-psychology has investigated the network side of individual creativity, arguing that a deeper understanding of how creative outputs are created requires the creative individual to be placed within a network of interpersonal relationships (Perry-Smith & Shalley 2003: 89-106).

Recently, creativity has also been defined as "a collective phenomenon that emerges in interactions" (Hargadon & Bechky 2006: 485). Hargadon and Bechky (2006: 489-493) have proposed a new relational view of creativity, focusing on the moments when the creative insight emerges not within a single individual, but across the interactions among multiple actors. The researchers introduced a model of collective creativity, suggesting that some creative solutions can be regarded as the products of momentary collective processes. According to their perspective, collective creativity happens when social interactions between individuals lead to new interpretations and discoveries that the individuals alone could not have generated. In other words, when ideas are shared by two or more people, creativity can lead to more culturally relevant and powerful results than individual creativity does. This can be taken into an account when designing education curricula as well, especially when setting the course objectives and selecting the methods.

*Engagement* can be defined as a positive, fulfilling, work-related state of mind that is characterized by vigor, dedication and absorption (Bakker & Demerouti 2006: 319). Vigor is characterized by high levels of energy and mental resilience while working, the willingness to invest effort in one's work and persistence in the face of difficulty. Dedication refers to being strongly involved in one's work and experiencing a sense of significance, enthusiasm, and challenge. Absorption is characterized by being fully concentrated and happily engrossed in one's work, whereby time passes quickly and one has difficulties with detaching oneself from work (ibid: 320).

Thus, each type of creativity dicussed above requires different approaches and appropriate management processes. That's why it is important to determine which theory of creativity is the closest to understanding it in the educational context.

***Theories of educational management***

Management is a process that is used to accomplish organizational goals; that is, a process that is used to achieve what an organization wants to achieve. An organization could be a business unit, an education establishment, a city or any governmental entity. Managers are the people to whom this management task is assigned, and it is generally thought that they achieve the desired

goals through the key functions of (1) planning, (2) organizing, (3) directing, and (4) controlling (Ali Janjua, Shah, Fatima and Nafis 2012: 57) .

There is no one direction of research or one all-covering theory of educational management. Differentiation of these theories regards to types of establishment from elementary schools to universities and colleges, which require different approaches and solutions. One of the main recent researchers in the field has argued constantly (Bush 2003, 2006, 2007) that there is a special distinction between educational management and educational leadership.

Another typology of the educational management was proposed by Ali Janjua et al. (2012: 60). According to the authors, the management of educational establishments is focused on three major components: content management, conduct management, and covenant management. It has been stressed that the core of the last type of management is gaining and maintaining student cooperation in learning activities. Conduct management is centered on one's beliefs about the nature of people. Content management laid a special emphasis on instructional management skills, sequencing and integrating additional instructional activities, and dealing with instruction-related discipline problems. Content management in the educational context is close to curriculum management, which generally encompasses both what to teach and how to teach. Curriculum can also be paraphrased as a set of learning goals for students. And at the same time this theory is related to knowledge management.

Theories of knowlegde management

A knowledge management approach is the conscious integration of people, processes and technology involved in designing, capturing and implementing the intellectual infrastructure of an organization. It enables the people within an organization to share what they know, leading to improved services and outcomes (Bhustry & Ranjan 2011: 34).

Knowledge management, in broad terms, is the science of capturing, transferring, and applying knowledge usually in a particular field or context. According to knowledge management researchers, it is concerned with five aspects of knowledge: generation, codification and coordination, transfer, roles and skills, and facilitating technologies (Davenport & Prusak 2000). Educators are likewise concerned with capturing knowledge, codifying it, transferring it, determining the roles and skills of teachers and students, and leveraging technologies to support education. From a broad view, curriculum management the task of designing and delivering education is a knowledge management task (Gress 2005).

Knowledge is understood as data which are facts and numbers. Information is data put into the context. Only when information is combined with experience and judgment it becomes knowledge. A popular framework for thinking about knowledge proposes two main types of knowledge: explicit and tacit (Petridies & Nodine 2003, Kidwell, Vander Linde & Johnson 2000,

Laal 2011). Explicit knowledge is documented information that can facilitate action. It can be expressed in formal, shared language. Examples include formulas, equations, rules, and best practices. Explicit knowledge is: 1) packaged, 2) easily codified, 3) communicable and 4) transferable. Tacit knowledge is know-how and learning embedded within the minds of the people in an organization. It involves perceptions, insights, experiences, and craftsmanship. Tacit knowledge is: 1) personal, 2) context-specific, 3) difficult to formalize, 4) difficult to communicate and 5) more difficult to transfer.

In these types of knowledge, individual knowledge wholly resides in the individual employee's mind, whereas organizational knowledge generally exists in two forms in any organizations i.e explicit and tacit knowledge. To learn and acquire new knowledge, individuals should interact and share implicit (tacit) and explicit knowledge with each other Kamasak and Bulutlar (2010), Plessis (2007), Aujirapongpan, et. al., (2010).

Knowledge management activities applied in higher education can be classified into five main categories, such as the benefits on the 1) research processes, 2) the curriculum development processes, 3) student and alumni services, 4) administrative services, and 5) strategic planning (Kidwell, Vander Linde & Johnson 2000: 32-33). Knowledge management practices can also contribute to management education institutions in other ways such as faculty development, research process, curriculum development, student teaching and learning process, overall control of the institutional processes like library, computer lab, recruitment, etc strategic planning like institute marketing, etc. To meet the growing requirement of curriculum design and curriculum delivery, to meet the twin objective of relevance and quality of human resource development and to ensure that teaching learning processes create an environment conducive for creativity and innovations, it becomes necessary to adopt knowledge management techniques in curriculum development (Nawaz and Gomes 2014: 74).

Research, which is one of the primary aspects of higher education, is the platform for knowledge creation and knowledge diffusion. The Higher Education Institutions (HEI) provide knowledge to students, manage and archive the existing knowledge for future reference, motivating and encouraging the academic community including faculty members, staff, students and parents etc. Sharing of knowledge and experience and their enhancement in the HEIs are the key drivers for a successful knowledge management in higher education.

**Research Methodology**

A *quantitative* study was conducted by the author in the form of a *survey* questionning educators of Turiba University, one of the largest universities in Latvia specialized in business area. The *objective* was to study the concepts of educational management in order to establish a model for management of creativity. Based on the creativity theories and the determinants perceived, a

questionnaire was framed. The questionnaire was designed to be simple, easy to fill in and less time consuming (Saunders, Lewis & Thornhill 2009: 372). It consisted of two sections – the first contained the personal data, such as, educational qualifications, professional experience, position in the Unviersity, scientific and teaching fields. The second section comprised a list of determinants of creativity to be percued by educators in terms of educational management principles. The majority of questions were designed of category type.

To conduct the survey, the questionnaire was distributed to the respondents partly by mail and partly in person to reach as many respondents as possible. 48 educators out of 55 full-time member staff were surveyed. It took about two weeks to complete the survey wherein 33 responses were received out of the total number of forms distributed. The response rate of the survey was 68.75%. The sample was composed by 19 lecturers, 3 assistant professors, 2 associate professors and 9 professors. Educators surveyed are experienced (about 63.3% of them has more than 10 years working experience) and have high education level (30.3% of them has doctoral degree).

In order to analyze quantitative data, SPSS Statistics 22.0 software has been applied for descriptive and inferential statistics analysis. Differences and similarities between samples were tested by non-parametric tests due to the not normally distributed data (Baggio & Klobas 2011: 23-24). They are Kruskall-Wallis and Spearman's rho tests. Data validity and reliability was verified by Cronbach's Alpha test.

**Results and Discussions**

Current research studied the opinion of educators on creativity in higher education. The respondents represented the versatile sample. They teach to different degree students from EQF level 5 (6%) to EQF level 8 (15%), different subjects in such fields as Tourism (39.3%), Management (12.1%), Public Relations (9.1%), Social Sciences (9.1%), Language (9.1%), Law (6.1%), Marketing (6.1%), Accounting (6.1%), Pedagogy (3%). Despite the differences educators demonstrate the consensus regarding the main points in general (Std.Deviation = 0.882 - 1.042). The neccesity of testing results on the larger sample was identified by Cronbach's Alpha test which verifies an acceptable validity ($\alpha = 0.670$) and acceptable data reliability ($\alpha = 0.666$-$714$).

Regarding the definition of creativity opinions have been divided into two categories: *Interaction* (42.5%) and *Synthesis* (33.3%). Other answers were distributed equally among the other categories. In the context of this research it means that creativity in education is associated with a combination of knowlegde, experience, thinking skills and abilities to apply them into the practice. These findings correlate with Amabile's Componential Theory of Creativity (Adams 2006: 5-9) which proposed three main components of creativity: knowledge, creative thinking skills and motivation. Concerning the knowledge component, Amabile and Mueler (2003: 36) identified both

"domain-relevant skills" and "creativity-relevant skills", including knowledge in the domain-relevant skills as being important for developing creativity.

Furthermore, these findings mean more collective than individual phenomenon. In other words, it refers to special creative climate combining individuals for development of ideas together. This coincides with Styhre and Sundgren's (2005: 164-168) theory of *organizational creativity* which they described as a variety of activities in which new ideas and new ways of solving problems emerge through "a collaborative effort by promoting dialogues that involve multiple domains of scientific knowledge" to produce value for the organization's mission and market.

Next, the process (48.5%) was identified as the most appropriate form of creativity in education. In a broader sense, the model of creativity should be based on the process management principles rather than personal (9.1%), environmental (21.2%) or performance (21.2%) aspects.

Meanwhile, Kolmogorov-Smirnov Z test was applied to determine empirical distribution. The results of the test applied show that the data do not have normal distribution as p-value = 0.000 which is < 0.05. Consequently, the differences and relationships between findings were tested by the non-parametric tests.

The difference between the opinion of groups according to academic experience was tested by Kruskal Wallis test. The data indicated that there is no significant difference between opinions of the groups compared in terms of all three questions: p-value = 0.254 – 0.700, which is < 0.05. Thus, the obtained results may be generalized.

After that, relationship analysis was made by applying Spearman's rho test. As a result, a moderate positive linear relationship between *categories of creativity definion* and *the form of creativity in higher education* issues (r=0.665, Sig.2-tailed, p-value=0.000) was found. It could mean that these two parametrs are more or less related to each other.

Summarizing, based on the theoretical analysis on creativity definitions and the research conducted, the author of the research defines creativity as a complex phenomenon combining all processes and personal and environmental aspects related to finding appropriate and novel solutions to meet the needs of the modern society.

Shifting on the second research question the author concludes that knowlegde management approaches could be applied to manage creativity. As it was discussed above, knowlegde sharing, development of networks and interactions and enhancement of the thinking skills play an important role in creativity processes. Hence, it coincides with The Key Realm of Knowledge Management which are people, processes and technology (Petrides and Nodine 2003: 11-12). In the context of this model management is built upon collegial and professional teamwork, in other words, working groups of staff and teachers from across departments, at many organizational levels in sharing with others what they know, and what they are learning, because it makes their jobs more rewarding and

their work more effective. Formal and informal administrative procedures, curriculum development processes, information sharing patterns, information silos, salary incentives, and many other work practices affect information issues refered to processes aspect. Technologies within the knowledge management framework are broadly accessible to target user groups and promote the tracking and exchange of useful information across departments (ibid). Combining all the findings discussed above the author developed a model for creativity management in HEIs (refer to Figure 1).

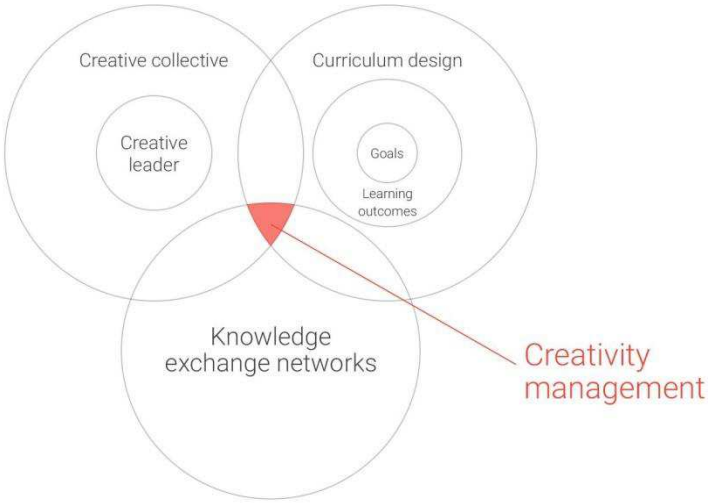


Figure 1. **Creativity Management in higher education**

Where creative educators are combined around the creative leader and represent the people aspect of creativity management. It is evident that teaching for creativity requires the educator's creative abilities. Process aspect includes the goal statement, learning outcomes development and curriculum design. Of course, there are more processes than these three ones. But they are the main processes there creativity could be intergated. Finally, the last circle is a technology aspect. This part of creativity management reflects synthesis and interaction issues the most. The main idea of it is the knowledge exchanges and both vertical and linear communications among HEIs, between education and science, between education and industry. Consequently, improved learning curriculum and students' learning outcomes, enhanced creativity and problem-solving skills as well as higher graduates' employability are important outgrowths of creativity management in higher education. For educational institutions, however, the full promise of creativity management lies in its benefits for students, teachers, and the education community as a whole.

**Conclusions**

Contemporary Higher Educational Institutions need to be efficient to meet the needs of the society and industry and should be equipped with the tools to achieve excellence. For this they need to develop creativity and innovation and look beyond just domain related skills to achieve their goals and objectives.

From the results of the survey, as discussed in the paper, the author concludes that Knowledge Management based on Creativity integration in HEIs can prove to be an effective management tool to enhance performance in the main areas of teaching and learning and research. Based on the results the author has presented a conceptual model for the development of creativity management in higher education institutions. The author supposes that if implemented, the model will input more benefits to improve the quality of higher education processes. The approach will enable higher education institutions to proactively respond to the needs of the modern economy.

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# PSIHOLOĢIJA / PSYCHOLOGY

# PSYCHOTHERAPY OF POSSIBILITIES: WORK WITH PERPETRATORS OF DOMESTIC VIOLENCE

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**Abstract**
***Keywords:*** *psychotherapy of possibilities, Duluth method, family violence, violence perpetrators.*
This paper presents empirical studies on efficiency of a modality known as psychotherapy of possibilities. We performed this study using tools and techniques of psychotherapy of possibilities in an experimental group, whereas a programme based on requirements of the Ministry of Family and Social Policy using the Duluth method was used in the so called placebo group. The results of the study indicated that psychotherapy of possibilities is more effectively reducing aggressive behaviour in people with dissociative disorders, classified within the ICD-10 system in category F60.2.

## Introduction

Psychotherapy of possibilities grew from a scientific-research analysis and from practical analysis of various psychotherapeutic directions, e.g. analytical, cognitive, cognitive-behavioural or transactional analysis (Bartoszewski 2012, 2014, 2015). The model of therapy of possibilities is located in the eclectic trend, as it is derived from various schools of thought and their theoretical and practical works. Its basic assumption lies in a statement indicating that personality and behaviour disorders are a result of tension between unsatisfied needs (Lery 1940, Fromm-Rihman 1949, Berne 1960, Harris 1979, Radochoński, Sokoluk 1982, Satir 1985, Sęk, 1991) during the period of primary socialisation and parental attitudes, i.e. negative attitudes, namely: avoidance, rejection, excessive requirements, excessive care (Minuchin 1985) resulting in personality disintegration known as *perturbatio personalitatis*, characterised by lack of coherent relations on the level of:

- consciousness,
- emotional intelligence,
- soma.

Psychotherapy of possibilities based on this concept indicates that a script providing the role and function determining the subject in action and in decision-making is the key element of the disintegrated individual. It is defined as a permanent disposition of an individual, manifesting as a psychological mechanism during a specific individual or social event.

In this paper, we present only the state of the art in the field of „therapy" of individuals using violence in their families. It should be noted that perpetration of violence is a crime according to the

effective penal law, resulting in protection of victims, unfortunately, this protection is illusory in Poland (Głowik 2008). It should be noted here, that perpetrators of violence largely do not participate in psychotherapy, but only in correction programmes indicated in art. 4 of the Act on combating violence in families, and in art. 72 § 1 p. 6b of the Penal Code. Supporters of corrective programmes approach perpetration as a social and a cultural factor (Kruczyński 2005), despite objective studies indicating that aggressive behaviour is, on one hand, a result of personality and behaviour disorders, and on the other, conditioned by the environment – behaviourally (Rode 2010). Negation of therapy is justified by fear against classification of perpetration as a medical condition (Krzyżanowska-Zbucka 2007). Therapists do not show such an attitude and the fears are unjustified. We divide perpetrators of violence into the following sub-groups:

1. terrified (e.g.: compulsively releasing internal tension),
2. undergoing a crisis (social problems),
3. with dissociative personality – (according to ICD-10 criteria, F60.2)

We introduced this division on the basis of individual variables (Rode 2010), such as: emotional availability, state of mind, self-empathy, motivation, and on the basis of social, environmental factors: parental attitudes and satisfied needs, as well as on the basis of a psychiatric-psychological opinion (with consent of the programme participants).

**Materials and methods**

The main objective of this study was to verify efficiency of the original therapeutic method in work with perpetrators of violence in families, but only in the dissociative group, and to compare this group with a non-experimental group, in which influence techniques from the so called ministerial corrective-educational programmes based on the Duluth method were used. The research problem was formulated as follows: is the psychotherapy of possibilities more effective than the Duluth method used in work with perpetrators of family violence?

We based our presented study on our own psychotherapeutic concept, known as modality of psychotherapy of possibilities (Bartoszewski 2015), it is a method based on research rules used in psychology and in psychotherapy. Thus, the research hypothesis was formulated as: Psychotherapy of possibilities leads to a change of behaviours of violence perpetrators on the level of emotional availability, to a change of their stated of mind and of attitudes related to creation of inter-personal relationships more effectively than the Duluth method.

A tool known as the SCL-90 test (Derogatis, Lipman, Covi 1973; Derogatis, Ricleks, Rock 1976) as adapted by Siwiak-Kobayashi, Pohorecka and Mroziak (1993) was used to measure effectiveness of therapeutic influence and to verify the hypothesis in the research project. Comparison of various studies on efficiency and effectiveness of a specific therapeutic model is relatively difficult and complex in practice, as it requires tedious empirical studies to be performed

(Ford, Urban 1963, Brammer 1973, Bernstein, Nietzel 1980, Sztander 1983), but this does not mean that such a comparison requires long-term observation. The SCL-90 questionnaire is an adequate tool for measurements of changes as proven, *inter alia*, by Włodowiec or Golińska who studied effectiveness in people with behaviour disorders and in individuals addicted to alcohol and other psychoactive substances, this tool was also used, for example, in studies on effectiveness of psychotherapy in Sweden 1998, as described in the work of Sandeli i in. (2000).

SCL-90 includes 90 items and measures such variables as: (1) somatisation (discomfort caused by bodily symptoms), (2) obsession (thoughts and behaviour characteristic for the obsessive-compulsive disordrer), (3) inter-personal hypersensitivity (feeling of inter-personal inadequacy, inferiority, in particular in comparison to others), (4) deppresion (dysphoria, decreased mood, loss of interest in any activity, lack of motivation, lack of general vitality), (5) fear (uneasiness, nervousness, tension, somatic symptoms of fear), (6) hostility (feelings of irritation, being irked, impulsive destruction of objects, uncontrollable episodes of anger), (7) phobias (episodes of acute fear or agoraphobia), (8) paranoidal thoughts (projective thinking, hostility, suspicion, egocentrism, delusions, lack of autonomy and megalomania delusions), (9) psychotic states.

SCL-90 also includes three global indices: (1) *GSI-general severity index*, (2) *PSDI-positive symptom distress index* and (3) *PST-positive symptom total* (Frank-Stromborg, Olsen, 2004).

Studies have shown good psychometric properties of the SCL-90 tool (Derogatis, Lipman, Covi 1973; Derogatis, Ricleks, Rock 1976). Absolute stability factors (test-retest) for all sub-scales were in the range of 0.73 - 0.87; internal conformity alpha indices of Cronbach indicate high internal conformity of these scales (between 0.77 and 0.90).

The free interview technique was used in order to obtain information regarding socio-demographic data (i.e.: education, age, gender, legal qualification of the offence).

The research group included 15 perpetrators of violence who were selected on the basis of psychological-psychiatric diagnosis, namely individuals classified to the F60.2 disorder group according to ICD-10.

Table 1. **Characteristics of studied individuals in the experimental group**

| **Groups** | **Dissociative personality F60.2** |
|---|---|
| **Variables** | **N = 15** |
| **Gender** | |
| females/males | 2/13 |
| **Education** | |
| gymnasium (junior high school) | 0 |
| vocational | 8 |
| A-levels (high school) | 1 |
| degree | 6 |

Table 2. **Characteristics of studied individuals in the control group**

| **Groups** | **Dissociative personality F60.2** |
|---|---|
| **Variables** | **N = 15** |
| **Gender** | |
| females/males | 2/13 |
| **Education** | |
| gymnasium (junior high school) | 0 |
| vocational | 2 |
| A-levels (high school) | 6 |
| Degree | 7 |

**Results**

Therapeutic activities derived from the psychotherapeutic model known as psychotherapy of possibilities developed by use were recommended in the therapeutic groups. It provided the basis for development of a therapeutic programme named: „Dwanaście kroków pracy ze sprawcą przemocy domowej" ("Twelve steps of work with a perpetrator of family violence", Bartoszewski, 2016). The SCL-90 test was performed a week before the first session of therapeutic activities and influences. The obtained results were analysed statistically. The U-test by Mann-Whitney was used, which allowed a conclusion that no statistically significant differences ($U=90.500$, $p>0.05$) in the GSI index before the start of psychotherapy was observed between the experimental group (for which the use of psychotherapy of possibilities was planned), and the control group (for which the use of influence within the corrective-educational programme was used). Thus, both groups were characterised by a similar level of the GSI index. Average ranks and total ranks for the GSI index achieved by the experimental group and by the control group are presented in the table below.

Table 3. **Average ranks and total ranks for the GSI index achieved by the experimental group and by the control group**

| | **Group type** | **N** | **Average rank** | **Total rank** |
|---|---|---|---|---|
| GSI index | Dissociative perpetrators (F40.2) - experimental group | 15 | 16.97 | 254.50 |
| | Dissociative perpetrators (F40.2) - control group | 15 | 14.03 | 210.50 |
| | Total | 30 | | |

(source: own studies)

The statistical analysis performed at the end of a session cycle using psychotherapy of possibilities and for participation in the corrective-educational programme showed statistically significant differences between both groups of dissociative perpetrators who participated in different activities. The index obtained by the experimental groups ($M_{rang}=9.70$) was statistically significantly lower than in the control group ($M_{rang}=21.30$). Average ranks and total ranks for the GSI index achieved by the experimental group and by the control group are presented in the table below.

| | Group type | N | Average rank | Total rank |
|---|---|---|---|---|
| GSI index | Dissociative perpetrators (F40.2) - experimental group | 15 | 9.70 | 145.50 |
| | Dissociative perpetrators (F40.2) - control group | 15 | 21.30 | 319.50 |
| | Total | 30 | | |

(source: own studies)

The Wilcoxon test was used in order to verify the significance of differences between the initial measurement (before the therapy) and the final measurement (after the therapy) within each of the groups, separately. The t-Student test for dependent data was not performed because the assumption of a normal distribution of data was not valid in this case. Differences between the initial measurement and the final measurement proved to be significant, both in the experimental and in the control group. In the case of the experimental group which participated in psychotherapy of possibilities, this difference was at the level of $p<0.01$, whilst in the case of the control group subjected to standard influences (the educational-corrective programme), the difference was significant at the level of $p<0.05$.

It should be noted here that perpetrators started their participation in sessions with an average level of the so called GSI – *general severity index of* above 1.1 (these are reference standards indicating psychopathology).

The index was reduced to the range of 0.9-0.6 after twelve months in the groups working using the method of psychotherapy of possibilities, whereby in the case of the control group, using ministerial instructions for corrective-educational programmes for perpetrators of violence, the effective index reached the average level of 0.9 at the end of the programme. In the case of the psychotherapy of possibilities (the twelve steps programme) a high value of the index effect was observed, namely up to 0.6.

**Discussion**

The last decade brought numerous empirical studies on efficiency of various psychotherapeutic directions. The causes of these studies lied in accusations of groups with a sceptic attitude towards psychotherapy as a therapeutic method. However, it should be noted, that research challenges have been undertaken in the history of psychotherapy, e.g.: cognitive-behavioral, analytic or short-term psychotherapy. These activities were also dictated by the attitude of psychologists themselves, who focused only on biological phenomena, neglecting the socialisation aspect. Acceptance of the reductionist perspective resulted in considerations of only pharmacological therapeutic measures or invasive activities applied to the brain, e.g. by connecting an individual to electrodes. Additionally, many practitioners across Poland do not follow scientific research in the field, which is accompanied by negative attitude towards psychotherapeutic methods and techniques (De Barbaro 2007). The society also mistakenly interprets psychotherapeutic

activities with medical therapy, also thinking that one or two visits will cure the condition on the psychosomatic level (Cecchin 1995).

Works on efficiency of psychotherapy found in databases include mainly various conditions, e.g. depression, anxiety disorders, neurotic disorders and similar conditions. The researches also apply various periods during which they evaluate the obtained therapeutic results. Comparison of data from various publications is additionally made difficult by the use of non-uniform evaluation criteria applied to therapeutic results.

As it was mentioned at the beginning of this discussion, studies on efficiency of psychotherapy were started in an aura of accusations regarding its purported inefficiency in the context of expansion of empirical methodology of studies on efficiency and safety of pharmacological products (chemical substances). Taking this into account we have realized that the literature of the subject, in Poland in particular, lacks works and studies on efficiency of psychotherapy applied to perpetrators of family violence. Thus, we made the effort aimed at a study of a perpetrator group assuming the selection indicated in the introduction and based on our own psychotherapeutic method, known as psychotherapy of possibilities.

Returning to the discussed topic, it should be noted that our study on the efficiency of psychotherapy was based on a comparison with efficiency of the method indicated by legal regulations issued by the Polish Ministry of Family and Social Policy. These instructions do not take into account the correction of dysfunction on the personality level during the process, or disorders caused by socialisation and biological processes (Act on counteracting violence, 2005). All perpetrators of violence have to participate in correction programs according to these requirements. The programmes are based on the Duluth method.

Our study used the SCL-90 tests. A single experimental group consisting of 15 individuals and a control group of another 15 individuals were included in the study. The total number of studied individuals was 30.

At the beginning of the study, the groups were tested using the SCL-90 questionnaire, and tested again at the end of the programme using the same tool, namely the SCL-90. The assumed hypothesis was confirmed, as the efficiency index ranged between 0.9 and 0.6 in the experimental group and only 0.9 in the control group.

Despite the satisfactory results, we could not avoid problems including attempts of resignation from participation in the study, both in the experimental group and in the control group. We had to introduce psychological support in the form of motivation to participate in the programme. Thus, it should be particularly noted that the total number of individuals remained constant until the end of the study. It can lead to an objection stating that the number of participants

was too small. It should still be said that the entire experimental programme maintained its total number of participants.

Another significant inadequacy was the time of the experiment, it had to take part in the afternoon because of professional work of participants of the study. This resulted in sometimes visible tiredness of the studied individuals, limiting their engagement in therapeutic processes in the experimental group and in the control group.

Currently, the researchers remain in touch with the participants, it was agreed that groups participating in the study shall be voluntarily verified for effectiveness – checking the number of people resuming violent behaviour – six months and one year after their participation in the programme.

**Conclusions**

Studies performed on efficiency of psychotherapy of possibilities were supposed to verify its usefulness in corrective-educational influences on perpetrators of family violence diagnosed with dissociative disorders specified as F60.2 in the ICD-10 system. The research process covered 12 months and was based on a novel modality. A control group was created for verification purposes, in which techniques and tools provided for in corrective-educational programmes of the Ministry of Family and Social policy were implemented and executed. These programmes are largely based on the Duluth method. It should be noted that influences result in expected effects in both cases, however, the higher reduction of the GSI index was observed in the experimental group.

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# VITOLDA VALEIŅA SASTĀDĪTĀS „LATGALĪŠU DZEJAS ANTOLOĢIJA" SATURA SOCIĀLI PSIHOLOĢISKAIS RAKSTUROJUMS

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**Abstract**

**Socio-Psychological Characteristics of contents of „Antology of Latgale's poetry" by Vitolds Valeinis**

***Key words**: poem, personality, living space, family, metaphor, anthropomorphism*

The aim of this qualitative research was to find out the typical of Anthology of Narrative Poetry that may be transferrable into social psychology in form of concepts and categories and can be interpreted in accordance with its scientific apparatus. This research is based on interpretative paradigm where in the center of attention is evaluation of poet's subjective reality and values scale in accordance to social and individual context of time when their works were written in Latgale. Attention was paid to three main socio-psychological categories: personality, group and living space, when analysing contents of poems. Results of this study show that such categorisation fully covers the aim of the research and helps to learn about typical and characteristic for Latgale during this period of time. It also points to such socio-psychological formations as need of restructuring of personality, Self-image, ethnicity, social role differentiation, group dynamics in a family context, etc. that are related to life's quality in Latvia in general.

Kopsavilkums

**Vitolda Valeiņa sastādītās „Latgalīšu dzejas antoloģija" satura sociāli psiholoģiskais raksturojums**

***Atslēgvārdi:** dzejolis, personība, dzīvesvide, ģimene, metafora, antropomorfisms*

Kvalitatīvā pētījuma mērķis bija noskaidrot Latgales sociumam tipiskās parādības, kas no antoloģijas dzejiskā naratīva var būt pārnesams sociālajā psiholoģijā jēdzienu un kategoriju veidā, kā arī ir interpretējams atbilstoši tās zinātniskam aparātam. Pētījums balstās uz interpretatīvo paradigmu, kur uzmanības centrā ir dzejnieku subjektīvās realitātes un vērtību skalas novērtējums saskaņā ar sociālo un individuālo kontekstu viņu daiļrades tapšanas laikā Latgalē. Veicot dzejoļu satura analīzi uzmanība tika vērsta trim galvenām sociālpsiholoģiskām kategorijām: personībai, grupai un dzīves telpai. Iegūtie rezultāti parāda, ka šāda kategorizācija pilnībā pārklāj pētījuma mērķa problemātiku, jo palīdz izzināt Latgalei konkrētam laikposmam raksturīgo, kā arī norāda uz tādiem no dzīves kvalitātes Latvijā kopumā izrietošiem sociāli psiholoģiskiem veidojumiem kā, personības restrukturizācija, pašvērtējums, etniskā piederība, sociālo lomu diferenciācija, grupas dinamika ģimeniskā kontekstā u.c.

## Ievads

Latvijā līdz šim nav veikts pētījums, kurā no konkrēti psiholoģiskā viedokļa temporāli tiktu analizēta latgaliešu valodā rakstīta dzeja un cilvēks tajā netiktu vērtēts kā singulāra personība, bet gan unificēta. Šā iztrūkuma novēršanai tika izvēlēta pētījuma tēma, kura, ņemot vērā, ka latgaliešu dzejā bieži tiek izmantoti anīmismi un antropomorfismi, veicināja nepieciešamību caur sociālās psiholoģijas prizmu iemēģināt tādu dzejas apjēgšanas formu kā metaforiskā domāšana. Tēmas izvēle pamatojās uz trim modusiem:

a) kvantitatīvo, proti, saskaņā ar LR Centrālās Statistikas pārvaldes datiem Latgalē 2015.gada sākumā dzīvoja 281 581 cilvēks (Iedzīvotāju izvietojums (blīvums) un urbanizācija. CSP, 2015 http://www.csb.gov.lv/sites/default/files/skoleniem/iedzivotaji/blivums_mb.pdf). Taču jāņem vērā arī tie, kuri, kaut arī nedzīvo Latgalē, tomēr dzejas un prozas autentiskai iepazīšanai latgaliešu valodu pārvalda pietiekamā līmenī. Kopumā tā ir nozīmīga daļa no Latvijas iedzīvotāju kopskaita, kuriem vērtīborientācija kopā ar etnisko identitāti veidojās uz tādiem

Latgalē izkoptiem audzinoša rakstura tautas daiļrades elementiem kā paražas, rituāli, arhetipiskie tēli pasakās, dzejoļos un prozā;

b) kvalitatīvo, proti, Rēzeknes Tehnoloģiju akadēmijā izveidojies stiprs Baltu filoloģijas pētniecības centrs ar zinātniskās intereses uzsvaru tieši uz latgaliešu valodā mutvārdu un rakstīto avotu izpēti Latgales un ar to etniski saistīto iedzīvotāju vidū. Šeit skatāmā pētījuma rezultāti var dot savu pienesumu, jo lekciju kursi daiļdarba analīzē, mūsdienu jaunākajā literatūrā, latgaliešu literatūras vēsturē tiek lasīti no 1995. gada (Šuplinska 2006: 204);

c) teorētisko, jo dzejiskā naratīva pilnvērtīga psiholoģiskā analīze var notikt tikai tad, ja teksta informāciju uztver kā implicīti, tā arī eksplicīti, izmantojot tieši sociālās psiholoģijas atziņas.

Pētījumam tika izvēlēta viena konkrēta Latvijas filoloģijas vēsturē atpazīstama zinātnieka un profesora Vitolda Valeiņa sastādīta antoloģija "Latgalīšu dzejas antoloģija". Konkrētā antoloģija ļauj uztvert dzejoļos paustos uzskatus, noskaņojumus, pārdzīvojumus, dzīves izpratni, kā arī apdzejoto attiecību „cilvēks-cilvēks” un „cilvēks-dzīvesvide” īpatnības Latgalē XIX gs. beigās un XX gs.

Latgaliešu valoda šajā pētījumā nav kontrastīva latviešu valodai, jo šī zinātniskā aktivitāte veltīta latgaliešu valodā rakstītās dzejas padziļinātai izpētei ar psiholoģijas zinātnē izmantojamo kvalitatīvo metodoloģiju. Savukārt no pētāmā materiāla izrietošo psiholoģisko likumsakarību identificēšana balstās F.Meiringa Kvalitatīvās kontentanalīzes pieejā (Mayring 2000).

**Pētījuma mērķis**

Kvalitatīvā pētījuma mērķis - noskaidrot dzejoļu tekstā tās sociāli psiholoģiskās parādības, kuras tipiski izpaužas antoloģijā un jēdzienu, kā arī kategoriju veidā ir interpretējamas ar psiholoģijā akceptētām metodēm. Ņemot vērā, ka antoloģijā apkopotie dzejoļi aptver ilgstošu laika posmu Latgales vēsturē (vairāk par 100 gadiem), latgalieša ontoloģijas konstituēšanās tika analizēta temporālā aspektā caur tolaik vēsturiski pastāvošās dzīvesvides prizmu.

**Materiāli un metodes**

Pētījuma rāmjus un saturu noteica nepieciešamība piedāvāt diskursu no iepriekšējām paaudzēm mantoto, kā arī šodien latgaliešu valodā radīto daiļrades darbu psiholoģiskai izpētei. Pētījums tika veikts 2014. gadā, bet pētījuma bāzē Vitolda Valeiņa sastādītā “Latgalīšu dzejas antoloģija”. Pētījums balstās interpretatīvajā paradigmā un ir izmantotas šādas kvalitatīvās pētīšanas metodes: hermeneitiskā analīze, daiļrades tekstu vairākkārtēja lasīšana un naratīva jēgas analīze, diskursa analīze vēsturiskā un etnosociālā kontekstā. Pētījuma centrālais uzstādījums saskan ar Prometeja principu, proti, dzejnieku kā gaismas nesēju tautā un apgarotāju. Caur dzeju tika mēģināts izprast autoru personības patību, realitātes uztveri viņu sadzīves apstākļos konkrētā psiholoģiskā laiktelpā. Šo darbu bija parocīgi veikt arī saskaņā ar pētījumā analizējamās daiļrades

tapšanas sociālo kontekstu Latgalē. Pētījuma dizainu predisponēja pētījuma mērķis un no tā izrietoši pētījuma jautājumi:

1. Kādas psiholoģiskas parādības dominē Latgales autoru dzejā konkrētajā antoloģijā?
2. Kādas ievirzes diskurss pamatā ir dzejnieku daiļradē konkrētā psiholoģiskā laiktelpā?

**Diskusija**

Antoloģijas autors V. Valeinis, apkopojot dzejoļus, sadalīja tos pa Latgales vēsturē pārdzīvotiem laikposmiem. Šāda periodizācija ir atbalstāma arī psiholoģiskā kontekstā, jo sociālā vide, kā arī populācijas psiholoģiskais raksturojums laika gaitā mainās un iegūst jaunus akcentus. Proti, antoloģijā labi parādīta autora ideja par apdzejoto periodu klasifikāciju – katrā nodaļā akcentēt tai laikā tautā dominējošās vēlmes, uzskatus, valdošos aizspriedumus u.tml.

Pirmā nodaļa aptver XIX gadsimta tekstus dzejas drukas aizlieguma laikā. Otrā antoloģijas nodaļa sevī ietver Atmodas laika dzeju. Pirmās brīvvalsts laiks aptverts trešajā nodaļa un tas ir posms Latgales vēsturē, kad mājās no svešuma atgriežas bēgļu gaitās devušies latgalieši (Šilde 1992). Ceturto nodaļu antoloģijas autors izmanto prezentējot dzejnieku daiļradi laikposmā pēc II pasaules kara. Tā atspoguļota divās apakšnodaļās: latgalieši ārzemēs un mūsdienu dzeja Latvijā.

Analizējot tekstus izrādījās, ka lielākā daļa no psiholoģiskām parādībām atrodamas jau P. Šmita un E. Kozlovska latgaliešu dziesmu krājumos ievietotajās tautasdziesmās. Daudz tiek izmantota metafora, jo sevišķi četrrindēs, kur gan prospektīvi, gan retrospektīvi tiek runāts par ģimeniskām saitēm:

Ka maņ byutu putna spuorni,
Tuos biteitis vīglumeņš,
Es aizskrītu tū maleni,
Kur ir muni tāvs, māmeņa [14.lpp.].

Garajās tautasdziesmās izmantotās metaforas bieži vien veicina antropomorfiskas konotācijas, piemēram:

Siermi zyrgi, jauni puiši
Pajam mani vyzynot.
Pavaduši gabaleni,
Prosa zaltu, sudrobeni.
Kur es jimšu, kas maņ dūs(i),
Man nav tāva, momulenis.
Ūzuls tāvys, līpa muote,
Veituleni buoleleni. [26.lpp.].

Četrrindēs daudz tiek aktualizēti arī „Es-tēla" galvenie elementi „Es-reālais" un „Es-sociālais", piemēram:

Smejās ļaudis munai dzīsmei,
Smejās munai volūdeņai,
Kai Laimeņa nūlykuse,
Tai dzīdoju, tai runoju [13.lpp.], vai arī

Vysi radz, vysi dzierd,
Ka es skaiški nūdzīduoju,
Ka es gauži nūrauduoju,
Skusta styureits vīņ redzēja,
Tys slauceja asarenis [14.lpp.].

Pats antoloģijas autors savā ievadā akcentē būtisku arhetipisku elementu latgalieša identitātē, proti, specifisku valodu un privilēģiju runāt tajā, sacerēt tautasdziesmas, kā arī dziedāt tās. Viņš mēģina veikt arī unificētu latgalieša personības ekspresaprakstu, saskaņā ar kuru latgalietis nedrīkstētu būt cilvēks, kas „[..] dryumi klusej, ir aizdūmeigs. Bet tāds, kas ”nasās iz lela” – smīkleigs. Lobs cilvāks tys, kas nasaceņš izalikt lobōks nakai patīseibā ir, un nav nūsaryupējis par sovu reputaciju un prestižu” (Latgalīšu dzejas antoloģija 2001: 12).

Šajā gadījumā tiek runāts par motivētu cilvēka personību ar izkoptu komunikatīvo kompetenci, kā arī adekvātu pašvērtējumu un pretenziju līmeni. Parasti šādam cilvēkam raksturīga noformējusies pašidentitāte ar pietiekami akcentētu un apskatāmajam vēsturiskajam diskursam atbilstošu latgalisku „Es-tēlu”. Antoloģijā mēģināts parādīt vienkāršu cilvēku mīlestību pret tēva mājām un latgalietim raksturīgo emocionālu piesaisti pie domicila. Piemēram, ārzemēs dzīvodams O. Rupaiņs dzejolī „Moras zeme” apdzejo nostaļģiskas izjūtas par dzimteni:

Kai senā mīlā posokā, kai sapnī dūmas moldōs,
Kod tāva pļovōs pīnines un smylgas kōjas glōsta...,
Kur seņču acīs osoras – mirdz azari te zyli...,
Te daudzas dzīsmes dzīdōtas ar pazemeibu žālu [205.lpp.], vai arī

Es mīļoju Dzimtini dōrgū, -
Te dīneņas namonūt tak;
Te najyutu bādu un vōrgu,
Te lobōkos cereibas dag!... [87.lpp.].

Daudzos dzejoļos tiek cildināts optimisms, darba tikums, motivācija. Tas redzams G. Manteifeļa, E. Krustāna, S. Cunska, M. Apeļa, A. Garanča, O. Ļeičujoņa, K. Medņa u.c. autoru dzejā. Piemēram:

Ak! Dzeivōt, strōdōt grybu vēļ,
Breivi meklēt taisneibu,
Sauli just, pret tymsu karōt
Mīļōt, sapņōt, ilgōtīs... [125.lpp.].

F. Kempa, J. Pabērza u.c. Atmodas laika autoru dzejoļos akcentēts brīvības un neatkarības motīvs:

Celitēs, brōli, nu mīga, nu tymsa:
Dzeive pa tynsu ir gryuta.
Veritēs! Gaisma jau ausa, un sauleite
Lobu mums reitu jau syuta! [60.lpp.], vai arī

Lauzsim vacūs myuru sīnas,
Vōrgu važas zemē messim,

Dūsim tautai breivas dīnas –
Dzimtini uz gaismu vessim. [68.lpp.], vai arī

Man gribīs kai putnam byut breivam
Un Dzimtines skaistumu gyut,
Šai zemē byut myužeigi breivam,
Tõs sorgam un aizstõvam byut [72.lpp.].

Stipri izteikts Dzimtenes mīlestības motīvs atspoguļojas Neaizmērstules dzejolī „Tu man navaicoj", kurš, šķiet, ir vispatriotiskākais visā antoloģijā un kolorīti raksturo dzejnieces personību:

Tu man navaicoj, voi mīļoju tāvu svīdrim laisteitu zemi,
Voi mīļoju skaneigu mežu, zeļteitus teirumus, pučem izrūtõtas pļovas, zemesacis – azarus...
Es latvīte asu...
Mīļoju Dīvu un Jõ Mõti, un pēc Jūs Latviju par sovu dzeivi vairāk. [118.lpp.].

Fr. Trasūna fabulās izteikti parādīti indivīda aktivitātes un iekšgrupas dinamiskie procesi tādos daiļdarbos, kā „Rozba suņs" un „Zvēri nomdari", bet fabulā „Mõkslinīks un cyuka" vērojama aprakstītajā mizanscēnā iesaistīto dalībnieku tezauru nesakritība. Fabulās „Zeps un peipe" personāža tēla aprakstam izmantota tipoloģiskā pieeja pēc lokuskontroles kritērija, bet „Zirgs un ēzelis" antropomorfisms alegoriskā formā parādot ēzeli kā cilvēku ar neadekvāti augstu pašvērtējumu un pretenziju līmeni. Neadekvāti augsts pašvērtējums kombinācijā ar skopumu parādīts O. Kūkoja dzejolī „Rekviems Izidoram" (Latgalīšu dzejas antoloģija 2001: 320). Pašvērtējuma problēma atspoguļota arī O.Skrindas dzejolī „Vijoleite", kur puķīte – vijolīte neadekvāti zemu vērtē sevi salīdzinājumā ar rozi, tādējādi *a priori* prezentējot sevi kā nespējīgu konkurēt sabiedrībā un pārlieku paškritiska viedokļa rezultātā attīstot sevī nepilnvērtības kompleksu. Dzejolī jūtams autora aizvainojums, neapmierinātība, jo tolaik O.Skrinda atradās Sibīrijā tālu no Latvijas un latgaliskās vides. Neskatoties uz to, var piekrist antoloģijas autora viedoklim: "[..] Skrindas dzejai raksturīga samērā liela motīvu daudzveidība un psiholoģiska liriska konkrētība [..] (Latgalīšu dzejas antoloģija 2001: 75).

Tāda sociālpsiholoģiska problēma kā jauna dalībnieka ienākšana grupā un adaptācija tajā parādīta A. Jurdža dzejolī „Bõrineite" apdzejojot bāreņa likteni audžuģimenē un iegūto „aktīvā neveiksminieka" statusu tajā:

Navā maņ tāva, māmeņas
Apmyra broļi, mõseņas...
Vysus dorbūs pyrmajõ,
Pi moksas pādejõ.
Nikas napadūd rūceņas
Kai lai apslauceit acteņas? [43-44.lpp.].

Apbrīnojams ir A. Adamāna iztēles dziļums. Ņemot vērā, ka dzejoļa „Sapnis par Indiju" tapšanas laikā (1930.gads) televizoru vēl nebija, viņš precīzi iztēlojās Indijas panorāmu, piemēram:

... Es stōvu un tolumā skotūs,
Kai saule põr paļmom speid,

Kur pusdīnu korstajā tveicē
Pa bogōtim teirumim Ganga sleid [137.lpp.].

„Nozīmīgā cita" tēls emocionāli parādīts J. Klīdzēja, Madsolas Joņa dzejā un A. Garanča dzejolī „Uz Vidzemi", piemēram:

Par šauru pogolmu skrīn nu izmysuma
Mozs bārns un gōjējam, kas tōli jau nu mojom,
Sauc pakaļ žēli osoranā bolsā jys:
– Tēt, pagaidi! – Un ryugtōs elsōs paklyup maurā,
Tik tōli radzūt tāvu jau un nanūstōjam...
Nōk jauna mōte, paceļ raudūšū un glōsta,
Un mītynoj: - Nu naraudi, gan tēte pōrnōks
Nu Vidzemes, mums maizeiti un prīcu atness... [146.lpp.].

Savukārt O. Rupaiņs vēl dzīvodams Latvijā (1933. gads) uzraksta „Poema par putnu", kurā optimistiskas dzejas formā apraksta sadzīvi Latgalē, akcentējot latgaļos tādas arhetipiskas iezīmes, kā padevība, asketisms uz robežas ar trūcīgumu, izkopts darba tikums, optimisms ar ticību labākai dzīvei caur darbu. Trūcīgumu un strādāšanas motīva deficītu, kā arī pesimismu savā dzejolī „Tāva sāta" parāda Fr. Murāns. Darba motīvu kā vienu no galvenajiem cilvēka dzīvē akcentē arī fabulu sacerētajs N. Neikšanīts. Atšķirībā no Fr. Trasūna, kuram fabulās dominē personoloģiskais faktors, N.Neikšanīts vairāk tendēts uz Sociāli psiholoģisko. Piemēram, fabulā „Vonogs un laksteigola" viņš reklamē sociāli psiholoģisku postulātu, ka „tautai vajag maizi un izrādes". Respektīvi, kultūru tauta baudīs tikai tad, kad būs paēdusi, būs nodrošinātas primārās jeb fizioloģiskās vajadzības. Fabulā „Vātra" viņš parāda grupas fenomenus – paniku, situatīvas līderības deficītu grupā, kas noved pie afektīvā stupora stāvokļa uz kuģa esošo cilvēku vidū un rezultātā pie katastrofas jūrā, piemēram:

Reiz kugi vātra dzyna.
Un kas tū zyna,
Kai burom saplāstom un lauztim mostim
Tys natōli nu zemes krostim,
Uz sekļa ticis, grimt jau sōc...
Kas rūkas salyka
Un gaida: cyti nazkū padareis!
Tys veļti nūgaideis.
Lai dorbs tys vīglys ir voi gryuts –
Kū padareisi pats, tik tys i byus! [216.lpp.].

Cits fabulu autors J. Silkāns savos daiļdarbos skar modernās socioloģijas un psiholoģijas problēmu – sociālo stratifikāciju. Dzejolī „Zvērbuli" apraksta „iegūtās bezpalīdzības" sindromu parādot tādu cilvēku kategoriju, kuriem absolūti neizkopts darba motīvs, viņi nemēdz strādāt un nestrādās, bet saņem valsts garantētos sociālos labumus. Musdienās tie ir migranti, dažādas etniskas minoritātes Rietumeiropā, tagad arī Latvijā. Fabuliņā „Lapsas" J. Silkāns apraksta cilvēku nespēju saprasties un sadzīvot kopīgā mikrovidē dažāda sociāla statusa un krasi izteiktas savstarpējās tezauru nesakritības dēļ. Kritiskas vārsmas par notiekošajiem procesiem Latgalē pauž mūsdienu

autore R. Urtāne, izsakot liriskas, gaišas atmiņas par dzimto novadu, bet kritizējot darba motīva deficītu, degradāciju, apātiju, jo sevišķi vīriešu vidū, kā, piemēram, dzejolī „Latgola”:

Tu sõpu mõte – Latgola!
Tu muna slõpe – Latgola!...
Kaut tovi dāli pasamūstu
Nu sova bezgaleigõ „plūsta” –
Tod spātu redzēt sovu vaini,
Ka navar pabarõt vairs saimi... [382.lpp.].

Nobeidzot antoloģijā iekļautā materiāla izpēti var pamatoti apgalvot, ka visa pētījuma gaitā induktīvā datu analīze notika nepārtraukti, tika operēts ar sociāli psiholoģiskiem jēdzieniem, pētijuma mērķis ir sasniegts, kā arī rastas atbildes uz abiem sākumā uzstādītajiem jautājumiem.

**Secinājumi**

Atbildot uz pirmo pētījumam uzstādīto jautājumu: „Kādas psiholoģiskas parādības dominē Latgales autoru dzejā konkrētajā antoloģijā?”, ir vērojamas visas trīs psihisko parādību grupas.

Psihiskie procesi šajā antoloģijā deklarējas gan individuālā, gan starpindivīdu līmenī. Individuālā līmenī tie izpaužas atmiņās par tēva mājām, iztēlē par tālām zemēm, fizioloģiska diskomforta sajūtu veidā, kā, piemēram, badošanās, trauksme u.c. Savukārt starpindivīdu līmenī tie izpaužas kā sociālā diskomforta sekas, piemēram, psiholoģiskā nesaderība mikrovidē un antipātija attiecībā uz varas pārstāvjiem, un otrādi – lepnums par piederību savai ģimenei, saimei, kopienai.

Psihiskie stāvokļi pētījuma materiālā konstituējas plašā spektrā un izpaužas kā motivācija strādāt, gribas akti un vēlmes pārmaiņām (revolūcijas motīvs), neatkarības, brīvības un uzlabot dzīvesvidi, integrēšanās problēma mainīgā mikrovidē grupas (audžuģimenes) egoisma dēļ u.c.

Personības psihiskās īpatnības summē latgaliešu, kā pamatā Latgalē dzīvojoša etnosa ontoloģijas saturu ikdienas modusa kontekstā, ar tur izplatīto reliģiju, kultūrtradīcijām, tipiskajiem dzīves scenārijiem un valsts varas ietekmes uz iedzīvotāju prātiem. Dzejas naratīvā bieži parādās „Es-tēls”, kas psiholoģijas zinātnē ir personoloģiska kategorija un raksturo kāda konkrēta indivīda pašidentificēšanās procesu un saturu. Zinot indivīda personības „Es-tēla” saturu, var pietiekami korekti spriest par to vai viņš ietilpst konkrētai tautībai, etnosam raksturīgā arhetipa ierāmējumā. Vairākkārt personības aprakstam tika izmantota tipoloģiskā pieeja, piemēram, pēc kontroles lokusa tipa kritērija, pašvērtējuma un pretenziju līmeņa kritērija, sociālās ievirzes caur „nozīmīga cita” tēlu u.tml.

Atbildot uz pētījumam uzstādīto otro jautājumu: „Kādas ievirzes diskurss dominē dzejnieku daiļradē konkrētā psiholoģiskā laiktelpā?”, jāatzīmē, ka:

a) nosacīti pirmajā nodaļā XIX gadsimta tekstos jeb dzejas drukas aizlieguma laikā dominē dabas ainavu, kā arī sadzīves situāciju un darba tikuma apraksts. Tiek parādīta arī ģimenisko attiecību problemātika, jo sevišķi bāreņu likteņi un viņu statuss audžuģimenēs;

b) nosacīti otrā antoloģijas nodaļa sevī ietver Atmodas laika dzeju, kurai aktuālas ir alkas pēc novitātēm ikdienā sabiedrības un arī valsts attīstībā kopumā. Populārs ir aicinājums pēc pārvērtīb ām;

c) dzeja Pirmās brīvvalsts laikā popularizē tādus cilvēku tikumus kā darbu, optimistisku un aktīvu dzīves pozīciju, piesaisti pie dzīvesvietas, mīlestību pret tēva māju. Tiek popularizēts tēva un mātes tēls. Dzejniekiem pašiem to neapzinoties, bieži veikta latgalieša personības struktūras, kā arī viņa mijiedarbības ar sociumu analīze;

d) interesantu pieeju antoloģijas autors izmanto prezentējot dzejnieku daiļradi laikposmā pēc II pasaules kara. Tā atspoguļota divās daļās: latgalieši ārzemēs un mūsdienu dzeja Latvijā. Katra no daļām uzrāda tādu kopēju cilvēku rakstura īpatnību, kā mīlestību pret Latviju, savu dzimto pusi un vietu, kurā autors auga pavadot bērnību un jaunību. Tas pastiprināti izpaužas ārzemju latgaliešu daiļdarbos, kuriem ar tēva mājām izjustie pārdzīvojumi ir emocionāli attālināti ne tikai laikā, bet arī telpā.

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# MENEDŽMENTS / MANAGEMENT

# SCHOOL PRINCIPALS' COMPETENCES IN THE SCHOOL LEADERSHIP DEVELOPMENT PROCESS

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**Abstract**

**School principals' competences in the school leadership development process**

***Key words:*** *leadership, management, principal, professional development*

In a rapidly changing environment, principals no longer serve primarily as supervisors. They are being called on to lead in the redesign of their schools and school systems. The principal needs to obtain new competences and modern knowledge on management, leadership and organizational development.

The aim of this study is to explore school principals' competences for successful school leadership development.

The research method: analysis of scientific literature.

It was discovered that school principals need to improve their management competences in personnel management, financial and communication management for successful school leadership.

**Kopsavilkums**

**Skolu direktoru kompetences skolvadības attīstības procesā**

***Atslēgas vārdi:*** *vadība, menedžments, direktors, profesionālā attīstība, uzvedība*

Strauji mainīgajā vidē, skolu direktori vairs nestrādā galvenokārt kā uzraugi. Viņi tiek aicināti vadīt pārmaiņas savās skolās un skolu sistēmā. Direktoram nepieciešams iegūt jaunas kompetences un modernās zināšanas par menedžmentu, vadību un organizācijas attīstību.

Pētījuma mērķis ir izpētīt skolu direktoru nepieciešamās kompetences skolvadības attīstības nodrošināšanai. Pētījumā metode: zinātniskās literatūras analīze.

Tika secināts, kas skolu vadītājiem ir nepieciešams pilnveidot ar personāla vadību, finanšu un komunikācijas vadību saistītās kompetences skolas vadības veiksmīgai nodrošināšanai.

## Introduction

The turn of the 20th and 21st century "the beginning of the third millennium" is characterized by significant change of values and the development of new perspectives in the global socio-political and economic life. The turn of the century has encouraged the people worldwide to make a serious analysis of what has happened, to evaluate more carefully the things going on, and to forecast the future more boldly. The future of mankind cannot be imagined without appropriate education. Jacques Delors, the chairman of the "International Commission on Education for the 21st Century" underlines in the report of the commission: "The commission do not consider education to be a panacea, a magic formula which opens the doors to the world, with the help of which all the ideals will be achieved, but as one of the means at our disposal to advance a deeper and more harmonious development of peoples, thus lessening poverty, banishment, lack of knowledge, oppression and wars". The politicians quite frequently try to avoid considering significant issues of education if it happens at a politically inconvenient time, because, as a rule, the solution of education issues require great financial resources and, for the greatest part, it does not serve their populist aims. That is why education institution principals are of great importance and, as a result of

their targeted activities, by influencing the solutions of political processes and education issues, both on the local government and government level, can achieve effective operation and development of education institutions. Practice shows that it is the education institution principals who should be thanked for education development and the rise of its effectiveness. The report of the International Commission also mentions that "school principals are one of the factors, if not the most significant one, who determine the school effectiveness. Sometimes a good school principal, capable of building up an effective team, and who is considered to be competent and ready to support new ideas, substantially improves the school's quality of work." (Delors 1997:142).

In order to promote the development of a targeted education policy and effective activities of education institutions, the report of the International Commission focuses on the need for professional education institution principals – "to see to it that the management reins should be in the hands of proficient professionals, who have received special education, among other things, just in the sphere of management." (Delors 1997:145).

**Theoretical overview**

The international practice of educating education institution principals and engaging them in educational process has a common tendency; the political and economic changes at the end of the 20th century and the beginning of the 21st century determined the necessity for professional training of education institution principals and deputy principals as well as managers and officials of education boards. In many countries, education institution principals obtain knowledge on issues of educational management in further education programs (the graduates receive a certificate or qualification diploma, which in some countries is equivalent to Master's diploma) or Master's study programs. In several countries it is compulsory for an education institution principal, deputy principals and officials of education boards to obtain specific professional education in education management; however, in other countries it is only preferable. When we talk about a changing environment for the principal the danger is that this may sound too abstract. Briefly, as we see the main shift towards a new principal ship in Europe, it basically means that the principals will move from solely being a manager towards becoming more of an educational leader. The term manager is practically synonymous to administrator, although manager implies 'having decision-making authority'. The emphasis lies on administrative and routine tasks, such as distributing resources, enforcing rules, etc. The concept of leader concentrates on:

- Having a strategic vision about the direction the school should go;
- Having the ability to share the vision in such a way that other in the school are actively pursuing this strategic vision.

High-quality leadership widely acknowledges being one of the most important requirements for successful schools. However, less is known about the forms of leadership development that are

most likely to produce effective leadership. Effective leadership is not just a job; it is a complex interaction between a range of personal and professional qualities and experiences. A model of learning that is rooted in personal reflection to enable and enhance understanding and so inform action is at the heart of effective leadership. Leadership in post-modern age is characterized by lifelong learning, learning to learn and just-in-time learning. Report shows the impact of culture, philosophical approaches, hierarchical structures and technology on leadership development.

Within education there is an emerging emphasis on the learning organization. Leadership development is increasingly related to the promotion of collaborative approaches to organizations within which distributed leadership is the dominant mode of professional organization (Hannay & Ross 1999). The impact of this on an individual, a group and whole-school leaders is that their development opportunities are increasingly linked to leadership for learning, through transformational philosophies (Crowther & Olson 1997).

Harris (Harris 1999: 21) examines the problem of ineffective departments in schools and attributes them, in part, to weak leadership and lack of vision. She claims that “effective leadership essentially involves guiding and supporting staff, particularly those who are having difficulties”.

Davies (Davies 1996) argues that school improvement depends on a different approach to leadership that involves coaching not control, and encouraging the dispersal of leadership and management widely within the organization. Bierema (Bierema 1997: 38) concludes that “learning organizations have the advantage of turning their learning upon themselves in an effort to improve their process and structure”. Hopkins (Hopkins 2000) argues that school leadership and therefore leadership development needs to be differentiated to take account of the different stages of the school improvement journey.

Effective leadership is the core of every successful organization. Effective leaders collaboratively create a vision and establish a climate for people to reach their highest level of achievement. They mobilize resources and promote collaborative activities among partners to achieve the organization’s goals. Effective leaders recognize their own strengths and attract competent people to enhance the organization’s capabilities. They cultivate and focus the strengths of colleagues to achieve the shared vision. They welcome change as an opportunity for growth rather than an obstacle to be overcome, and they lead people through the uncertainty of a changing society. Effective leaders seek counsel and advice to learn from the knowledge and experiences of others while they freely offer their expertise to those who seek it. High quality leadership is widely acknowledged to be one of the most important requirements for successful schools (Bush & Jackson 2002). However, much less is known about what forms of leadership development produce enhanced leadership that leads to school improvement.

All above mentioned reveals that leaders need to supplement and improve their knowledge in management and leadership constantly. They should develop professionally reflecting and reacting on constant changes in politics and economy.

The aim of school leadership professional qualification development is that principals should develop and use a democratic and communicative form of leadership that has its starting point in the national curriculum. Several different concepts are used to describe the leadership development process: leadership training, leadership experience, professional development, management development and management training.

**Career-long learning**

From beyond education, Friedman and Phillips (Friedman & Phillips 2002: 269) refer to lifelong learning and provide a powerful justification for 'continuing professional development' (CPD). Just as lifelong learning and the learning society represent a social imperative in a world of rapidly changing knowledge and technology, so CPD must be addressed if professionals are to keep up with these changes. They provide a useful distinction between training, education and development in their discussion of management development:

- The focus of training is the employee's present job;
- The focus of education is the employee's future job;
- The focus of development is the organisation: "Development programmes prepare individuals to move in the new directions that organisational change may require."

Thomson A., Mabey C., Storey J., Gray, C., (Thomso, Mabey, Storey, Gray, 2001: 10) draw on a large-scale empirical research with managers and companies beyond education to rank nine leadership development methods on the basis of their perceived effectiveness: a) time off for courses, b) external courses, c) on-the-job training, d) in-house training, e) coaching managers, f) use of consultants, g) formal induction, h) mentoring, i) job rotation.

Green (Green 2001) stresses the importance of leadership rather than management and refers to Rajan's (Rajan 1996) study of leadership in 500 organisations beyond education. This shows five development modes ranked according to how valuable they were perceived to be: a) coaching and mentoring, b) sideways moves, c) challenging assignments that stretched their capability, d) networking with peers, e) formal training.

While change was endemic in the profession for the last quarter of the 20th century, the acceleration of change and its pervasiveness for schools means that there is now a concern about how school leaders are prepared. The literature suggests that the ubiquity of change, complexity of the role, level of remuneration, status of the profession, legal constraints, and impact on family life are all the reasons why there is dearth of candidates seeking leadership roles in schools. Principals have a central responsibility for raising the quality of teaching and learning for pupils'

achievements. This implies setting high expectations, monitoring and evaluating the effectiveness of learning outcomes. A successful learning culture will enable pupils to become effective, enthusiastic, independent learners, committed to life-long learning.

Effective relationship and communication are important in headship as principal's work with and through others. Effective principals manage themselves and their relationships well. Headship is about building a professional learning community which enables others to achieve. Through performance management and effective continuing professional development practice, the principal supports all staff to achieve high standards. Principals should be committed to their own continuing professional development to equip themselves with the capacity to deal with the complexity of the role and range of leadership skills and actions required (Gronn 2000: 317).

Principals are in charge of the whole school community. Principals are responsible to a wide range of groups, particularly pupils, parents, careers, governors and local education authorities. They are responsible for ensuring pupils to enjoy and benefit from a high quality education, for promoting collective responsibility within the whole school community and for contributing to the education service more widely. Principals are legally and contractually responsible to the governing body for the school, its environment and its work.

Principals provide effective organisation and management of the school and seek ways of improving organisational structures and functions based on rigorous self-evaluation. Principals should ensure the school, the people and the resources within it to be organised and managed to provide an efficient, effective and safe learning environment. These management duties imply the re-examination of the roles and tasks of those adults working in the school to build capacity across the workforce. Principals should build successful institutions through effective collaborations with others (National Standards for principals, DfES/0083/2004: 9).

Over the years, three different philosophical orientations have guided the education and professional development of school administrators: traditional/scientific management, craft, and reflective inquiry. The traditional model is characteristic of preparation programs at universities. Principals select this model based on their desire to pursue additional coursework in an area of professional interest, to obtain an advanced degree, to renew or upgrade their administrative license, or a combination of these objectives (Daresh 2002; Fenwick & Pierce 2002).

*Traditional Model*

The traditional model exposes the principal to the research base on management and the behavioral sciences. She/he learns the general principles of administrative behavior and rules that can be followed to ensure organizational effectiveness and efficiency. The participant is often the passive recipient of knowledge and the source of professional knowledge is research generated at

universities. Learning activities are institutionally defined and generally not tailored to the specific learning needs of the principal or reflective of her/his specific school context.

In more recent years, many school districts, professional associations, and other education agencies have created in-service academies and workshops/seminars. These academies and workshop/seminar series often have course delivery systems similar to universities, and thus can be characterized as modern versions of the traditional model. Content is changed periodically, usually on the basis of needs assessments administered to potential academy participants. This approach is distinct from other in-service models because of its short-term duration and because it tends to deal with a narrow range of topics, or highly focused topics (Daresh 2002: 8). Unlike university-based programs, academies and seminars/workshops are more client-driven. Involvement in these types of learning activities normally comes from a principal's personal motivation and desire to learn and grow professionally, not from a need to meet certification or degree requirements (Daresh 2002: 14).

*Craft Model*

In the craft model, the principal is trained by other experienced professionals. Here, the principal is the recipient of knowledge from seasoned administrators whom she or he shadows in internships and field experiences. The purpose of shadowing is for the principal-observer to see how another principal interacts with school personnel and the public, deals with problems, and responds to crises. The observer learns another way of handling school concerns. In the craft approach, the source of professional knowledge is the practical wisdom of experienced practitioners and the context for learning is a real school setting (Daresh 2002; Fenwick and Pierce 2002: 44).

*Reflective Inquiry Approach*

In the reflective inquiry approach to professional development, the principal is encouraged to generate knowledge through a process of systematic inquiry. The focus is to create principals who are able to make informed, reflective and self-critical judgments about their professional practice. Here, principals are active participants in their learning, and the source of knowledge is in self-reflection and engagement. The goal is to encourage principals to reflect on their values and beliefs about their roles as school leaders, take risks and explore new skills and concepts, and apply their new knowledge and skills in real school contexts. Networking, mentoring, and reflective reading and writing are key components of this approach (Daresh 2002; Fenwick & Pierce 2002: 46).

The use of networking for professional development of principals is based on the belief that collegial support is needed in order to be an effective school leader. Reference (Owens 2000: 35) on organizational effectiveness indicates that the presence of norms of mutual support and collegiality results in greater leadership longevity and productivity. Networking involves linking principals for the purpose of sharing concerns and effective practices on an on-going basis. Networks tend to be

informal arrangements that emerge when principals seek out colleagues who share similar concerns and potential solutions to problems. However, rather than being periodic social gatherings, true networking is regular engagement in activities that have been deliberately planned by the principals themselves, as a way to encourage collective movement toward enhanced professional performance (Clift 1992; Neufeld 1997; Daresh 2002). Successful professional development takes time. Principals, just like their teachers, benefit from professional development that examines best practices, provides coaching support, encourages risk-taking designed to improve student learning, cultivates team relationships and provides quality time for reflection and renewal. In the end, principals and teachers should leave these experiences with a renewed sense of faith in the transformative power of schools in children's lives. The discussions on the distinction between knowledge, skills and professional attitude showed that current, although substantial and well organized, training programmes for school principals need more real – life cases in relation to modern management techniques. Strategic management module: visionary leadership; identifying the need for systematic change; visionary planning; to build a shared vision in the school management team; understanding the nature of internal and external political systems and environment; development to effective interactive community public relations (Bush & Chew 1999: 41).

**Results**

Study of the education institution principals' personal qualities in order to determine their suitability to management and analysis of their educational activities would ensure a more convincing selection of applicants to the post of the education institution principals and a more successful start of and promotion in the career (Adey 2000: 419).

In the new economic era, the education institution principals

Table 1. **The education institution principals' competences**

| ***Must have competences in:*** | ***Must know about:*** |
|---|---|
| *jurisprudence – knowledge and understanding of external laws and regulation, the development and implementation of internal rules and regulations, preparation of projects and agreements;<br>*communication – development of interrelations with the subordinates, the learners and their parents, representatives of the community, service providers and suppliers of goods, partners, clients, as well as knowledge and skills of information technologies and foreign languages;<br>*management – work with the personnel, | •significance of interpersonal relationships, adult learning and models of continuing professional development;<br>•strategies to promote individual and team development;<br>•building and sustaining a learning community;<br>•relationship between managing performance, CPD and sustained school improvement;<br>• impact of change on institutions and individuals;<br>• models of organisations and the principals of organisational development;<br>•principals and models of self-evaluation; |

| | |
|---|---|
| organization and management of projects, management of various competitions, management of quality and changes;<br>*education – education of values, interactive methods, novelties in theory and practice, knowledge of and skills in social and special pedagogy, skills in research in education;<br>*economics – composition of the budget and its realization, attraction of sponsors, marketing of education products, ensuring assistance in the development of the learners' economic competences. | •principals and strategies of school improvement;<br>•project management for planning and implementing change;<br>•policy creation, through consultation and review;<br>•informed decision making<br>• strategic financial planning, budgetary management and principles of best value;<br>• performance management;<br>• personnel, governance, security and access issues relating to the diverse use of school facilities;<br>• legal issues relating to managing a school including equal opportunities, 'race' relations, disability, human rights and employment legislation. |
| ***is committed to:***<br>• effective working relationships;<br>• shared leadership;<br>• effective team working;<br>• CPD for self and all others within the school;<br>• distributed leadership and management;<br>• equitable management of staff and resources;<br>• sustaining of personal motivation and that of all staff;<br>• developing of a safe, secure and healthy school environment;<br>• collaborating with others in order to strengthen the school's capacity and contribute to the development of capacity in other schools. | ***is able to:***<br>• foster an open, fair, equitable culture and manage conflict;<br>• develop, empower and sustain individuals and teams;<br>• collaborate and network with others within and beyond the school;<br>• challenge, influence and motivate others to attain high goals;<br>• give and receive effective feedback and act to improve personal performance;<br>• accept support from others including colleagues within the local education authority (LEA);<br>• establish and sustain appropriate structures and systems;<br>• manage the school effectively on a day-to-day basis;<br>• delegate management tasks and monitor their implementation;<br>• prioritise, plan and organise himself/herself and others;<br>• make professional, managerial and organisational decisions based on informed judgements;<br>• think creatively to anticipate and solve problems. |

**Conclusions**

1. Principals' training must be based on a holistic view of the school in which the organization of the programme, its relationship with the local community, and knowledge of school conditions together constitute important elements. The training emphasise a capacity for reflection, for critically processing information and solving problems. Important starting points for the

development of competence are the principal's own experience of various types of work in school. Ideas, concepts and theoretical models from relevant areas of research and development will provide increasing knowledge and understanding of both one's own experience as well as other's contribution to school.

2. The training must be based on a view of leadership in school that will promote a working climate inspired by openness, reflection and learning. The purpose of the training is to deepen principals' knowledge and increase their understanding of the national school system, the national goals of the school and the role of the school in the society and the local community. The training will allow principals to deepen their knowledge of the role of leadership in a school system managed by objectives and results, as well as develop their ability to plan, implement, evaluate and develop school activities. The training also aims at development of the capacity of the principals to analyse and draw conclusions from the outcomes of such activities and be able to share their views. Principals will also develop their ability to co-operate both inside and outside the school in addition to representing the school in the community.

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# SOCIAL INVOLVING IN SUSTAINABLE RESOURCE MANAGEMENT IN LATVIA

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**Abstract**

**Social involving in sustainable resource management in Latvia**

***Key words:*** *sustainability, sustainable resource management, transformation of societal consciousness*

The purpose of this article is to study the current situation, which concerns participation of society in the sustainable management of resources at national scale. Activation of modern life of society directly influences increasing of consumption of natural resources and environmental pollution. It entails the necessity to increase recycling capacity, which, in turn, requires additional energy. These changes require a transformation of societal consciousness and legislation. The author indicates the need for public awareness and economical expediency of establishing a system, allowing re-use of waste and alternative energy sources for sustainable resource management.

**Kopsavilkums**

**Sabiedrības iesaistīšanas nepieciešamība resursu ilgtspējīgā pārvaldībā Latvijā**

***Atslēgvārdi:*** *ilgtspējība, ilgtspējīga resursu apsaimniekošana, sabiedrības transformācija*

Ilgtspējīgas attīstības process ir sarežģīts un daudzpusīgs. Tas notiek ilgtermiņā un tikai pastāvīgā darbā, ar sabiedrības apziņas transformāciju. Šis process prasa ne tikai pasaules mēroga pamatnostādņu pieņemšanu, bet arī labi izglītotu radošu profesionāļu līdzdalību, kas spēj domāt ilgtermiņā, jo jebkura direktīva būs mazāk efektīva, kā iniciatīva, kas nāk no kopienas (Filho & Pace, 2002). Tādā veidā, lai nodrošinātu ilgtspējīgu attīstību šajā procesā ir jāiesaista visa sabiedrība.

More than 100 000 years ago there was the first Homo Sapiens. Up to the beginning of our era, the number of consumers of resources was not more than 250 000. At the beginning of the 19th century, the number of people approached to 1 billion. This time is characterized by the rapid development of production and commodity-money relations. Despite conceived class society, the level and quality of life of its members begins to grow slowly.

The rapid growth of the industry in the countries of the "old world" brought huge profits to ruling the elite and industrialists level of goods consumption grew. This required more and more resources. The growth of the quality of life contributed to the increase in population, and by 1945 it was already more than 2 billion people. (Figure 1 (ref.1)).

Today the world's population is more than seven billion people, in less than 100 years the world’s population has increased by 5 billion people. And each year population continues to grow by 1.13%.

As it is shown in Figure 2, the majority of the population (over 60%) live in five countries - China, India, USA, Indonesia, Brazil, four of which are leaders of world production. (Figure 2 (ref.2))

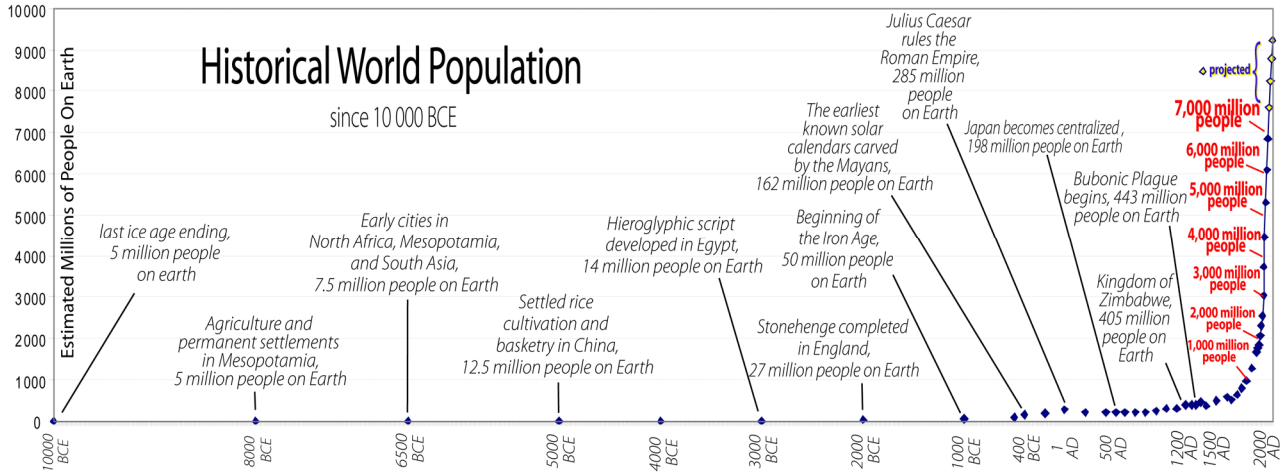


Figure 1. **Historical world population**[3]

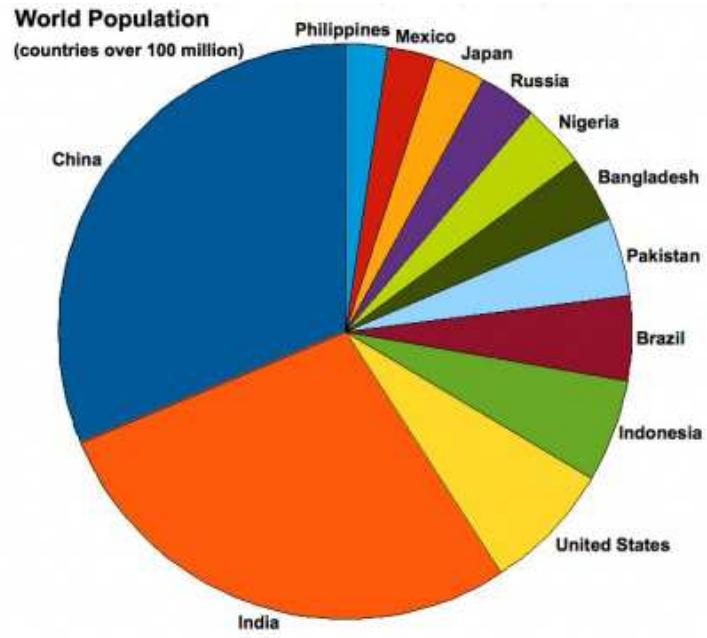


Figure 2**. World population**[4]

Countries of developed economies are also the leaders in matters of comfort life (US, Europe, Scandinavia). (Figure 3 (ref.3)).

[3] Historical world population. [skatīts 02.04.2016]. Source: UNEP-GRID Sioux Falls, population data – US. Accessed: http://na.unep.net/geas/getuneppagewitharticleidscript.php?article_id=71

[4] Statistics - World Population. [skatīts 02.04.2016]. Accessed: https://embryology.med.unsw.edu.au/embryology/index.php/Statistics_-_World_Population

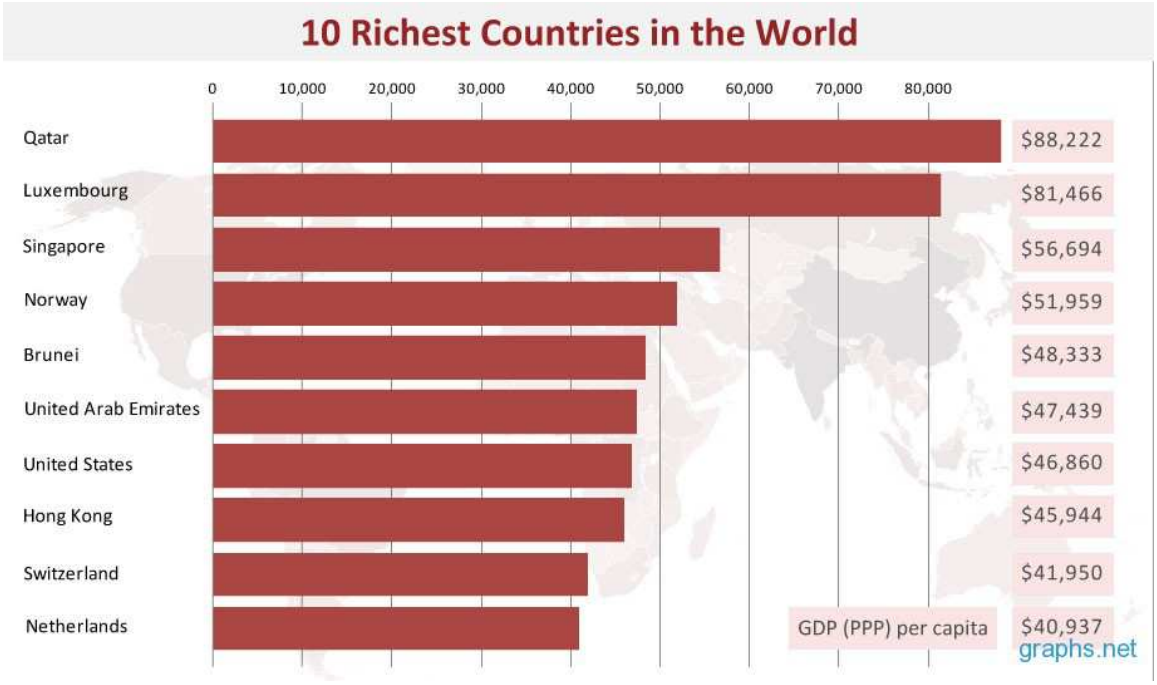


Figure 3. **10 richest countries in the world**[5]

Comfortable life is provided by two main components:

1. The development of the economy
2. Natural resources.

Today a resident of any of the developed European countries or America spends more heat, products, energy than the resources of the country can afford (Vakerneidžels, Riss 2000). Therefore, they use resources from other areas. At the same time proportion of the world's population living on less than a dollar a day is increasing. Another example is: in Las Vegas on the lighting the same amount of electricity is spent as France consumes on the entire industry. According to Forbes magazine, Las Vegas uses 5,600 megawatts of electricity on a summer day.

Latvian Environmental Protection Specialist I. Emsis told: “Johannesburg 10 years after Rio had found that the world is either not at all, and not a better. Needs are growing and people's efforts to meet their needs and improve their living conditions are significantly ahead of Earth's ability to meet these needs. It is already a tragedy that humanity has found mechanisms and tools are not found even a theory that could balance the needs of wildlife and the earth and its resources to meet these needs" (Emsis 2002).

Constant consumption of barbaric attitude towards the planet's resources, gross interference in the ecosystem, is leading to a sharp increase in the number of disasters and environmental catastrophes. A special place should be given to man-made disasters - London Smog of 1952 (over

[5] 10 Richest Countries in the World. [skatīts 02.04.2016]. Source: Showcase & Discover Creative Info Graphics. Accessed: http://graphs.net/worlds-richest-countries.html

4000 dead), Bhopal catastrophe in 1984 (more than 18 000 dead), the explosion at the Chernobyl nuclear power station in 1986, an accident at the plant "Fukusima 1" of 2011 (loss amounted more than 74 billion dollars, the total elimination of consequences of the accident - 40 years), the fuel tanker explosion near Cologne in 2004 (expense of 314 million dollars), multiple accidents on oil platforms, followed by oil spills. All these disasters cause a catastrophic environmental pollution. Ecosystem recovery may take tens, hundreds, and if we talk about the period of disintegration of nuclear waste - for thousands of years.

It is necessary to note also the extreme militarization of the developed countries. In addition to the enormous costs of maintenance of the army (Figure 4) the militarization of the test also involves a different kind of weapons, including nuclear, which also degrades the environmental and seismic stability of the planet.

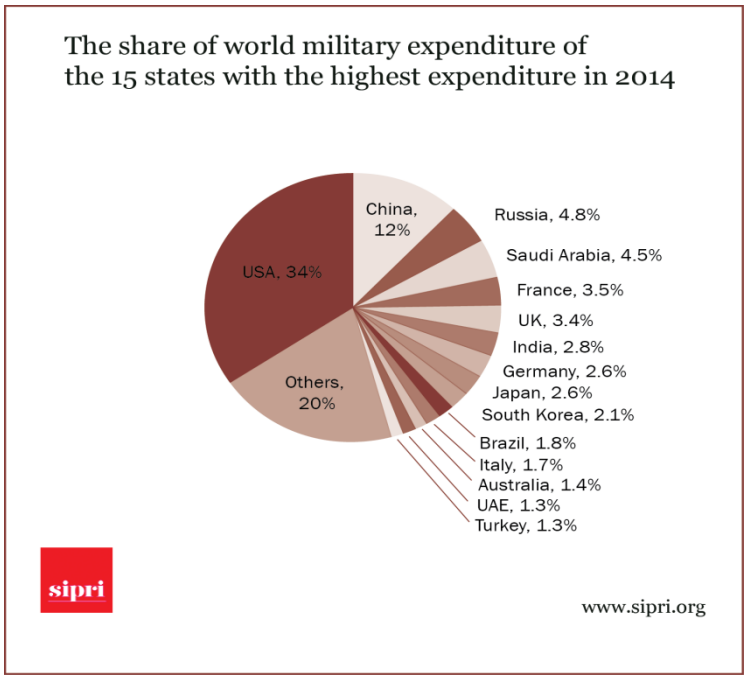


Figure 4. **The share of world military expenditure of the 15 states with highest expenditure in 2014**[6]

Research and development of military released to the world new viruses and diseases.

Earthquakes, fires, floods, viruses take away thousands of lives around the world. Melting of Arctic ice, the reduction of the ozone layer of the planet irreversibly change the planet's ecosystem.

The desire of people to comfort leads to urban areas (Wolfram 2015).

Worldwide trends show that the world's population gradually moves to big cities. The increase of migration, worldwide tourism should be added to the process of urbanization. All types

[6] The share of world military expenditure of the 15 states with highest expenditure in 2014. [skatīts 02.04.2016]. Accessed: http://www.sipri.org/newsletter/april15

of transport are involved to move a large number of people. At the same time it burned all Large Live fuel, which was continuously drawn from the bowels of the earth. According to UNEP-GRID Sioux Fall, 2010 there is a constant increase in oil production. (Figure 5 (ref.5)).

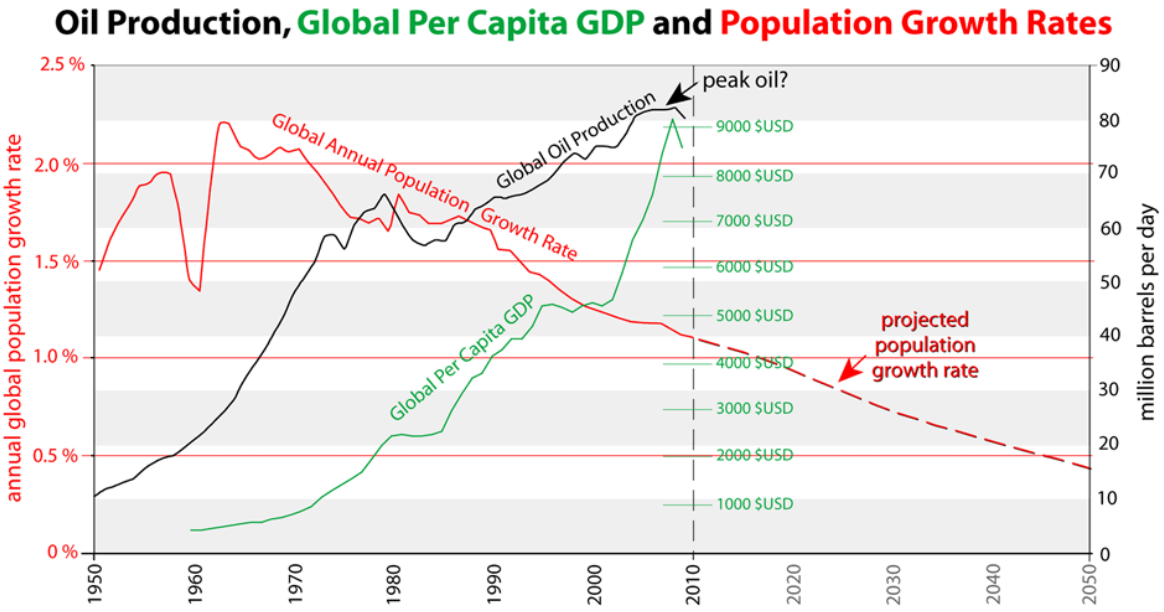


Figure 5. **Oil production**[7]

And if 50 years ago only units owned cars, now their number is exceeding 1 billion, and by 2035 will reach 1.7 billion. (ref.11). Huge crowds of people in metropolitan areas automatically lead to increase of waste, necessity of storage, processing and recycling.

The question arises - what humanity can do in the face of current environmental threats? So what are the opportunities for such changes, and how can I get to the necessary understanding? Humanity starts to treat this problem seriously only when it comes. We live in an era when increasing amount of emissions into the atmosphere, leads to the greenhouse effect and the Earth's ozone layer depletion, climate change and drinking water reserves decline. Soil, water and air is saturated with harmful emissions. Humanity is not only stagnation but also its basic survival is threatened. The international community is already actively looking for exit opportunities from the complex and adverse situations. But even such as they may appear, serious international agreements such as the Kyoto Protocol, cannot completely solve even a part of the world's ecological problems. In today's world the huge ecological problems require a global approach internationally. This solution cannot be immediate, therefore, it requires sustained international community involvement. Consequently, the question arises - what is the public opinion and the public awareness of the required change in the starting point.

[7] Oil production. [skatīts 15.03.2016]. Accessed: http://na.unep.net/geas/newsletter/images/Jun_11/Figure3.png

Obviously the following:

1. comprehend its activities
2. see what results this has led to
3. transform your consciousness

A similar concept offers Mezirow, who developed transformative learning theory (Mezirow, 2000).

The transformation of consciousness means understanding ongoing processes in the world today: geopolitical, economic, technological. The combination of these processes determine the environmental policy of each individual country and the Commonwealth countries on a continental scale.

The transformation of the world begins with one person. But the necessary results can come only in the case of understanding the necessity for rational use of resources of the whole society, the whole humanity. Society should have a certain level of education to be able to make rational use of decisions. And here we come to the question necessity of good education, in which a large part will be devoted to environmental issues, global trends in these matters, competent use of sustainable resource management.

According to the author, now time has come when education can play a great role in ensuring people all over the world, especially young people, with the knowledge that would help to solve the existing problems in the application of sustainable development. They could solve this and future generations of normal life key issues. Assurance was given in November 2014 in Japan (Aichi-Nagoya) held at the World Conference on Education for Sustainable Development (ref.13). Its final monitoring showed more activity in the last decade, hundreds of thousands of people at the global level reorienting education: in order to motivate stakeholders to learn to live and work in a sustainable way. Sustainable development education is spreading in all levels of education and fields. International and national strategies concerning sustainable development in economic, environmental and social aspects, as one of the key components of sustainable development begins to be reflected in education. Developed national policies in the field of education, including curriculum changes currently provides training opportunities for individuals from early childhood up to entire organizations.

Speaking about Latvia, it should be noted that the country has limited natural resources. That is why it is important to use them wisely and in the field to keep at least the average EU level. To plan the use of renewable resources by introducing a maximum environmentally friendly waste-free technologies. Such questions can only be dealt by people educated in the area in question. Consequently, the operational objectives of the current situation analysis of the effective use of renewable natural resources in the world, and educational opportunities, research public social awareness of changes in the field of the sustainable development.

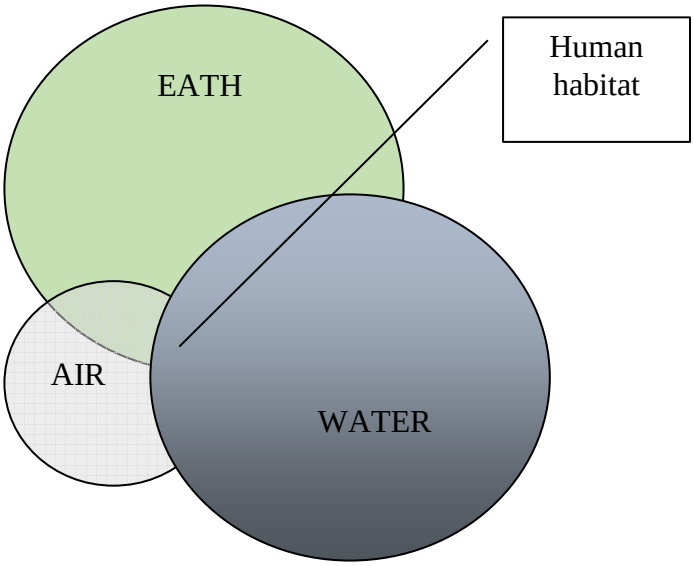


Figure 7. **One's component reduction**

As seen from Figure 7, reduction of any of these components leads to the reduction of human life space and its ability to survive.

The chain of economic human life can be represented as follows (Figure 8.): the organization of the production process on the basis of energy received from the use of natural resources. As a result of the production of waste products are obtained.

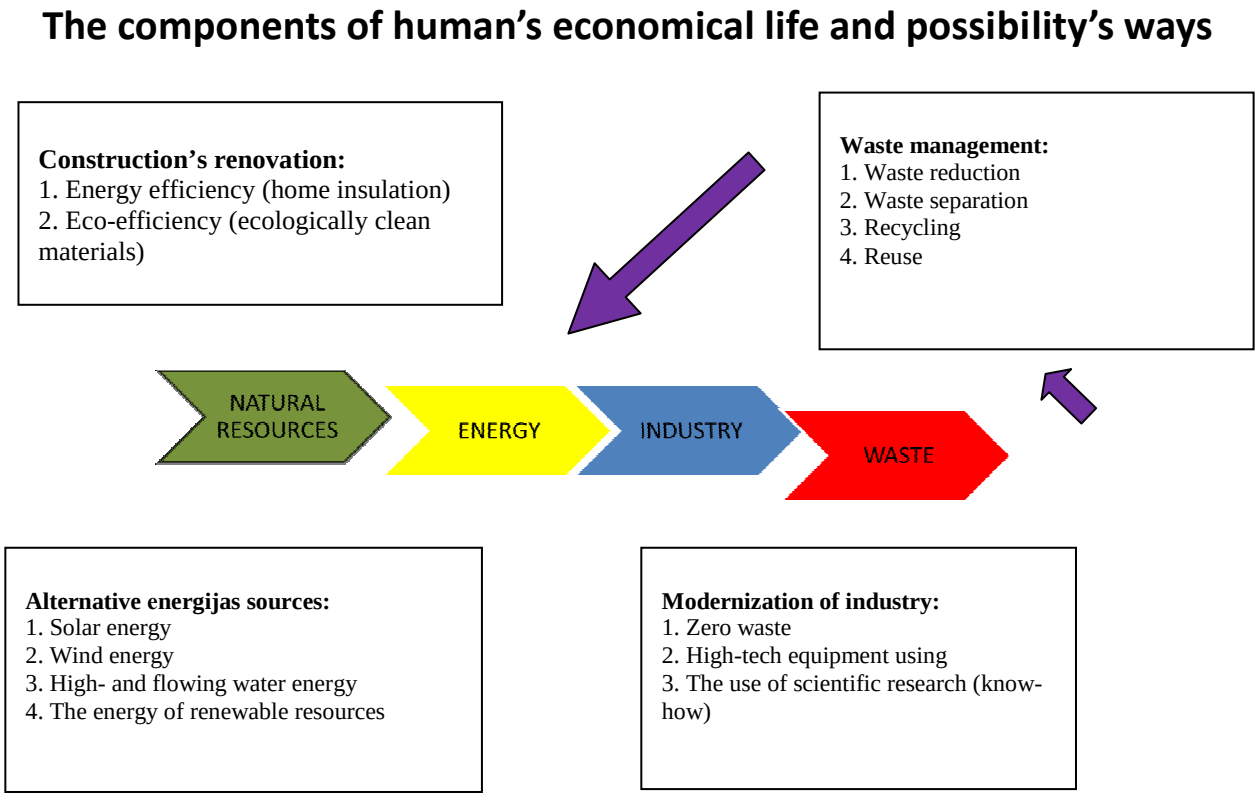


Figure 8. **The chain of economic human life**

The international community is developing a variety of programs and documents according to resource management. The main of them are:

- The importance of smart and wise resource management has been emphasized in the post-2015 framework and in the agenda of
- GAP (Global Action Program) pursued by the UNESCO in 2014.

But to manage restrain the increase of waste is bad. A new report from the World Bank's Urban Development department estimates the amount of municipal solid waste (MSW) will rise from the current 1.3 billion tons per year to 2.2 billion tons per year by 2025. Much of the increase will come in rapidly growing cities in developing countries. (ref.14)

It is important to develop a model of sustainable development that would ensure a relatively good living conditions for all. There are attempts to build a model (Poper 2005). In 1987 the United Nations Environment and Development Commission report formulated the fundamental principle of sustainable development: "Sustainable development is development that provides a modern generation needs without compromising the ability of future generations to meet their own needs". (Brishko 2009).

It is obvious that the existing model of social development, comprehensively solves that existing problems can be fully developed by well-educated professionals. A growing quantity of literature suggests that a co-evolutionary approach is the key to understanding resource management system (Berkes et.al. 2003) that requires a non-linear behaviour and understanding of interrelatedness of all processes.

The document of the United Nations Conference on Sustainable Development (Rio+20) (2012) entitled: The Future We Want is aimed:

- to promote education for sustainable development and to integrate sustainable development into education beyond the United Nations Decade of Education for Sustainable Development.
- The United Nations Decade has been successful in raising awareness regarding ESD, and has created a platform for international collaboration and networking, as well as contributed to a number of initiatives at the national level, and generated large scale projects in education.
- Sustainability has been acknowledged as a priority of the Decade and in Bonn Declaration.

**Conclusions**

The process of sustainable development is complex and multi-faceted. It takes long time and only in the way of an ongoing work on it the transformation of society consciousness can take place.

This process requires not only the adoption of guidelines on a global scale, because any top-down directives will be less efficient as compared to the initiatives that come from within the community (Filho & Pace 2002), but also this involvement of well-educated artists, capable to think in the long term. Therefore, the whole society must be involved in this process to ensure a sustainable development.

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# DOCUMENT MANAGEMENT SYSTEMS AS QUALITY MANAGEMENT SYSTEM SOLUTIONS

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**Abstract**

**Document management systems as quality management system solutions**

***Key Words:*** *Document management systems, quality management system*

The aim of the research is to study the efficiency of the use of document management systems (DMS) in organisations. DMS is one of the most important quality management systems (QMS) and proper selection and maintenance of its components is a decisive factor for efficient activity of an organisation. There is a big number of DMS on offer at present - both specialised DMS for particular organisations and complex integrated solutions offering possibility to process accounting, record keeping and personnel management data. Managers can choose any DMS meeting the needs of their organisations. The criteria for choosing an appropriate DMS depend on the size of the organisation, document circulation volume and financial possibilities. Personnel training in the use of DMS are one of the most important preconditions of efficient use and maintenance of DMS introduced in an organisation. The research contains analysis of DMS capabilities and practical recommendations to managers of organisations on selecting a DMS meeting their requirements.

**Kopsavilkums**

**Dokumentu vadības sistēmas kā kvalitātes vadības sistēmas risinājumi.**

***Atslēgas vārdi:*** *dokumentu vadības sistēma, kvalitātes vadības sistēma*

Pētījuma mērķis: izpētīt dokumentu vadības sistēmu (DVS) izmantošanu organizācijās. Tā ir viena no svarīgākajām kvalitātes vadības sistēmas (KVS) sastāvdaļām un tās izvēle un uzturēšana ir noteicoša efektīvai darba organizēšanai. Dokumentu vadības sistēmu programmatūras izvēle ir pietiekami liela. Ir pieejamas gan specializētas sistēmas tikai dokumentu vadības organizēšanai, gan arī integrētas kompleksā risinājumā kopā ar grāmatvedības, personāla vadības sistēmām. Organizācijas vadītājam ir izvēles iespējas kādu no programmām izvēlēties. Izvēles kritēriji ir atkarīgi no organizācijas lieluma, dokumentu aprites apjoma un finansu iespējām. Svarīga ir darbinieku sagatavotība darbam ar izvēlēto programmu, gan arī lojalitāte sistēmas izmantošanai. Pētījumā apskatīts dokumentu vadības sistēmu piedāvājums, DVS iespējas un izmantošanas praktiskie ieteikumi.

The present paper is a review of the research on the use of documents management systems (DMS) in organisations. DMS is an essential part of the quality management system (QMS) of any organisation. The selection and maintenance of DMS has a direct impact on the efficiency of work with information within organisation. The quality management studied in the course of the research is not closely associated with ISO 9001:* a standard, which describes universal quality management principles and certification confirming the observation of the mentioned principles. The subjective understanding and interpretation of the concept of quality management is admitted, however, considering that the main requirements put forward in ISO 9001:* are acknowledged. Reference to ISO 9001:* standard ensures a common understanding of notions and principles used in the research.

Explanations of quality (zero errors, excellence, conformity to the purpose, etc.) put forward by a number of authors are taken into consideration; however, the authors understand a DMS as **an efficient use of resources in the circulation of information**. Despite the completeness of the quality management system maintained in an organisation, the main procedures and processes in it are internal and external circulation of information: input/output, storing, forwarding, accessibility.

The requirements of ISO 9001:2008 standard determined the necessity to record processes and procedures. The requirements regarding the circulation of information (e.g. record keeping, accounting) could be realised by freely selecting any of the technologies available. A possible solution could be a unified document management system.

ISO 9001:2015 introduced a new term – documenting information. Organisations are required to ensure the registration of information of all kinds, which can serve as a proof that production processes procedures, mutual communication, planning, control, information exchange with clients meet the quality criteria. Additional requirements regarding documenting information determined by the normative acts of an organisation itself can be also included in QMS.

Documents management systems, allowing automatizing all or some part of information documenting processes determined by the standard, selected and used by organisations are studied in the research.

The major part of information circulation in organisation is carried out by means of maintaining record keeping, accounting and correspondence. The scale of internal and external information circulation can differ depending on the legal status of an organisation.

The authors of the research studied the possibilities to introduce and maintain DMS in Latvian organisations from different sectors with diverse legal status and number of employees. The recommendations on the selection of DMS solutions were put forward and problems hindering automatizing information circulation processes were identified. In the course of the research doctoral theses in connection with QMS and DMS were studied, the analysis of previously done researches and the polling on the use of DMS in organisations were carried out.

The study of the DMS being offered to Latvian organisations made it possible to conclude that the choice of DMS is wide enough. Both specialised systems for organising record keeping documents management and complex solutions for record keeping, accounting, personnel management, communication systems, aid and support services, business management systems are available. The choice of system can be made depending on the following factors:

- belonging to a particular economic sector;
- number of employees in organisation;
- type of hosting of system– in local Intranet of an organisation, external service or cloud computing solutions;
- software developer – Latvian or foreign;
- complexity of software – specialised software or simple files system;
- available finance - charged/ free of charge software;
- personnel’s computer skills;
- type of maintenance – maintained by organisation computer specialist or external service;
- computer systems and computer network technical utilities, etc.

The offered DMS software cannot be applied efficiently at all parts of organisation's document circulation stages. There are types of works which the software does not provide and therefore it is not possible to achieve absolute automatization of work. Due to their insufficient knowledge in the IT field the employees involved in organisation management, document management and accounting cannot prepare and put forward suggestions to the software developers, which can be mentioned as a reason of incompleteness of existing DMS software. As a result in the process of the software development the life cycle of organisation is not considered as a whole, and the software is being developed as an implementation of the pulled out of the context requirements determined in normative acts or through narrow specialisation.

There are no strictly regulated requirements towards the introduction of documents management systems in organisations in Latvia, however there is a number of essential reasons which has to be taken into consideration in order to experience a real effect on implementing DMS. The most important precondition for automatizing circulation of information is the capability of the software to save information in formats meeting the requirements of the National Archives; the system should also be compatible with the state information systems the organisation uses for exchange of information. At present there are 185 different information systems in the State information systems register.

In the last years, one more essential condition was put forward to DMS – capability to use electronic signature, especially in external information circulation. Organisation can ensure fulfilment of essential requirements if it uses a data circulation system, which is certified in accordance with Latvian normative acts (Data State Inspectorate). Otherwise organisation must choose another data centre service in possession of appropriate certificate.

The research "On the document circulation processes of ministries and their subordinated institutions in 2011" done in 2013 by Latvian Ministry of Environmental Protection and Regional Development showed a surprisingly big and mutually uncoordinated variety of DMS introduced in state institutions. 12 different DMS were used in 15 ministries and 26 different DMS were used in 70 institutions subordinated to ministries!

Novel researches in this sphere have not been carried out since 2013, but it is possible to consider the main tendencies on the basis of data summarised by Latvian Central Statistical Bureau (CSB). A sharp increase in the number of DMS introduced in organisation, especially in ones, employing 250 and more employees, was obvious by 2012 (see Figure 1).

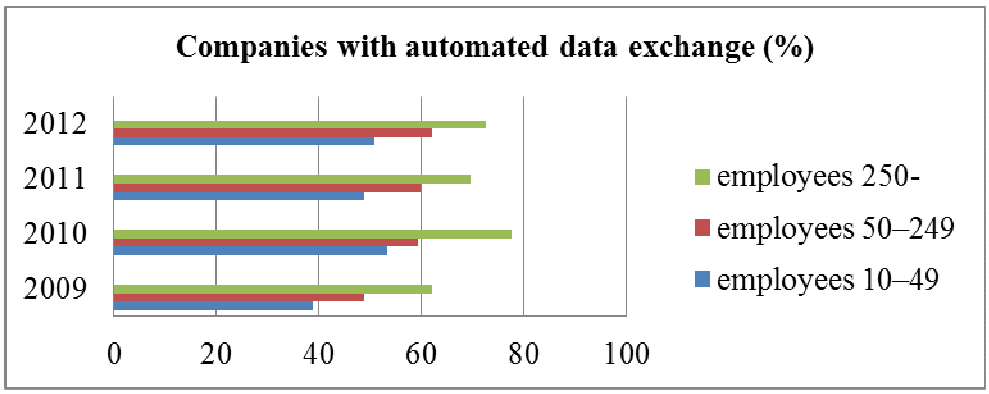


Figure 1. **Central Statistical Bureau data**

According to the data on the use of software for resources planning summarised by CSB in 2015 the biggest share in the respective sector belongs to enterprises specialising on computers and communication equipment repair (30%), provision of information and communication services (37%), and wholesale companies (24%). Building companies do not use software for planning resources – only 9% out of the total number of companies in this sector use DMS. According to the data of 2015 the share-out of companies using some kind of IT solution for processing information about their clients depends on the number of people being employed in them. Automatized IT solutions are used only by14,6% of companies employing 10-49 people, 28% of companies with 50-249 employees and 56,1% of companies with more than 250 employees.

For the analysis of IT solutions in the use of documents management systems additional statistical data on the employees' competence in IT sphere and use of newest cloud computing technology was evaluated (Table 1).

Table 1. **Employees' competence in IT sphere and use of newest cloud computing technology**

| Data on companies with 10 and more employees | % | Year |
|---|---|---|
| Use social media | 25 | 2015 |
| Regularly use computer with Internet connection in work | 49 | 2015 |
| Employ ICT/IT specialists | 19 | 2015 |
| Had difficulty to fill ICT/IT specialists vacancies | 45 | 2015 |
| Provided training to personnel to develop their ICT/IT skills | 10 | 2015 |
| Pay for cloud computing services | 8 | 2015 |
| Pay for storing cloud computing files | 4 | 2015 |
| Do not pay for cloud computing services because of afraid of risk to security | 40 | 2014 |
| Do not pay for cloud computing services because of lack of knowledge on cloud computing | 48 | 2014 |
| Employees have remote access to company's e-mail system | 52 | 2015 |

The polling on the use of automatized documents management systems was carried out in organisations. The questionnaire to be filled in electronic form was sent to 120 freely chosen respondents by e-mail. Respondents were chosen according to the criteria: legal status, belonging to

a certain sector, location, number of employees. 39 responses from respondents from 15 populated places and 20 different sectors, meeting the put forward criteria were received. 14 different DMS solutions were mentioned in their responses! Although the number of respondents was comparatively small, their responses to questions on the use of DMS, benefits and problems were reliable enough to make conclusions on the overall situation.

The possibility to use resources efficiently (costs, mobility, convenience in automatizing data circulation) was mentioned mainly as a benefit of introducing a DMS system solution. Introduction of DMS was not practically done due to QMS maintenance formal requirements.

At the same time respondents mentioned the following problems experienced while introducing DMS solutions: insufficient employees' IT competence, a very big number of external data bases, which were not compatible by their format, frequent update of software, errors in software operation, disproportionately high costs of introducing and maintenance DMS, threat to security, risks of carelessness and curiosity.

The polling demonstrated that some respondents did not have any understanding of the issues covered in the questionnaire.

A comparatively small number of doctoral theses in relation to DMS and QMS was developed during the last years, which proves the novelty of the theme of the research. Fast development of IT reduces the possibility to keep the topicality of a technology. Attempts to develop a universal solution are not crowned with success and are not practically implemented.

The authors of the research put forward the following recommendations to be taken in consideration when choosing a DMS:

1. It is necessary to make sure that DMS ensures the option of submitting data to the National Archives, is compatible with state information systems and ensures legal status of e-signature;
2. A free of charge cloud computing solution with files exchange option is appropriate for small companies;
3. Specialised software and data centres services are suitable for big companies;
4. It is necessary to allocate finance for training personnel in the use of DMS.

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# ANALYSIS OF PERSONAL AND ORGANIZATIONAL CULTURE VALUES AT PUBLIC SECTOR

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**Abstract**

**Analysis of Personal and Organizational Culture Values at Public Sector**

***Key words:*** *Organization, values of organizational culture, personal values, desirable values of employees*

The existing system of values in organization is best for describing the basic meaning of organizational culture. In order to understand what the values are, which unites organizations and their employees and how they change, the personal and organizational culture values are viewed and analysed in this study. Values were already analysed by ancient Greek philosophers (Heraclitus, Socrates, Demokritos e.t.c.), as well as by authors of the Bible. They explained the possibilities of world`s existence, meaning of human life and the role of values in life.

Authors of this article analyse insights of different scientists about characteristics of organizational culture structure elements as well as their opinion about problems in value-orientation. The study provides an overview of values` role and impact on development of organization and each individual separately.

Organizational culture is a unique resource, which can be used in development of organization. It is possible to identify and eliminate drawbacks in the well-timed supervision of organizational culture. Organizational values have an important role in the process of developing the organization, therefore organizational culture values are analysed in this study, as well as desired values of employees from the perspective of the leaders. Declared and actual organization values also are compared here.

In-depth exploration of organizational values in this article is viewed based on A. Maslow`s (Maslow 1943) theory of needs and R. Barrett`s (Barrett 2006) The Seven Levels of Consciousness model.

**Kopsavilkums**

**Organizācijas kultūras un darbinieku personisko vērtību analīze publiskajā pārvaldē**

***Atslēgvārdi:*** *Organizācija, organizācijas kultūras vērtības, personiskās vērtības, vēlamās darbinieku vērtības*

Organizācijas kultūras pamatbūtību vislabāk spēj raksturot tieši pastāvošā vērtību sistēma organizācijā. Lai izprastu, kādas ir tās vērtības, kas vieno organizāciju un darbiniekus un kā tās mainās, rakstā apskatītas un analizētas personiskās un organizācijas kultūras vērtības. Vērtības analizēja jau sengrieķu filozofi (Heraklīts, Sokrāts, Demokrīts u.c.), kā arī Bībeles autori, izskaidrojot pasaules eksistences iespējas, cilvēku dzīves jēgu un vērtību nozīmi cilvēku dzīvē.

Rakstā tiek analizētas dažādu zinātnieku piedāvātās atziņas par organizācijas kultūras struktūrelementu raksturojumu, vērtīborientāciju problēmu izpēti, sniegts ieskats par vērtību nozīmi un ietekmi katra indivīda un organizācijas attīstībā.

Organizācijas kultūra ir unikāls resurss, ko var izmantot organizācijas pilnveidošanā. Savlaicīgi novērtējot organizācijas kultūru, pastāv iespēja konstatēt un novērst trūkumus. Organizācijas pilnveidošanas procesā organizācijas vērtībām ir būtiska nozīme, tādēļ rakstā tiek analizētas organizācijas kultūras vērtības un pēc vadītāju domām, vēlamās darbinieku vērtības, kā arī tiek salīdzinātas deklarētās un faktiskās organizācijas vērtības. Padziļināta organizācijas vērtību izpēte dotajā pētījumā tiek apskatīta, pamatojoties uz A.Maslova (Maslow 1943) vajadzību teorijas un R.Bareta (Barrett 2006) izstrādāto septiņu apziņas līmeņu modeli.

## Introduction

Every organization has its own special work culture, values, styles of behaviour, which are able either to promote or interfere the company`s potential and development. Nowadays only those organizations and companies are highly effective, where interested and creative employees are working in, but often achieving such results is very problematic. The outflow of skilled workers has been a relevant problem in public sector in Latvia for several years. One of the reasons why efforts to solve this problem do not achieve expected results is undervaluation of the meaning of organizational culture. Values of the organization unite organization and employees, affect attitude, behaviour and decisions of organization`s employees, as well as promote the development of the organization.

Numerous studies over the last decade show the actuality of the organizational culture topic in the world and, as the organizational culture forms in conjunction with culture of society, now the hot question is how it is possible to achieve personal and organizational goals with concentrating on rational types of activity and communication.

**The aim of the study:** To study the meaning of organizational culture values and to reflect the influence of personal values and organizational culture values on organizations.

**The Study about Organizational Culture Declared Values in Public Sector and Analysis of Values in Public Sector from Leaders' Point of View**

With the development of organizational psychology, as well as business and management theory, the interest in organizations and relationships in them grows rapidly. Nowadays there are many concepts, which explain the variety of behaviour in different organizations. American management specialist Harrison (Harrison 1972) invented the first definition of organizational culture. He described organizational culture as something that characterizes an organization, as the system of values or ideology (Harrison 1972).

Various authors (Schein 1985; M.Vēbers 1994;Cameron & Quinn 1999; Reņģe 2007; Dāvidsone 2008; Dubķēvičs 2008) use different criterias to describe organizational culture and its' classification theories, but even choosing different ways you can often achieve similar results. Every organization consists of multifarious certain core values, but at the same time scholars agree that basis of every organization's culture consists of certain system of values. That's why it's possible to predicate, that every organization is an open system as it consists of people, who are the main force and source of organization. At the same time, they can be the braking force of development and growth in organization.

Characterizing organizational culture McKenna (McKenna 2000) accentuates that it reveals the atmosphere in the organization within short and long perspective.

According to Schein (Schein 1985) organizational culture originates from the development of the organization, strengthening its` individual business models, values, beliefs, rules, creating internal integration as well as putting a focus to organizational culture`s impact on people working in organization, employees, their opinion, attitude and behaviour.

Dāvidsone (Dāvidsone 2008) declares that the most essential elements of organizational culture are values, leadership style and relationships. It is not without reason that defining the values is considered one of the basic parts of long-term strategy modelling in organization. By defining values, organization chooses not only the direction of strategy, but also desired outlines of organizational culture. While bringing the values to life organization knowingly builds the organizational culture, which finds its expression both in style of leadership and standards of behaviour (Dāvidsone 2008: 217).

The values of organizational culture are one of those elements, which can make the work of organization better. Several recognized scientists (Harisson 1972; Handy 1999; Cameron & Quinn 1999 etc.) choose values or leadership styles as the basis for their classification when inventing their typologies of organizational culture, in this way they show the great impact of those factors on development of organizational culture.

Every organization is a part of society, as processes, which happens in society affect events in company and reversely – everything that happens in organization has direct or indirect impact on social environment. Currently the question about lack of qualified specialists is very pressing, as well as staff turnover, that is why leaders of organizations should react in time and should be able to create the environment, in which the employee can feel as a value. There must be insight about all processes in organization – what is the strategy, aims, processes, what are the values of people, groups and organization itself, undoubtedly focusing attention to the staff, which is the core value of every organization. For example, I. Boitmane remarks that employees are the biggest value and capital, which helps companies to achieve their goals and become leading ones in the industry (Boitmane 2006).

M. Kets de Vries (Kets de Vries 2001) admits that organizations are like cars: they drive themselves only downhill. For organizations to actually work the right people are necessary, furthermore – the right people at the steering wheel of this car.

Organizations are more similar than different in their essence, they consist of the same basic elements, and they all have similar structure, processes, management systems etc. Leaders of organizations develop themselves professionally in order to acquire the best leadership principles, they attract specialists, who would reinvigorate “the best practices” in their company. However, even in companies from the same sector, in which the structure, processes and strategies are very similar, many differences can be observed and they appear exactly in organizational culture. Every organization has its own specific culture, therefore there can`t be two equal or even similar companies here. In public sector values are the unifying element, because the main aim of public institution is to give benefit to society.

In his books “Liberating the Corporate Soul” and “Building the values-driven Organization” Richard Barret (Barrett 1998, 2008) express the view that values must become the part of organizational culture. After accomplishing the study of values in more than 500 companies in 35 countries he concludes that “value-driven companies are undoubtedly the most successful companies in the world” (Barrett 2008:1).

Values are classified in various ways, but in context of organization it is very important to talk about every employee’s individual values and common values of organization. Rokeach`s (Rokeach 1968, 1973) classification of values is most commonly used to characterize individual

values: terminal values (material well-being, achieving goals, professional authority) and instrumental values (honesty, discipline, loyalty). Organization's values can be viewed similarly – terminal values, for instance, are reputation, social responsibility, but instrumental values – innovations, concern for employees, trust.

Hofstede (Hofstede 2005) believes that reality does not exist, because everything is detected by perceptual prism through which you look into the world, and this perceptual prism is made of values.

In culture of every society there is one dominant value system, even the ancient Greek philosophers Aristotle, Socrates, Plato and others besides explaining the existence of world and meaning of life tried to define the values. Humanity keeps its core values through centuries, moral and religious values are associated with the Bible, which says that faith is the soul and the faith in the higher power is of utmost importance, without faith a person has no clear vision of life. Moral norms existed in every formation form of human development, and values such as honesty, kindness and compassion are highly appreciated by most people around the world.

Latvian folk songs teach that good works and good intentions are value and the mission of humans is to do good to others, this is in line with scientists` formulated common wealth values, for example in theories of A. Maslow (Maslow 1943) and R. Barrett (Barrett 2008). Richard Barrett (Barrett 2008) has invented the seven-level model to provide an understanding of human motivation. The model is based on Maslow's (Maslow 1943) hierarchy of needs. In his hierarchy of needs Maslow (Maslow 1943) puts the main accent to human needs, considering the fact that the person is directed to what he seeks as the most important.

**Research Methods and Participants**

Several scientists have turned their attention to studies of organizational culture and development of evaluation methods and research techniques (Cameron & Quinn 1999; Kets de Vries 2001; Barets 2008). This study is based on R. Barrett's invented The Seven Levels of Organizational Consciousness method.

In context of values-driven organization the following terms describing organizational culture (invented by Richard Barrett) are used:

- ✓ "Elasticity of culture" as *an ability of organization or any group of people to withstand impacts and maintain the stability in long-term pressure conditions* (Barrett 2008:2);
- ✓ Cultural Entropy as *a proportion of the energy, which is wasted by organization or any group of people in unproductive activities, for example, bureaucracy, internal competition, "the construction of the Empire" etc.* (Barrett 2008:2).

In order to research and analyse declared values in public sector in this study there was used a survey, the aim of which was to examine public sector different level leaders' views about essential,

important personal values of employees, as well as the organization's common values. Clarification of leaders' opinion is considered to be a significant factor, which may further help to prioritize work, to make rational, well-considered decisions about improvement of organization, as well it can be used in development of organization strategy. The following tasks were defined in the study:

1) To evaluate declared values of public sector in Latvia on the basis of publicly available data and information sources;
2) To study in depth declared values, current and desired personal values of employees in assessment by leaders from different levels in one public administration.

The survey was designed based on R. Barrett's model The Seven Levels of Consciousness method. The statistical data processing is used for collection of information, and the results are displayed in diagrams.

The base of research is 27 public administrations and one public authority, which have 30 branches across the territory of Latvia. Different levels of managers (leaders) throughout the territory of Latvia were surveyed within this study. 56 different level managers from one public authority were taking part in this survey, six of them were men and 50 – women. Average age of respondents was 53 years, average length of service in current organization – 17 years.

**Results of the Research**

Declared values of 27 public administrations in Latvia were assessed on the basis of publicly available data and information sources. Overall, public authorities have mentioned 60 declared values, from which 31 values were mentioned once. 10 dominating values mentioned most frequently are shown in the Figure 1 according to the number; they are arranged according to the Seven Levels of Consciousness Model.

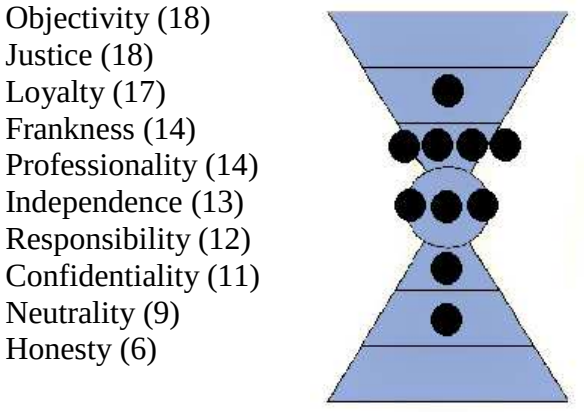


Figure 1. **Declared values in public sector**
Source: the authors' calculations on the basis of publicly available data

The ten most frequently used values are divided into five levels of consciousness. By analyzing the results, we can conclude, that public authorities have not declared values in survival

level, but mostly concentrated to transformation and internal cohesion levels, so organizations declare that they have reached the level of transformation and are ready to introduce positive changes for the public good, but the attention should be drawn to the fact, that there are no values declared in the higher – 7th level of consciousness at all.

In the beginning of this study about values in organization X there were set value templates or lists of values. Managers from different levels of public administration were asked to measure values, separately highlighting the current organizational culture values and desired personal values of employees.

The results of the survey about current organizational culture values are arranged according to R. Barrett's The Seven Levels of Consciousness Model.

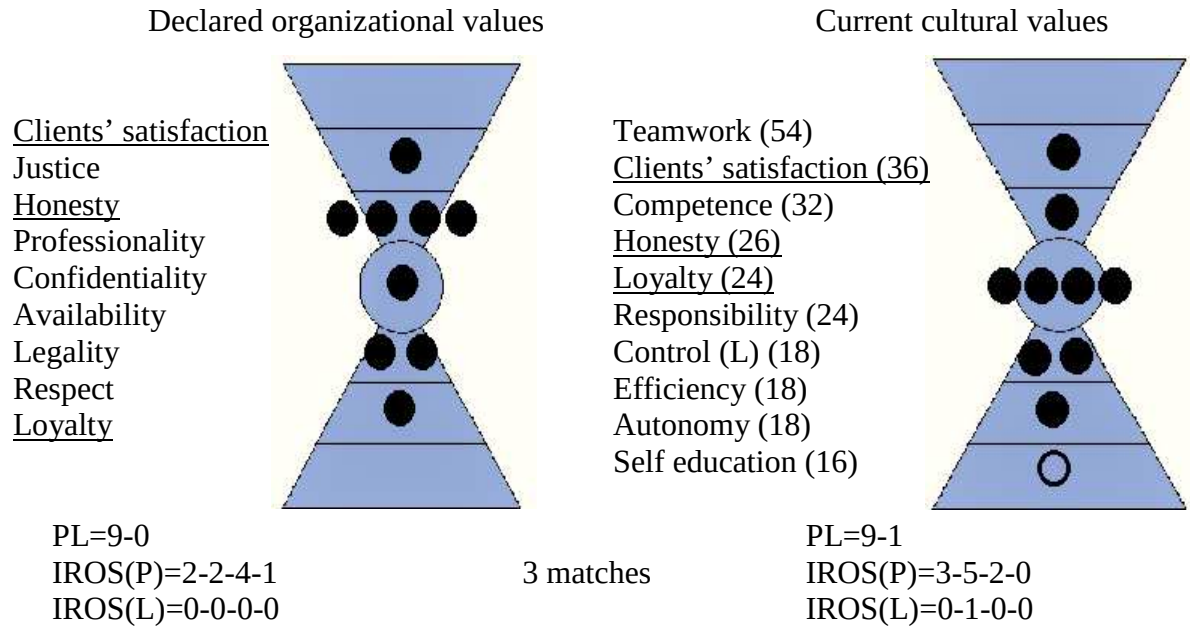


Figure 2. **Breakdown of values in public organization X**
Source: the authors` calculations: after public sector managers survey

Analyzing the results it can be concluded that there is conformity between declared values and current values, namely there are three matches in values – customer satisfaction, honesty and loyalty, and in terms of levels of consciousness the distribution of declared and current values is relatively similar. As it can be seen, in current organizational culture control is potentially limiting value.

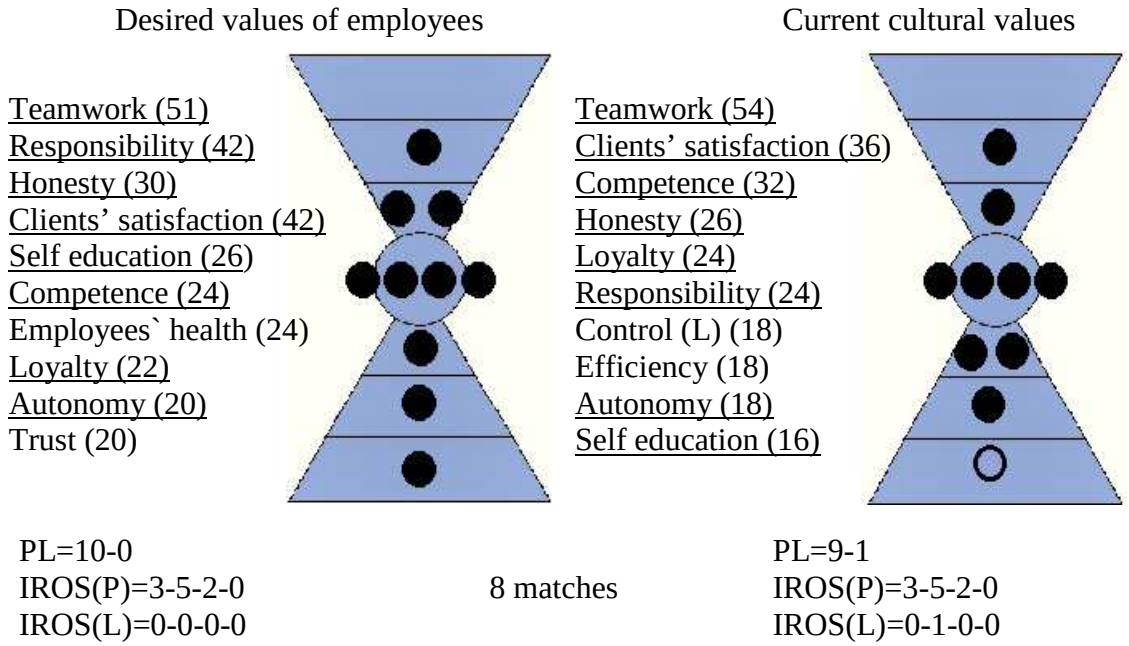


Figure 3. **Breakdown of values in public organization X**
Source: the authors' calculations: after public sector managers survey

One of the most positive results is the fact that desired values of employees almost cover the full spectrum. In terms of consciousness breakdown of values is similar, and it means that managers of this organization are able to create organizational culture based on their own wishes. Furthermore, relatively strong set of values in fourth level shows that management has achieved the level of consciousness, which allows them to change the organization. Overall, it shows that professionalism and qualification of managers in organization X are on a high level. It should be mentioned, that managers have indicated teamwork as the core personal value of employees.

Figure 4 shows breakdown of values in view of current cultural values and desired personal values of employees.

The proportion of CTS, where C= common wealth, T= transformation, S= self-interest, shows that current organizational culture proportion is 30-22-48 and the proportion of desirable values of employees is 32-31-37. This proportion of CTS clearly indicates that leaders are well aware of values, which have to inhere to employees so that they can work successfully in organization. The number of values on the fourth level is the highest in both the current and desired cultural values. This shows that organization is ready to improve, and as shown in the Figure 4, needs the staff to be ready for changes so that cultural transformation would be in balance.

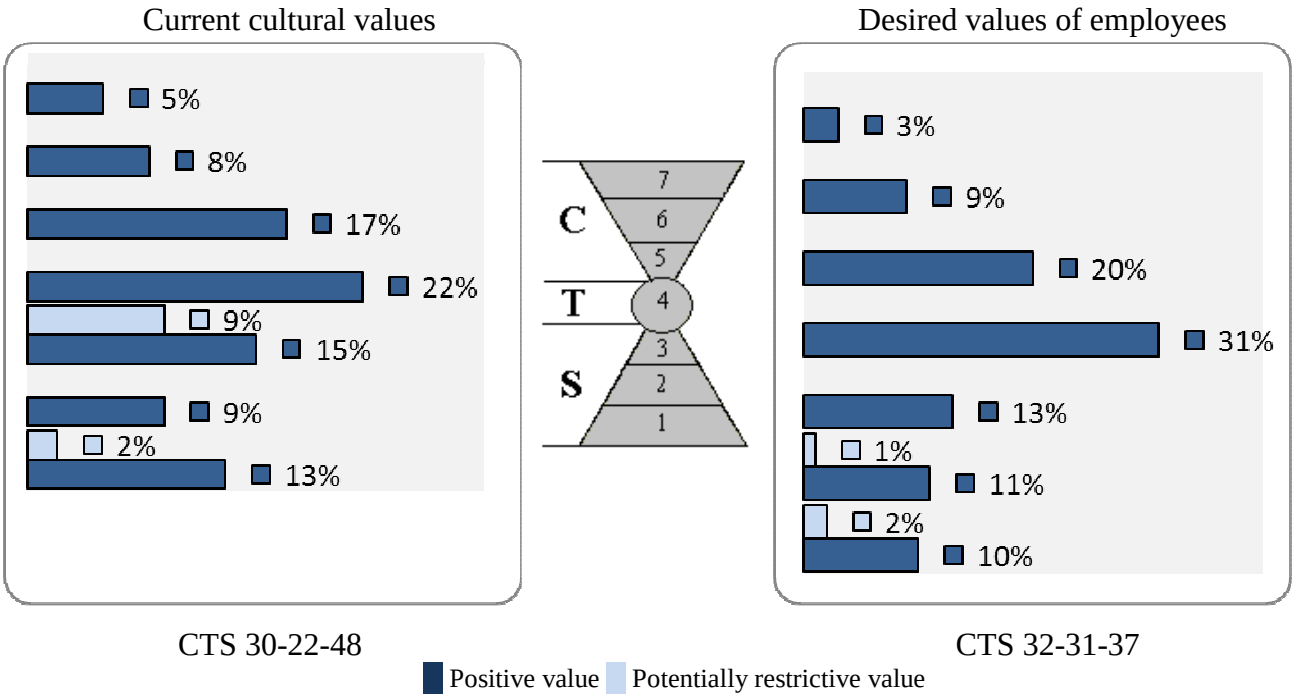


Figure 4. **Breakdown of values in public organization X**
Source: the authors' calculations: after public sector managers survey

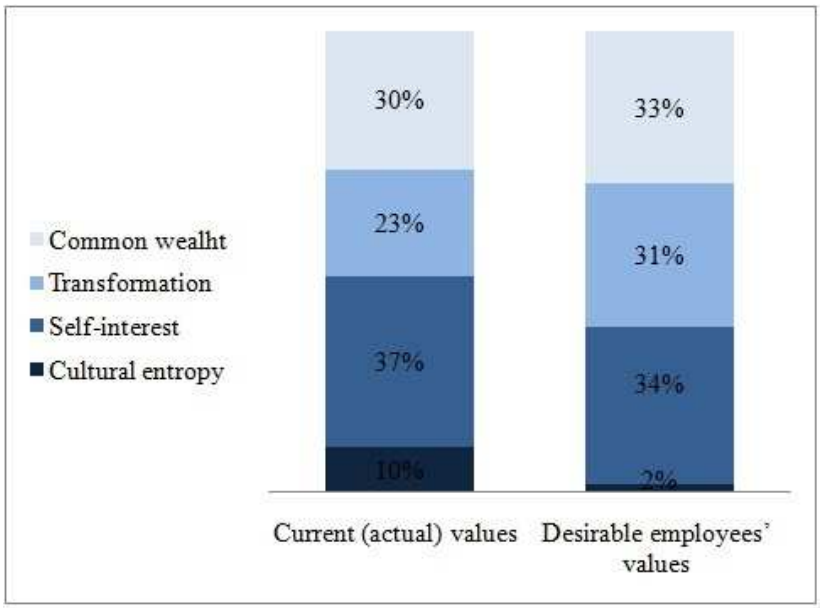


Figure 5. **Level of cultural entropy in organization X (%)**
Source: the authors' calculations: after public sector managers survey

According to the results obtained, level of cultural entropy in public authority is 10%. This is a good result, and allows concluding that organization has to solve routine questions – need for cultural or structural adjustment is required to be satisfied. Desired personal values of employees are 2%, which means that attracting human resources with the following values could ensure healthy functioning of the organization. As a result, we can conclude that leader should aim for bringing these values to life, convincing and involving employees in achieving the goals of the organization.

**Conclusions**

1. Evaluation of organizational culture, precise diagnostics and management of cultural values are the first steps in the process of changes.
2. The transformation of organizational culture is reconversion from personal benefit to common wealth, and it is possible only when leaders of organizations are ready for changes. The results of this research show, that managers have reached the necessary level of consciousness to make changes in organization, and they are ready to involve employees in the process of changes.
3. The results of research confirm that leaders of organizations are able to define all the values, which are necessary to achieve goals of organization. It`s connected with leaders` great experience in exact organization, as well as with their professionalism and high qualification. It also shows that leaders are loyal to values of this organization. Leaders` opinion about advisable values of employees also should be emphasized, as results show that with existing personal values of employees the level of cultural entropy is low (2%) and in such way healthy functioning of the organization is ensured.
4. All the values defined in public sector have to be in full spectre levels of consciousness. Complete lack of declared values in survival level and level of service has to be shown as deficiency in evaluating of organizational culture in this study.

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# ARE WOMEN MORE EFFICIENT LEADERS THAN MEN IN OUR CONTEMPORARY SOCIETY?

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**Abstract**

**Are women more efficient leaders than men in our contemporary society?**

***Key words:*** *leadership, gender roles, stereotypes, societal management*

A number of studies have been published on women's leadership effectiveness, representation of women in community's leadership, as well on a promotion of women's leadership in a community management. There is an increasing evidence that women undertake leadership positons, climb up the corporate ladder of the organization, and prove themselves to be efficient leaders in their workplace. The aim of this article is to analyze gender stereotypes and perceptions on the role of women in a community leadership as perceived by the society and socio- psychological factors that prevent women to undertake leadership positions. Particular attention has been paid to the socio-psychological features of women as leaders that play a vital role in the development of an image of women as leaders in the community. The authors conclude that in the market defined by complexity, disruption and change; the most successful enterprises are those which bring in diverse experiences and perspectives to every new challenge, so that the contribution of both males and females are of great value. Thus, diversity and inclusion offer a strategic advantage at the leadership level.

**Kopsavilkums**

***Atslēgas vārdi:*** *vadība, dzimumu lomas, stereotipi, sabiedrības vadība*

Ir veikti neskaitāmi pētījumi par sievietes lomu vadībā un pārstāvniecību sabiedrības vadībā, ka arī par sievietes vadītājas lomas veicināšanu sabiedrībā. Parādās arvien vairāk piemēru, kad sievietes ieņem vadītājas amatus, veiksmīgi īsteno sevi karjerā un pierāda sevi kā efektīvas vadītājas un līderes savā darbā. Raksta mērķis ir izpētīt un analizēt dzimumu stereotipus un priekšstatus par sievieti kā vadītāju sabiedrībā, ka arī analizēt sociāli psiholoģiskos faktorus, kas ir uztveramas kā šķērslis sievietei ieņemt vadītājas posteni. Īpaša uzmanība tiek pievērsta sievietes vadītājas sociāli-psiholoģiskajām īpašībām, kurām ir vislielākā loma sievietes vadītājas tēla veidošanā sabiedrībā. Autori secina, ka darba tirgū ir vērojamas dažādas grūtības, tomēr visveiksmīgāk darbojas tie uzņēmumi, kuri uzskta daudzveidīgu pieredzi kā iespējas, un ir atvērti jaunām perspektīvām, tāpēc augsti tiek novērtēts gan sieviešu, gan vīriešu kopīgais darbs.

## Introduction

In the modern and rapidly changing world the issue of management and leadership is very topical, as one of the most essential conditions of company efficiency is a successful leadership and management (Renģe 2008). Year by year women more and more prove themselves as active and efficient leaders in various fields; however, despite this evident fact, it is getting more complicated for women to fulfill their leadership potential due to different problems and obstacles (Edeirs1999).

## Theoretical background

In order to understand who is a better leader – a woman or a man – at first it is worth answering the question – what are the qualities of the best manager or a leader? There are several theories on leadership (Dubkevičs 2011), which provide a possible answer to this question; one of them is based on the personal qualities of a leader. According to this theory a leader should possess such qualities as physical and emotional endurance, inspiration, enthusiasm, communicability and attention towards staff, and honesty (Forands 1999).

In order to explore the issue of management and leadership in the gender aspect, it is required to avoid looking into each gender separately, but view it in the interdisciplinary way, paying special attention both to management and leadership theories, and gender theories, evaluating the impact of political, economic, social and cultural aspects of gender management and leadership. Only this way enables unbiased evaluation of the issue.

The first research on gender role in management and leadership have been conducted in the USA in 1950s. However, the most active research of this topic began in the 1970s, in connection with the fast-growing popularity and a spread of feminism.

There are several theories on management and leadership (Forands 1999). Among them there are management theories related to gender roles. Gender role management theories can be devided into three groups (Бендас 2009):

1. Gender role dominance – where gender is considered a priority.
2. Leadership and management position dominance – where gender is not considered as a determining factor.
3. Gender roles and other position equality – where gender is as important as other factors.

Stereotypes are still playing a significant role in the issue of male and female management and leadership. A stereotype (stereotypic image) in sociology is a consistent, exaggerated and strictly biased image of a person type, groups or community. Stereotypes are mainly based on prejudice (Ideju vārdnīca 1999). Stereotypes can be diverse.

Stereotypes and stereotypic thinking namely limit people's perception, prevent development and success in career. The conducted research reveals that stereotypes are harmful both for an individual person and for a community. Very often stereotypes are the cause of gender discrimination and discrimination in general (Koncepcija dzimumu līdztiesības īstenošanai 2003).

People affect stereotypes mainly without realizing it, they live by "societal conventions", and are afraid to differ from others and to act "improperly", that is, otherwise to the accepted norms. Gender stereotypes have a close link with female and male roles.

Gender stereotypes point out the norm of the man or a woman, how to behave and what lifestyle model to choose. If people's behavior and actions do not meet requirements of traditional stereotypes, they may experience negative attitude and discrimination from the community.

I.S.Kljocina (Клёцина 2004) divides gender stereotypes in as three kinds:

- musckuliine-feminine stereotypes - men and women "are assumed" with specific qualities.
- Gender-dependent family and professional roles – family - for a woman, career - for a man.
- Job-related stereotypes – women are subordinate, men are in charge.

T. Bendas (Бендас 2009), analyzed gender role stereotypes, and has come to the conclusion that these stereotypes are inconsistent. The majority of research prove that stereotypes are harmful

both for the society and for an individual. Conventional view of genders determine people's role in all fields, however, these ideas are not impartial. It is hardly possible to assess gender stereotypes, mainly due to the fact that stereotypes have a powerful impact in the society.

On the one hand the society accepts the equality of men and women, as well as equality of their opportunities; on the other hand, woman is perceived as a "feeble gender", whose priority is family and children, and not a career. Even up to now we can observe a separation of jobs.

One of the most widespread stereotypes on leadership is that **only men should be leaders and chiefs, as men are more efficient leaders than women**. It is assumed that women do not possess qualities, which enable them to be good leaders and managers. However, conducted research do not confirm that men are better leaders than women. It is proven that biologically men are programmed to be more competitive, whereas women – more cooperative, therefore women-leaders tend to be more compassionate, caring about staff, involving staff in decision making, but men-leaders are more rational and competitive (Ivanovs 2012). It is also proven (Бури 2001) that men are as emphatic as women, although they do not expose it, as society assumes empathy to be characteristic for women. Also people who have subordinate roles are more sensitive to verbal signals, in other words women tend to be more understanding of other people's feelings as they are in a more subordinate role, women have a lower status and less power. The conducted research suggests that subordinates are also more sensitive to non-verbal signals than leaders (Бури 2001).

The stereotypic view assumes that women are easier influenced than men; therefore, women cannot be good leaders and managers. In his researche Igli (Eagly 1978) has come to the conclusion that both men and women are almost equally influenced, research results reveal absolutely insignificant variation. According to various studies, a person's falling under influence is more dependent on the social status, people of lower social status tend to get influenced more (Бури 2001). In the modern society women have proportionally lower status and less power than men, therefore this stereotype is so consistent.

A man as a leader tends to aim for a result; he is ready to take risks any time, whereas a woman-leader pays more attention to the process and is not exposed to risks.

According to statistical data, Latvia, compared to other EU counties, has relatively higher rates in respect of women's share of higher positions in state institutions. In Latvia women dominate in the second level administrative positions, while the most significant rates of female-leaders are observed in lower administrative position groups (Informatīvs ziņojums par situāciju Latvijā 2013).

The modern society is still holding on to the actual stereotype of **"female" and "male" jobs**. A common belief nowadays is that men should have leading ranks (Cīrule 2001). "Female" jobs are considered to be kindergarten teachers, secretaries, housewives, while "male" jobs are associated

with construction, military, bus drivers (Sabiedrības priekšstati par sieviešu un vīriešu lomām 3013). Despite the above mentioned stereotypes, women prove themselves to be effective employees and leaders in all fields.

One more stereotype of the modern society states that a woman has to be **a wife and mother, dedicate more time to the family and not pursuing a career**. Modern society perceives woman as a "feeble gender," she is characterized as mild, emotional, sensitive, weak, while a man is perceived as a "strong gender" and men have sufficient nerve and aspiration to be a leader.

If this stereotype is considered from physiological point of view, then definitely women are physically weaker than men. However, looking deeper into the issue reveals that men are more emotional than women, as their leading part of brain is right, the one controlling person's emotions; women have better developed sensory organs and tactual senses. Women tend to be more organized than men, whilst men have the ability to concentrate on one thing. (Pumpiņa 2010)

In 2006 a research has been conducted on stereotypes existing in the Latvian society (Sabiedrībā pastāvošie dzimumstereotipi), which suggests that an "average" Latvian woman is described as "responsible for all chores" and "taken the major responsibility for children", whilst an "average" Latvian man is described as "the main family supporter" and "possessing logical thinking". The quality of an ideal woman is considered – "care of the family" (71%), „necessity to be responsible, with serious attitude to life," 43% of respondents consider that the woman should support the man and only 5% of respondents suggest that the woman should take a high rank in the society. According to respondents' ideas, an ideal man should "take care of the family" 70%), „earn much money", "be well off" (63%) and be responsible, have serious attitude to life" (60%), 43% of respondents think that an ideal man should be successful in job and professional life".

The research results prove that a social woman is first of all associated with the family and children, whilst a man is perceived as the main supporter of his family.

Dealing with the issue of gender, literature sources often emphasize the differences between male and female gender, not mentioning similarities, as people show more interest for differences than similarities (Бури 2001). In reality gender role has even less differences than commonly believed in the society.

J.P.Iļjin (Ильин 2010) specified the negative influence of gender stereotype:

- Stereotypes exaggerate differences of female and male gender roles, in reality gender role has even less differences than commonly believed in the society, There is much more in common between men and women.
- Stereotypes affect interpretation of one and the same event, depending on the gender of the event participant;
- Stereotypes delay development of qualities, which disagree with gender role stereotype.

The majority of research prove that stereotypes have a negative impact both on society and an individual. Conventional beliefs of genders determine people's roles in all fields; however, these beliefs are inconsistent (Concept of gender equality implementation).

There are many obstacles, which interfere with women becoming good leaders and managers. The most common of them is as follows: **female personal hopes and expectations** – often women place themselves in limits, as women's thoughts and personal vision of self in a career and leadership is one of the most decisive factors. Therefore, women often experience low self-esteem, low motivation and fear to act, as according to various studies.

One more obstacle can be named **the culture of organization;** the importance is in the fact that women – leaders are being assessed by the society and staff. The research results suggest that the majority of respondents (in the Baltic States) prefer to work under male supervision, as a man-leader is more analytical, logical, conservative, as well as easier to negotiate with. (Vairums dod priekšroku vadītājam vīrietim nevis sievietei.)

A significant obstacle is **the balance between personal life and work**; unfortunately, women refuse from the career due to inability to combine family and job.

One more barrier is an attitude of family members and their lack of support.

Some obstacles present an invisible barrier on the way to a high position, also called " a glass wall".

The analysis of the above mentioned obstacles brings to the conclusion that the basis of all obstacles is formed by stereotypes.

In spite of various studies in the field of gender role leadership and management, there is no agreement if gender impacts leadership and management abilities. However, the conducted research states that enterprises with the equal number of men and women in charge demonstrate much more efficient performance. Such enterprises are more resilient and adjustable to economic changes, as well as are more resistant to economic crisis. The reason for this can be differences in men's and women's personal qualities and life experience (Stivers 2003).

**Concluding remarks:**

- Women and men leaders mainly differ with management style, and not with management skills;
- Enterprises, where the number of women and men in charge are equal, demonstrate more success;
- Active participation of women in management play a significant role in successful development of a society;
- A leader has to be assessed by his/her competence and work results, and not by gender;

- In order to promote women leadership, it is important that the society and women themselves recognize the stereotypes and prejudice which prevent them from pursuing a career in management;

To conclude, differences of gender roles are much less significant than it is commonly believed in the society.

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# PERFORMANCE EVALATION INDICATORS SYSTEMS

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**Abstract**

**Performance evaluation indicators systems**

***Key words:*** *Strategic management, quality management, indicators systems, and models*

The operational efficiency of a company or an institution, as well as the possibility to increase it is an actual management problem. Currently, these problems become even more significant due to intensified competition between producers; consumers and customers also propose increased requirements to quality and price of the product or service.

The objective of the study is to sum up the literature data about systems, models which can be used to evaluate the quality and efficiency of a company's activity.

Following methods are used in this study – monographic method, analysis and synthesis method.

C.F.McNair, Richard L.Lunch, Kelvin F.Cross. Efficiency Pyramid. (C.F.McNair, Richard L.Lunch, Kelvin F.Cross, 1990) The authors studied impact of the customer-oriented corporate strategy on the financial and quality indicators.

Robert S.Kaplan and David P.Norton. Balanced System of Indicators - the Balanced Scorecard. (Robert S.Kaplan, David P. Norton, 1992). In the classical model, the balanced system of indicators examines the company's operation according to 4 criteria: finances, relationships with customers, internal business processes, staff training and development.

L.S.Maisel Balanced System of Indicators - the Balanced Scorecard (Lawrence S.Maisel, 1992). Business of the company is also being studied using four groups of indicators, the only difference is that instead of the staff training and development, the analyse of the company's human resources and innovations takes place.

Christopher Adams and Peter Roberts model (Christopher Adams, Peter Roberts, 1993) Basically, the company is evaluated according to its efficiency of activity and growth. The authors have studied the following aspects of activity: customer service, improvement of internal processes, administration of change and strategic management, freedom of actions.

Hubert K. Rampersad. Total Performance Scorecard (Hubert K. Rampersad, 2005). In the system, the analyse is performed using 5 elements.

The modern theory of management science has developed systems that combine various models of quality assessment. These systems have resulted from economic analysis methods due to their improvement and development in the changing social-economic situation. The changes have occurred in the direction of the customer-oriented strategy, quality management and management of human resources.

**Kopsavilkums**

**Darbības novērtēšanas rādītāju sistēmas**

***Atslēgvārdi:*** *stratēģiska vadība, kvalitātes vadība, rādītāju sistēmas un modeļi*

Uzņēmuma vai iestādes darbības efektivitāte un iespēja to paaugstināt ir aktuāla vadībzinību problēma. Pašlaik šīs problēmas nozīmīgums pieaug, jo pastiprinās konkurence starp ražotājiem, patērētāji un klienti izvirza paaugstinātas prasības pret produkcijas vai pakalpojuma kvalitāti un cenu.

Pētījuma mērķis ir apkopot literatūras datus par sistēmām, modeļiem, kurus var pielietot, lai novērtētu uzņēmuma vai iestādes darbības kvalitāti un efektivitāti. Pētījumā izmantota monogrāfiskā metode, analīzes un sintēzes metode.

K.Makneira, R.L.Lanča, K.Krosa efektivitātes piramīda. (C.F.McNair, Richard L.Lunch, Kelvin F.Cross, 1990) Autori pētīja klientorientētās korporatīvās stratēģijas ietekmi uz finansu un kvalitātes rādītājiem.

D.Nortona un R.Kaplana līdzsvarotā rādītāju sistēma (Robert S.Kaplan, David P. Norton, 1992). Klasiskajā modelī šī sistēma pēta uzņēmuma darbību, pamatojoties uz četriem kritērijiem: finanses, attiecības ar klientiem, iekšējie biznesa procesi, apmācības un personāla attīstība.

L.S.Maisela līdzsvarotā rādītāju sistēma. (Lawrence S. Maisel, 1992). Uzņēmuma bizness arī tiek pētīts, izmantojot četras rādītāju grupas, vienīgais, apmācību un personāla attīstības vietā tiek analizēti uzņēmuma cilvēkresursi un inovācijas.

K.Adamsa un P.Robertsa modelis. (Cristopher Adams, Peter Roberts, 1993). Pamatā tiek vērtēta uzņēmuma darbības efektivitāte un izaugsme.Tiek apskatīti šādi darbības aspekti: klientu apkalpošana, iekšējo procesu pilnveidošana, pārmaiņu un stratēģiskā vadīšana, rīcības brīvība.

H. Rampersada universālā rādītāju sistēma (Hubert K. Rampersad, 2005). Sistēmā analīze tiek veikta, izmantojot piecus elementus.

Mūsdienu vadībzinību teorijā ir izstrādātas sistēmas, kas kombinē dažādus kvalitātes novērtēšanas modeļus. Šīs sitēmas radušās no ekonomiskas analīzes metodēm, tām pilnveidojoties un attīstoties, mainoties sociāli-ekonomiskajai situācijai.Izmaiņas notikušas klientorientētas stratēģijas, kvalitātes vadības un cilvēkresursu vadības virzienā.

## Introduction

The operational efficiency of a company or an institution, as well as the possibility to increase it is an actual management problem. Currently, these problems become even more significant due to intensified competition between producers, as well as consumers and customers propose increased requirements to quality and price of the product or service.

The efficiency of an organization is determined by the degree to which organization achieves desired objective and carry out its functions, compared with the consumption of resources. The objectives of activity are particularly important for development of a company. They are determined taking into account the chosen strategy, and are a key motivating factor.

Any company establishes qualitative objectives of activity – standards, due to which the organization's growth can be measured, as well as targets with achieved results compared. The standards include specific quality criteria or indicators according to which it is possible to judge on the compliance of the activities with the set objectives.

The indicator systems are quantitative and qualitative indicators or groups of indicators which are obtained and interpreted by certain methodologies, and allow to evaluate the current situation, to make comparisons, to create forecasts and to set up strategic management decisions. For evaluation of organization's activities, the indicator systems are used not only because of the fact that they allow you to set up short-term financial indicators, but also for the reason that they determine the value of intangible components. There is impossible to evaluate financially the quality of service or customer loyalty.

What is the system after all? It is totality of elements that performs certain functions in mutual interaction and / or reaches certain goals. By objective considerations, there are no systems in the nature. The human, trying to study the regularities of the Universe, creates models that combine some reality elements in a system. So, the system is defined by researcher itself. The researcher looks at it, makes investigations, analyses, summarizes the observations, as well as tries to control the system.

In the same way, the main principle in the management when establishing a system is as follow - a leader itself has to be a part of the system. The management functions are distributed over its entire architectonics pattern in any system. The management cannot be separated from the system, furthermore, the management improves jointly with the system growth and development, and this process is mutual.

The organization is a complex, opened socially-technical system, which works according to the laws of systemic approach. However, there is necessary to take into account that the people are main elements of any organization. Therefore, the organization should become an intelligent teaching system that is able to determine criteria or indicators of its sustainable, efficient activity, as

well as goals and directions of development.

Which are actually the main systems developed in the modern management theory able to evaluate the quality and efficiency of the organization's activity? We will try to examine those.

**Theoretical background**

C.F. McNair, Richard L. Lunch, Kelvin F. Cross. Efficiency Pyramid. (C.F. McNair, Richard L. Lunch, Kelvin F. Cross, 1990) The authors presented in 1990 a method called the Efficiency Pyramid. The main concept of this method is the connection of customer-oriented corporate strategy with the financial indicators that are supplemented with the main quality (non-financial) indicators. The managemental information shall come only from the top level of senior management. The efficiency pyramid is built using the evaluation of principles of quality management, book-keeping, industrial technologies and customer service.

Robert and David S. Kaplan P. Norton Balanced System of Indicators - the Balanced Scorecard. (Robert S. Kaplan, David P. Norton, 1992). This system came into existence implementing the research projects in 12 companies. It consists of financial and non-financial indicators.

In the classical model, the balanced system of indicators examines the company's operation according to 4 criteria: finances, relationships with customers, internal business processes, staff training and development. The company can choose for itself the priority indicators or to increase the number of indicators, by including, for example, innovations and service. Short-term indicators are balanced with long-term indicators. The external indicators – finances, as well as the relationships with customers are balanced by the internal ones – internal business processes and staff training. The system includes both objective evaluation – finances, and subjective assessment – satisfaction of customers and staff. In connection with the company's strategy, and in order to evaluate the performance in accordance with above four criteria, 5-6 indicators are chosen for each of those criteria. However, this system has gained popularity because of the fact that the strategic objectives and indicators that determine their fulfilment are mutually linked in a chain of causal relationships and form the so-called strategic maps. Scientists recommended to name as “strategic maps” relationships of cause and consequences between individual elements of the organization's strategy.

L.S. Maisel Balanced System of Indicators - the Balanced Scorecard (S. Maisel Lawrence, 1992). It has the same title as R.S. Kaplan – D.P. Norton model. L.S. Maisel defines also four criteria according to which the company should be assessed. Instead of the staff training and development, the scientist proposes to evaluate the growth and development of human resources. Within this system, innovations as well as education and training, product development, competence and corporate culture are evaluated. Differences between this model and R.S. Kaplan –

D.P. Norton model are insignificant. More attention is paid to the assessment of competencies and contribution of the staff.

Christopher Adams and Peter Roberts model (Adams, Roberts, 1993)

The authors proposed a model which was named EP2M-Effective Progress and Performance Measurement.

In this model, the most important during assessment is considered that what the company performs:

- in customer service and implementation of market demands;
- in improvement of internal business processes (efficiency, profitability);
- in change management and strategic management;
- in property management and behaviour freedom;

The objective of the system is not only to make changes in the company, but also to develop that sort of corporate culture when changes would become regular phenomenon.

Hubert K. Rampersad Total Performance Scorecard (Rampersad 2005). Based on R.S. Kaplan – D.P. Norton model, H.K. Rampersad (Rampersad 2005) has developed its universal system of indicators.

The universal indicator system consists of five main elements:

1. Balanced system of personal indicators;
2. Balanced system of organization's indicators;
3. Total Quality Management;
4. Chage Management and Competence-Based Management;
5. D. Kolb's learning cycle;

The system of R.S. Kaplan – D.P. Norton (Robert S. Kaplan, David P. Norton, 1992) is used only as one of the elements.

The personal balanced system of indicators includes such indicators as personal mission, vision, roles, goals, factors of success, effective indicators, and opportunities for improvement of the performance.

The Organization's balanced system of indicators includes the following indicators: the organizational mission, vision, basic values, fortune factors, goals, performance indicators and actions aimed to improve the organization's activities.

The Total Quality Management is the management of an organization through quality. In order to improve the organization's activities, quality of outgoing product, as well as quality of internal processes and quality of personnel are continuously monitored and improved. The Change Management is a process consisting of a number of stages: awareness of need for changes, creation of change vision, preparation of the ways of change implementation, implementation of changes,

integration of changes. All these processes are also being evaluated.

The Competence-Based Management is also a special process in the organization which includes:

- competence identification for successful strategic development of organization;
- formation of competence profiles for various levels of staff;
- competence model of organization level, according to the organization's goals and objectives,
- planning of staff training and development in accordance with the competence model of organization. The evaluation of these processes has also been included in the H. Rampersad's system.

D. Kolb's learning cycle model, according to Rampersad, has to be used in organizations to carry out personnel training. This model includes the learning cycle where "immediate and particular experience" is the basis for "observations and reflections" (Kolb's cycle can be sometimes started with other cycles, such as mental observation or theory). These concepts of "observation and reflection" are assimilated and transformed into "abstract terms" providing a new meaning to the activities that can be as the "active test", which in turn creates new experience.

All the learning process according to Kolb is composed of four stages – elements:

1. Concrete practical experience;
2. Observation of and reflection on the experience gained;
3. Theoretical generalization when gained experience is generalized to the abstract concepts and included in the existing knowledge system of an individual.
4. Testing the theoretical conclusions, namely new concepts in a new practical situation;

Commenting this process, it should be noted that such learning system may be used only if it causes no risk to the business, namely to the customer service.

In general, we can say about H.Rampersad system that it can be used as an alternative to R.S. Kaplan – D.P. Norton system. But, it is much more complicated, broader, more expensive and therefore more difficult to implement.

However, if the company requires a very fine analysis of the entire processes, H.Rampersad system is excellent.

Over the past thirty years, a number of systems of evaluation indicators for organizations and companies have been created. Most of them are of theoretical nature. However, R.S. Kaplan – D.P. Norton (Kaplan, Norton, 1992) Balanced Scorecard - Balanced System of Indicators has to be mentioned as the most universal and in the practice approbated system.

**Conclusions**

There are systems developed in the modern management theory that combine different quality assessment models. These systems have resulted from the economic analysis methods due to their

improvement and development, as well as by changing the social-economic situation. The changes have taken place in the direction of customer-oriented strategy, quality management, as well as human resource management.

The systems of evaluation indicators are a universal tool to make operational and strategic control in companies or organizations, as well as to evaluate their operational efficiency. However, among the indicator systems which combine tangible and intangible components, R.S. Kaplan – D.P. Norton (Robert S. Kaplan, David P. Norton, 1992) model has to be considered as the universal and in the practice approbated system.

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# ILLEGAL MIGRATION IN LATVIA AND EUROPE: PROBLEMS AND SOLUTIONS

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**Abstract**

**Illegal migration in Latvia and Europe: problems and solutions**

***Key words**: illegal migration, migration crises, legislative bases, national security, security governance*

Since 1991 the government of Latvia pays a close attention to the security of Latvia in the Transatlantic space. To ensure a security of the country, this is essential to secure borders of the country. Recently the issue of migration has become a topical question in Latvia and in Europe, causing controversial debates and discussions in media. The aim of this study is to explore the legislative bases and policies of the host countries of dealing with illegal migration in Latvia as viewed in the European context in relation to the border security and to explore responsibilities and competencies of the Border Guard organization. The study focuses on the analyses on reasons of a lack of efficient legislation of administrative fine policy in the process of fighting illegal migration. The main methods employed in this study is the analyses of the legislative bases, legal documentations, and protocols. The study suggests amendments in the strategic and organizational work of the Border Guard organization in Latvia and Europe with the aim to respond to the challenges brought in by the migration crises in Europe.

**Kopsavilkums**

**Nelegālā migrācija Latvijā un Eiropā: problēmas un risinājumi**

***Atslēgas vārdi:** nelegālā migrācija, migrācijas krīzes, likumdošanas bāzes, valsts drošība, drošības pārvaldība*

Kopš 1991. gada Latvijas vadība velta nozīmigu nozīmi Latvijas drošibas nodrošināšanai Transatlantskajā telpā. Lai veicinātu valsts drošību, ir svarīgi nodrošināt valsts robežu drošību. Pēdējo gadu laikā bēgļu jautājumu tiek aktualizēts arvien biežāk gan Latvijā, gan Eiropā, kas izraisīja pretrunīgu reakciju masu mēdijos. Pētījuma mērķis ir izpētīt Eiropas un Latvijas likumdošanu nelegālo bēgļu juatājuma risinājuma kontekstā, nodrošinot robežu drošibu un nodefinējot Robežsardzes pienākumus. Pētījums norāda uz skaidri izstrādātas likumdošanas nepieciešamību nelegālās migrācijas apkarošanā un regulēšanā. Pētījuma metodes ir valsts un Europas dukumentu analīze bēgļu jautājuma risinājumā. Pētījums piedāva rozījumus un uzlabojumus likumdošanas uzlabošanai nelegālās migrācijas jautājuma risinājumam Latvijā un Eiropā, ka arī norāda uz vienotas un saskaņtas sistēmas nepieciešamībuu jautājuma risinājumam.

## Introduction

Migration has been a topical issue in Latvia and in the world since people were striving to escape from the war and conflict zones in order to move to more secure places or to a wealthier and more prosperous states for economic reasons. Fluctuations in emigration and migration processes in the EU are immense over the last decade (Mihi-Ramirez, Rudžonis & Kumpikaite 2014).

Currently, Europe is undergoing a massive wave of migration therefore migration is one of the heated questions in the world that requires significant changes in policies and practices. The issues of undocumented or illegal migration is a subject of political discussions in Europe and beyond and is viewed as a threat to a security for the local and global community. A huge amount of immigrants is temporary located in refugee camps close to the conflict areas. The unequal distribution of resources and wealth in the world and within communities and countries are among the dominant factors why people migrate to a new location with richer material, medical, and educational opportunities. Poverty, unemployment, a demand for a cheap labor, and corruption are the factors that contribute to human trafficking. Political instability in home countries are also among the factors facilitating migration patterns and waves. A massive flow of immigrants will

cause larger consumption and will generate hostile reactions from the local population. Currently, the governing bodies in Latvia find it difficult to provide housing, services for the immigrants in the situation of huge unemployment.

The topicality of the issue is based on the threat of illegal migration in the world as one of the most discussed and urgent problems on a political agenda. The aim of the article is to explore the legislative bases for fighting illegal migration in Latvia as a EU country, as well as involvement of a Border Guard organization in fighting illegal migration in cooperation with other organizations. Particular attention will be paid on exploring responsibilities of Boarder guards in the context of national and EU legislation.

**Defining the terms**

In order to understand the obligations of Border guard organization in fighting illegal migration, one needs to define the major terminology concerning migration processes. The International Organization for Migration defines migration process as a complex course of events where a person makes a voluntarily decision to immigrate to the other location in order to improve one's own and one's families social and material well-being. Migration process is seen as a process of moving from one country to another (Dumbure, Fogels, Fridrihsons, Indulēns, u.c. 1998). There are two typical ways of migration: 1) a process of migration by crossing one's countries' border or 2) a movement within the borders of one's own country. Migration can be seen as a migration process from one's own country of residence or a process of immigration from a home country due to economic, religious or other reasons. Migration can have both legal and illegal character. Legal migration is one's free will to change a location by gaining legal permission to do so, or illegal immigration when a person crosses the border of the other country illegally by falsifying the documents or crossing the border illegally. The other form of illegal migration is organized by criminal groups of people.

On July 19, 2006, the European Commission (EC) has issued a regulation on "The political priorities on fighting the third country citizen's illegal migration" where illegal migration was described as a process when the third country citizens travel illegally by the use of falsified documents or with the help of organized groups without any permission from the host country. Therefore, by entering the host country, illegal immigrants violate the legislation of a host country. The main reasons of illegal migration are the following: a search for better economic conditions and a quality of life. The driving factors to move to the host country is a stability, piece, possibilities of an employment of a host country but the factors that cause people to leave their home country are such as a low quality of life, totalitarian regime, instability, and war (Taylor 2007).

**The threats of illegal migration**

The issue of illegal migration became topical when Latvia has joined Schengen area in 1990 and when Latvia has opened a free border with other European countries. On March 15 2006, European Commission (EC) has issued a regular Nr. 562/2006, that regulates a free movement of individuals in Schengen area.

As a result, foreigners used an opportunity to travel and to cross the border illegally, therefore the Border Guard organization has a particular role in ensuring the security of the country by patrolling the border.

There are two ways how the potential immigrants reach the country:1) with a help of smugglers at a high cost and risk or 2) by applying for a settlement to the official refugees' facilities. The choice depends on refugees' socioeconomic status and personal characteristics, as well as from the migration policies of receiving countries (Djajic, 2014). The main motivation of illegal immigrants is to get into a labor market of a prosperous country and to apply for a residency in the advanced country. Only a small amount of refugees obtains a refugee status in the receiving country. According to the data of the UNHCR (The United Nations Higher Commissioner for Refugees) (2009), there are more that 51 million of displaced people in the world. There are two major emerging tendencies that have been discussed in Europe: 1) the regulation of migration through the national organizations and policies and 2) a growing interest in border reinforcement. On a political scale such issues as shared responsibilities of originating and receiving states have been discussed in media.

Illegal migration is considered as a crime causing destructive consequences in the society and increasing insecurity of individuals. OECD (the Organization for Cooperation and Economic Development) has estimated that the number of illegal immigrants in the EU reaches 500.00, 90% of whom use the help of criminal organizations to enter the EU (Tarnu, 2015). Tarnu argues, that the illegally organized migration causes huge threat to the security of the countries. The other negative consequences of migration are imbalances in the domestic labor market, exploitation of human labor, illegal trafficking of people, drugs and terrorism.

**Refugee policies in Europe and the Baltics**

Over the last decade the refugee politics can been characterized as moving from inclusive and welcoming to a more reactive one. There is also an increasing tendency in media to reflect refugees as passive victims or blaming refugees for their circumstances (Sonn & Fisher, 2005). Tighter refugee policies discourage new asylum seekers and divert the flows of refugees to other potential destinations. The political leaders in the EU encourage sharing the burden of receiving refugees among the partner countries. The impact of the policy on the flows and the behavior of asylum seekers has been the focus of attention in recent scientific research (Djajic & Vinogradova, 2014).

The refugees select two ways of reaching the country of destination, either by the help of human smugglers or by entering a refugee camp close to a conflict zone. According to Oxfam (2005), 90% of refugees enter Europe illegally. By reaching the country of destination they may apply for asylum and a residence permit.

There are several main organizations which are involved directly in negotiating refugee issues at the EU level. Among the most significant organizations one needs to mention the UN High Commissioner for Refugees (UNHCR), UN Commission on Human Rights, the Global Migration Group (GMG) composed of 13 UN Agencies and programs who hold a leading agency for the migration issues. These governmental networks and agencies were developing over years with certain legislative, juridical and executive responsibilities in protecting migrant's rights and border control issues. Newland (2010) argues that the UNHCR still lacks a wider expertise in addressing migration issues.

The way migration experiences are perceived as friendly or hostile depends on the politics of local governments, NGO's, and individuals. Migrants experiences are also being shaped by the social, organizational, cultural, national, international and political contexts of the country. The sum of all those factors lead either to resistance, adaptation or to resilience among the refugees (Sladkova 2010).

One of the challenges the refugees are coming across is finding a balance between their cultural identity and a new culture of a host country (Sladkova & Bond, 2011). The research and a practice indicates that refugees integrate into a host country more successfully if a new culture is supportive for them. Supporting networks, efficient work of NGO's also foster integration of refugees in the new culture. The integration strategies adopted by the refugees varies from the adaptive strategies to oppression (Watts & Serrano- Garcia, 2003). The adaptive strategies and resilience allows the refugees to accept that there are different ways of being and they have to negotiate those diverse social worlds and to meet the variety of expectations. Social networks also become a source of the support for the refugees.

One of the essential questions that cannot be ignored is a question of human rights and Border Guard organization officials need to respect these rights. The international event that took place in 1948 in the General Assembly of the United Nations was marked by the ratification of the "The Universal Declaration of Human Rights" which protect every person from any kind of discrimination. Each and every person has a right to move freely within one's own country or to cross the border of one's own country and seek for the asylum (UN, 1948). The document recognizes the inherent dignity and equal rights of people that is the foundation of freedom, justice and peace in the world. Each person has a right to apply for the residency in the other country in case of persecution of religious or political reasons. The article 29 of the Declaration points to a

limitation of this freedom, by stating that by exercising one's rights and freedoms, "everyone shall be subject only to such limitations as determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society" (Article 28, point 2).

The United Nation's regulation issued in 1966 on "*Optional Protocol to the International Covenant on Civil and Political Rights*" states that each country is obliged to respect and to protect person's rights despite one's religious, racial belonging, political attitude. The article 5 of the United Nation's "*Declaration about the rights of the individuals who do not have a citizenship in the country of their residence*" issued on December 13, 1985 states that a spouse and children of a person who lives in a host country have rights to join their husband or a father. The United Nation's convention "*About the transnational organized crime*" Nr. 55/52 issued on November 15, 2000 stresses the need to strengthen international cooperation in fighting organized crime (UN, 2000). The article 3 of this Convention stresses the need to build a stronger international cooperation in fighting illegal contraband to ensure a protection of immigrants' rights.

Another significant document that safeguards human rights, issued in October 18, 1961, is the "European Social Charter" that states that each individual has a right to work, a right of a just work conditions, just payment for one's work, a protection of rights of children and youth, rights to receive a health insurance, medical help, to receive social benefits, the right of a rehabilitation of physically or mentally ill individuals, the right to social, and economic protection, and the right for work (European Social Charter, 2000). The document was ratified in Latvia in 2000 that clearly describes European Citizen's civic, political, economic, and social rights. The Charter is included in EU's Constitution and it has a juridical power to guarantee the rights of migrants and their families to receive a protection in the territory of the countries that signed up the Charter (Hilfs, 2000). The article 18 of the 2nd chapter of the Social Charter states that the host country has a responsibility to ensure a reunion of immigration family members in a host country if one of the members was awarded an official status (The Social Charter 2002). By evaluating the competencies of the Border Guard Organization this is essential to emphasize that the subject who surpass that administrative law, also might have a special juridical status and rights. (Disler 2002)

A flow of a migration is a global feature and it influences European Union. Ech individual country has a low capacity to regulate the immense flow of refugees. Therefore there is a need for a common legislation in EU dealing with a refugee question. Therefore, on March 15, 2006 EP has issues a document that regulates the movement of refugees in Schengen area (EK 252). This document allows to control the flow of illegal refugees by a detailed examination of all means of transportations, documentation, and the document of work permit in the host country.

International legislation ratified in Latvia plays a significant role in a juridical functioning of state organizations. The principles defined in the international legislations, regulations and declarations play an essential role in the legislation of Latvia. The Border Guard Organization participates and supports all the international laws by working in close cooperation with other national and international organizations involved in securing borders. It works in close cooperation with the Ministry of the Interior, The State Police and other institutions (Terehovičs, 2007). This cooperation is reflected in the European legislation, the Law on Immigration of the Republic of Latvia, The Law of Border Guard organization, and other legislative acts. The spectrum of work of the Border Guard organization that works in cooperation with other organizations is quite wide: fighting illegal migration, building international cooperation in fulfilling the requirements for asylum seekers, securing visa issuing process, controlling the migration processes, controlling the foreigners in a host country, participating in the implementation of the state policy in regards of foreigners and others. A supervision of migration processes depends on a legislative, organizational and methodical aspects carried out by the migration organizations, also, the competency of leaders involved in the implementation of international and local normative regulations.

The authors believe that this is necessary to carry out an informative campaign about the illegal migration and to inform the community members as well as the third country citizens about the legislation regarding illegal migration. This will benefit by changing the opinion of potential immigrants about the possibilities to cross the border illegally, therefore reducing the flow of illegal immigrants. This will reduce crime committed by illegal immigrants, since legal immigrants will use an opportunity of employment possibilities. The security of a Schengen area the control of a flow of immigrants is one of the EU priorities. The registration of immigrants is carried out by the joint information system SIS (Laganovskis, 2007). Each EU partner country is obliged to create SIRENE (Supplementary Information Request at the National Entry) office responsible for information flow at the national level, and to join Information system of Schengen countries (SIS). The juridical bases of both systems in a convention ratified in June 19, 1990 implemented by the Governance of a Benelux countries economic union.

Fighting the illegal migration, in line with the regulations of the Border Guard Law, the Border Guard organization has a right develop a cooperation with neighbouring countries' organizations in order to implement international legislation concerning the issues of patrolling a state border, a control of foreigners' movement across the borders, and dealing with the other issues concerning the Border Gard's organization's competencies. The efficiency of work of the Border Guard Organization will be ensured by building a cooperation with the international organizations and local communities.

**Conclusions**

There is a wide mosaic of migration research that provides useful insights about the challenges of migration processes in the world. The situation of refugees depends on the global and local politics and strategies of the host country and a local community, other organizations, NGO' work with the asylum seekers, as well as on the asylum seekers themselves, on their willingness to integrate into a new culture.

Migration today can be viewed as a global phenomenon. According to the available information, the number of illegal migrants in EU is approximately 8 million. The flow of migrants exceeds the possibilities to manage the flows of migrants without a cooperation among the countries at the EU level. There is a need to a joint EU policy in regards to migration. There is a lack of coordination and the exchange of information among the EU countries despite of numerous international declaration in regards to illegal migration. There is no precise and detailed information exchange among the EU countries concerning illegal immigrants, therefore the solidarity principle in information exchange is not observed fully.

There are positive tendencies in legislation with the regards to legal migrants by ensuring their right to join with the other family members. Still, there is a need for more solidarity, joint responsibilities and transparency and coordination of EU legislation. The legislation concerning illegal migration need to include diverse aspects and factors.

The main factors fostering immigration processes is poverty, dictatorship, climate change, and war. The main factors of a choice of a host country is a high standard of life, democracy, peace, possibilities of employment, human rights.

The processes of migration will increase from both developing and underdeveloped countries, due to extreme nationalism, fundamentalism that increases tensions, conflicts and wars; also due to the increasing gap of living conditions between rich and poor countries. This will make people to move to more secure places.

Illegal smuggling of immigrants has destructive effects on the security of the country since this process presents a threat to the society of the country by jeopardizing the public order and the security of people. Effective migration policies require the policymakers to know the context of the imbalances in levels on income and unemployment patterns in European countries and its' effect on migration processes. By strengthening possibilities of legal immigrants in the host country, EU can reduce a threat of illegal migration.

The authors believe that there is not enough attention has been devoted to advertising legal migration in the information campaigns. This will considerable reduce the processes of illegal migration.

There are many organizations in EU dealing with the migration issues, like UNHCR dealing with the refugee and asylum seekers issues, the IOM, dealing with the migrant's rights and welfare, the Red Cross, and trade union associations whose functions in coordination of migration processes overlap and have gaps. The major migrant receiving countries will unlikely agree upon a creation of a new agency dealing with the refugees since they give priority to the local political prerogatives.

The international agreement on migration issues is very fragmented therefore any changes introduced that regulate the international migration processes must be built on a consensus seeking and trust building principles of governance. By considering that different states have different goals and policies, Newland (2010) argues that the consensus should be built upon the objective of reducing the risks of criminal networks, tensions between migrant and hot communities, ensuring greater safety for migrants as well as greater national security.

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# DEVELOPMENT OF CONCEPT OF PUBLIC RELATIONS IN COMMUNICATION SCIENCE

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**Abstract**
***Key words**: public relations, communication science*
The concept of modern public relations has developed since the beginning of 20th century. There are many definitions of public relations coined by theoreticians and practitioners but most of them refer to such fields as management, communication, psychology, political science and marketing. There is still an ongoing discussion on whether all communication can be described as public relations, or maybe it is a time for a separate science – public relations; should public relations be called a science, an applied science or even art? The aim of this article is to examine the development of concept of public relations to establish the relevance of this concept to communication science. The method of research is discourse analysis.

**Kopsavilkums**
Moderno sabiedrisko attiecību koncepts ir attīstījies kopš 20 gadsimta sākuma. Ir daudzas sabiedrisko attiecību definīcijas, kuras izveidojuši teorētiķi un praktiķi, bet gandrīz visas iekļauj tādas jomas kā vadība, komunikācija, psiholoģija, politikas zinātne un mārketings. Joprojām aktuāla ir diskusija, vai visa komunikācija var tikt uzskatīta par sabiedriskajām attiecībām, un vai ir pienācis laiks atsevišķai zinātnei – sabiedriskajām attiecībām. Vai sabiedriskās attiecības var saukt par zinātni, lietišķo zinātni vai mākslu? Šī raksta mērķis ir iezīmēt sabiedrisko attiecību koncepta attīstību un noteikt saistību ar komunikācijas zinātni. Pētījuma metode ir diskursa analīze.

## Introduction

The question – can public relations (here and after PR) be considered a science has been controversial for years. Nowadays the debate mainly revolves around the four paradigms: public relations just uses theories from different sciences, the history of modern concept of PR is short, PR is a part of the larger field of communication and PR is a management function. Thomas Kuhn explains paradigms as scientific achievements that comprise the fundamental knowledge of a particular scientific community (Kuhn 1970: 1). He explains the advances of science (in his case natural sciences we should transfer to social sciences) with quiet periods when normal science is directed by paradigms and revolutions or conflicts between old and new paradigms. If an unexpected fact or unanticipated finding for a paradigm appears, Kuhn calls it anomaly, and if the paradigm cannot incorporate this anomaly, a crisis appears. Crisis provides the data necessary for a paradigm change. Despite the fact that paradigm in its broader meaning is not a theory but includes the scholars and research practices, we could explain the absence of new theories in PR with the lack of unanswered questions. There were no paradigm conflicts while Kuhn's approach was applicable to public relations. It was recognized that PR was at a pre-paradigmatic stage as a child of the post-World War II period. Maureen Taylor and Aimei Yang identified six major themes of the codes of public relations ethics across the national associations: professionalism, advocacy, moral standards, clients' interests, expertise, relationship (Taylor, Yang 2015: 551). Seems nothing has changed since Bernays. On the other hand new media has taken over the world over the last 20 years and has had an impact on all kinds of practice and research.

The noun "science" (from Latin *scientia*) is defined on the online etymology dictionary as "what is known, knowledge (or something) acquired by study, information, assurance of knowledge, certitude, certainty" (etymonline 2016). Science, as it is done by people, is a socially embedded activity. The social scientific studies of communication has been developing since the beginning of 20th century as a part of studies in psychology, political science or sociology. Jennings Bryant and Erika Pribanic-Smith separated communication research into nine fields: Interpersonal Communication, Language and Social interactions, Organizational Communication, Intercultural communication, Political communication, Journalism, Health communication, Visual Communication, Communication and Technology, and Public Relations. This gives as a signal that authors understand PR as a dependent and at the same time an adherent phenomena of communication (Bryant, Pribanic-Smith 2010: 21-36) and gives us a frame – PR is a part of communication and as a part of science it could be considered a science. Frame is "organizing principles that are socially shared and persisted" (Reese 2007: 150). The frame structures the topic and leads the cognitive process and information processing. In this case the frame has been given by authorities – founders of modern public relations, theoreticians and professional organizations. This article examines the perception of representatives from the industry of the concept of public relations. The phenomena of science in PR is analysed from the historical perspective and discourse analysis is used as a method of empirical research.

**Discussion**

Since the last three decades new trends have emerged in PR to emphasize the significance of the theory in PR and guide it towards academic education. Carl Botan and Vincent Hazleton name three trends: (1) growth in scholarship and publishing, (2) development of scholarly organizations and conferences, and (3) development of a theoretical foundation, particularly through Symmetrical/Excellence theory (Botan, Hazleton 2010: 3). Despite the fact that many journals appeared, conferences were organised and articles submitted, many scholars remained sceptical to developing public relations as an independent theoretical discipline. PR is not on the list of the National Science Foundation in USA of Latvian Council of Science and few if any Americans on Latvians would argue that it should be (Botan, Turney, Dimants 2016).

While science is usually claimed to be separate from practice, PR seems to be both because the perception for years has been constructed by statements such as: "Like all great vocations, public relations is an art and a science. The art lies in appraising the public, the client and service; the science lies in devising and applying the method appropriate to these appraisals" (O'Braien 1966: 84). The one of the most advanced PR practitioner organizations study "the art beneath the science of PR" (Institute for Public Relations 2016). Almost all universities around the world still

give degrees in Art to their students of public relations and practitioners can camouflage their mistakes with the blurred interpretation of PR as an art.

Rex Harlow (1893-1993), one of pioneer educators of PR, defined public relations as "a distinctive management function which helps establish and maintain mutual lines of communication, understanding, acceptance, and cooperation between and organisation and its public…" (Harlow 1976: 36) Harlow continues in six lines. His main idea of managerial approach for PR was later taken and popularised by James Grunig. Edward L Bernays (1891-1995), as one of the first writers about public relations, was a strong proponent of the conception that public relations should be a science. He formulated three main elements of public relations practically as old as society: informing people, persuading people and integrating people with people (Bernays 1952: 12). Compared to the old days, instruments and methods have changed; nowadays we use internet, TV, radio, printed media but since ancient times the idea of persuasion (one of the elements of PR) has been embodied into the old formula from Aristotle – ethos, pathos, and logos; there is a speaker trying to convince the audience about his good intentions by using facts and emotions.

Ivy Lee (1877-1934) considered to be a father of PR as the author of the first modern press release and a person who used different terms to define the profession – publicity adviser, publicity expert, publicity director in his *Notes and Clippings* In 1921, developed "The Declaration of Principles" in 1906 and distributed them to mass media to explain the play rules for new the profession called publicity agent: "This is not a secret press bureau. All our work is done in the open. We aim to supply news. This is not an advertising agency…In brief, our plan is frankly, and openly, on behalf of business concerns and public institutions, to supply the press and public of the United States prompt and accurate information concerning subjects which is of value and interest to the public to know about." (Lee 1906).

Publicity remained the main component of public relations for a long time until James Grunig and Todd Hunt undoubtedly stressed the role of PR manager as counsellor (Grunig, Hunt 1984). Dennis Wilcox and Glen Cameron, the authors of the most popular student book nowadays, start their list of fifteen components of PR with counselling, research and only then go to media relations and publicity, employee/member relations, community relations, public affairs, government affairs, issues management, financial relations, industry relations, development fund-raising, multicultural relations/workplace diversity, special events and marketing communication (Wilcox, Cameron 2005: 11).

The one of the reasons why public relations, one of the oldest practices around the world, is still not a science but a practice or applied science in the best case scenario (Wilcox 2016), or a management function (Grunig, Hunt 1984) is the assumption that PR is too large to belong to one

science. Since the 1950s the idea that public relations is a two-way communication process and a management function (Cutlip, Center 1952) has existed. Grunig defined communication as a behaviour – of people, groups and organizations – that consists of moving symbols to and from other people, groups, or organizations (Grunig 2010: 20). Grunig and Hunt have formulated the main theory of PR – four models of public relations, still the only theory of such level later converted into the Theory of Public Relations excellence (Grunig J. E., Grunig L., Dozier 2003). In the study of excellence James Grunig and his associates explain how PR contributes to building relationship between an organization and its public to achieve the organization's goals at least at four levels: Program level – when individual communication programs (media relations, community relations, customer relations) are successful when they influence cognitions, attitudes and behaviour of both publics and members of the organization; functional level – when communication functions can be audited to find out the best practice of functions; organizational level – how communication can make an organization effective; societal level – how PR can support the organization's impact on other organizations, individuals, and publics in society (Grunig J.E., Grunig L., Dozier 2003). According to this public relations involves more than communication. Carl Botan, the one of the most prominent authors about PR, in the interview to the author explained: "My new book *Strategic Communication Theory and Practice: The Co-creational View*, coming out in early 2017, adopts a primarily humanistic view of all strategic communications, including PR." (Botan 2016). If we followed the heretical idea of Augusts Milts (1928-2008) that communication forms the coexistence of people as well as perception and interaction (Milts 2004: 153), and considered that coexistence is a synonym for public relations, we would get a totally different picture than the prevailing belief that communication is a umbrella for public relations, communication and journalism. If we follow the traditional lead, we should recognise, although PR is derived from communication, we should acknowledge that it has a theoretical base from management and psychology as well as culture and art studies because modern descriptions of profession indicate that PR managers manage information to influence people, and there is an endless list of theories only partly belonging to communication. We should recognise, that PR is expanding because globalisation is to be credited for moving the public relations body of knowledge toward greater cultural relativism in order to make it more relevant to practitioners in different markets (Sriramesh 2009: 1).

Author uses discourse analysis to find out the different approaches of 11 prominent professors of PR from all around the world (6 from USA and Canada, 4 from EU and one from India) towards the subject – public relations science – and find the dominating discourse and discursive argumentation for acceptance or unacceptance. The professors were interviewed in March 2016 via personal e-mails.

1 table. **Opinions on whether PR should be considered a science or not**

| PR is not a science | PR is not a science, but... | PR is a science, but.. | PR is a science |
|---|---|---|---|
| "That is a profession. Very influential and extensive occupation."<br>"Public Relations manager is an artist. It gives a sense of independence."<br>"Industry first of all, moulding mind-set of people, not a science." | "PR is an applied science because various scientific principles and theories from social sciences have been applied to PR practice and theory. PR is an academic discipline in its own right, much like medicine or even marketing, or law."<br>"I think it is a combination of art and science. Art which is experience, intuition and taste. Science which is research and data."<br>"I do not classify public relations as a pure science, but it can be investigated using scientific as well as critical approaches to discovery."<br>"Public Relations is an interdisciplinary profession that draws on social science and business theories."<br>"I would call the discipline of public relations a profession, but not a science. It uses science. It also uses art and humanities."<br>"Despite my being a professor of public relations, it's not a science, but it uses scientific approaches and methods." | "Bernays, asked about his work, described it using the word science. Today there are very few, if any, American public relations practitioners who think of themselves as scientists." | "Public relations is a science because there is a theoretical base and many scientific methods are used." |

PR professors use four strategies to answer the question – is public relations a science? The direct approval, the apparent approval, the apparent denial, and the direct denial. Most of professors used the apparent denial because the situation is complicated and still changing, despite the remark of Dennis Wilcox that perhaps too much energy is being spent on splitting hairs about defining things.

**Conclusions**

Public relations is not a science in the traditional definition of the term. Public relations is an academic discipline in its own right. PR can be attributed to communication as well as management, psychology, culture and art. PR is too large to belong to one science. It is one step from apparent denial to apparent approval in recognising public relations as a science and changing the paradigm of public relations. Therefore the discussion should be kept alive to check whether paradigmatic changes have changed the perception of public relations. The next big step forward for PR scholarship and practice is to develop and integrate a humanistic view of PR with the social science view.

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# TYPES OF ATTACK IN SOCIAL ENGINEERING

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**Abstract**

**Types of attack in social engineering**

***Keywords**: social engineering, types of attack, phishing, Trojan horse*

Information is the most precious thing in the world. It has been a well-known fact for centuries. Introducing electronic data exchange into the enterprises and organizations, an issue about information and its security has become more topical than ever before. Recently more and more people have been thinking about information security because from time to time it is reflected in the mass media about the results of data leakage. People their relationships and their lives are threatened, but organizations are even threatened by bankruptcy.

With developing telecommunication technologies, countless opportunities open up for people how to communicate. It makes activities of different enterprises much easier; however, at the same time it causes new problems for them. Cybercriminals discover more and more new techniques how to benefit from small enterprises, ignorance of their employees and how to harm enterprises' reputation.

The article provides a theorethical analyses of the issue of study, namely, social engineering in data security. The authors analyze and summarize the types of attack in social engineering.

Social engineering – is manipulation of people into performing certain actions or divulging confidential information without any technical access to an information system. The term "Social engineering" refers to science about manipulation of people, their attitude and reaction to a particular situation with a main aim to reach the disclosure of sensitive information or performing a particular action in the attacker's favor.

Research methods: Analyses of sources.

**Kopsavilkums**

**Sociālās inženierijas uzbrukuma veidi**

***Atslēgas vārdi:** sociālā inženierija, uzbrukuma veidi, pikšķerēšana, trojas zirgs*

Visdārgākā lieta pasaulē ir informācija. Tas ir vispārzināms fakts jau gadsimtiem ilgi. Ienākot uzņēmumos un organizācijās elektroniskajai datu apritei, jautājums par informāciju un tās drošību ir kļuvis aktuālāks kā jebkad agrāk. Pēdējos gados par informācijas drošību sāk aizdomāties arvien vairāk, jo ik pa laikam masu medijos dzirdam pie kā noved datu noplūde. Cilvēkiem tiek sabojātas attiecības, dzīve, bet organizācijai tas draud pat ar bankrotu.

Attīstoties telekomunikācijas tehnoloģijām, cilvēkiem paveras neskaitāmas iespējas kā sazināties. Tas atvieglo arī dažādu uzņēmumu darbību, tomēr tajā pašā laikā rada tiem jaunas problēmas. Kibernoziedznieki atklāj arvien jaunus paņēmienus, kā gūt labumu no nelieliem uzņēmumiem, to darbinieku nezināšanas, kā arī kaitēt uzņēmumu reputācijai.

Rakstā atspoguļota informācija par sociālās inženierijas nozīmi datu drošībā. Sīkāk analizēti un apkopoti sociālās inženierijas uzbrukuma veidi.

Sociālā inženierija – manipulēšana ar cilvēku, lai tas veiktu zināmas darbības vai izpaustu konfidenciālu informāciju, tehniski nepiekļūstot informācijas sistēmai. Ar terminu "Sociālā inženierija" saprot zinātni par manipulēšanu ar cilvēku tā attieksmi un reakciju uz konkrētu situāciju ar galveno mērķi panākt sensitīvas informācijas izpaušanu vai noteiktu darbību veikšanu uzbrucēja labā.

Pētījuma metodes: Informācijas avotu analīze.

## Introduction

There has not been research in Latvia about social engineering so far. There have been some incidents which are recorded in different information sources: Internet web pages, newspapers etc. An issue of social engineering outside Latvia has been researched by Valerică Greavu-Serban and Oana Serban (2014.) in Romania, PS Maan and Manish Sharma (2012.) in India, Xin (Robert) Luo,(2011.) Richard Brody (2011.), Alessandro Seazzu and Stephen Burd (2011.) in the USA. Kevin Mitnick, an American, ex-hacker, who is an internationally recognized data security expert at

the moment, has written a book about social engineering under the title "The Art of Deception" Kevin D. Mitnick, William L. Simon, Steve Wozniak, The Art of Deception (2002).

**The aim of the research**: To study types of attack in social engineering.

**The tasks of the research**:

1. To study scientific materials and information resources about types of attack in social engineering.
2. To summarize information about types of attack in social engineering.
3. To draw conclusions and develop recommendations for company employers how not to become victims of social engineering.

Methods of research: Analysis of information sources.

Christopher Hadnagy (2011.), a security consultant and professional social engineer in America, has written in his book "The Art of Human Hacking" that social engineering is:

1. lying to people to get information,
2. being a good actor,
3. knowledge, how to get stuff for free. (Hadnagy 2011.)

Despite the fact that technically it is possible to protect information; an individual is a weak link in any information security. There will always be a person in a company who is responsible for information, its provision and maintenance of a system. It does not matter how many new programs are installed in the computer it does not guarantee information protection. As a serious problem it is considered that people are educated to be well-wishing, they are used providing support to others because it is true nature of mankind. It is easy to influence such people. Usually most people, who have disclosed information, have known that it is not allowed to do that.

Valerică Greavu-Serban and Oana Serban (2014.) carried out questionnaire among the students of Alexandru Ioan Cuza (2014.) University aimed to clarify how students usually behave in the Internet environment regarding data security.

The question, if they use one and the same user name and password for different e-mail accounts, 69% revealed, that they do. Complexity of passwords was analyzed as well. The authors of this research stated that 52% respondents use low security passwords in the Internet, mainly names and some of personal data. During the questioning it was asked," Do you know access data of other people (friends, colleagues) to their e-mail systems or social networks?" 42% respondents revealed that they knew passwords of other people. 50% of questioned indicated that they had a habit to take down their passwords on the paper or into the note books. Research revealed that 27% of young people would be ready to give their e-mail password if they were paid 100 Euro, but 35% if they were paid 200 Euro and more. (Greavu-Serban and Serban 2014.)

PS Maan and Manish Sharma, who have researched issues of social engineering in India believe, that social engineering is not only a technical attack. Mainly it is a shared attack, where both technics and an individual are involved. (PS Maan and Manish Sharma 2012).

Social engineers also use humor in their conversation and pay compliments. They can even offer employees, whom they contact, small presents. Such kinds of gestures are often successful to gain peoples' trust, because sympathy and co-operation are significant in people communication. (Goodchild 2012)

Kevin Mitnick (2008.) was once a hacker, he has spent 5 years in prison, after that he established his company "Mitnick Security Consulting".

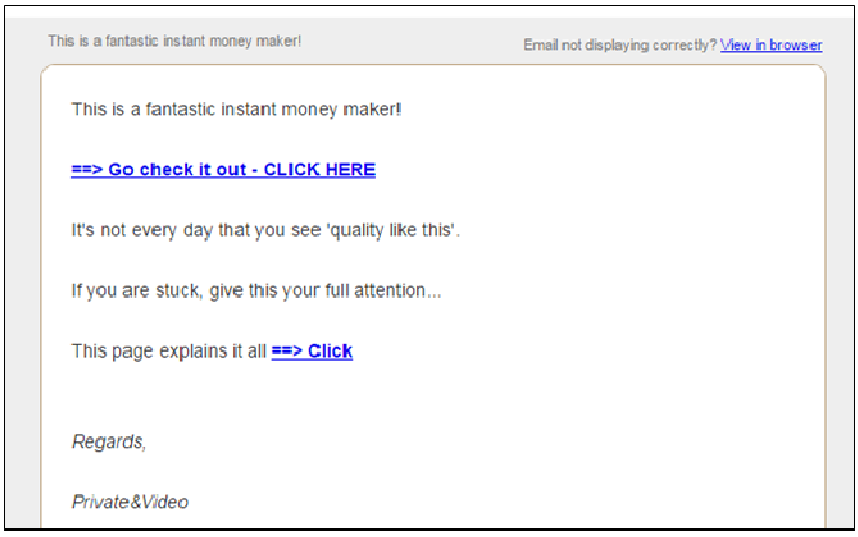
According to Mitnick's theory, you can endlessly work on firewalls and special software in data security, but a person – a social engineer can breach it all very easily. For instance, if someone wants to obtain data of A credit card, it is not necessary to steal a wallet. It can be done by phoning the victim and pretending to be a bank employee to get all the needed information (Mitnick, 2008).

**Types of attack in social engineering**

*Phishing*

Today phishing is most frequently used form of attacks in social engineering. It is an attempt to obtain personal information, for instance, name, address. While using hyperlinks a victim is directed to click on suspicious internet sites. You make them feel threatened, which causes fear and encourages acting immediately. The e-mails are the most used. In such e-mails there are frequent printed mistakes; it is how to recognize phishing (Bisson 2015)

Example of a phishing e-mail in the 1st image.




1st image**. Example of phishing**

*Baiting*

In many ways baiting is similar to phishing attacks. An attacker can offer music or film downloads to users, if they provide their data in application form.

Baiting attacks are not only for online schemes, but they also can occur when using people's curiosity.

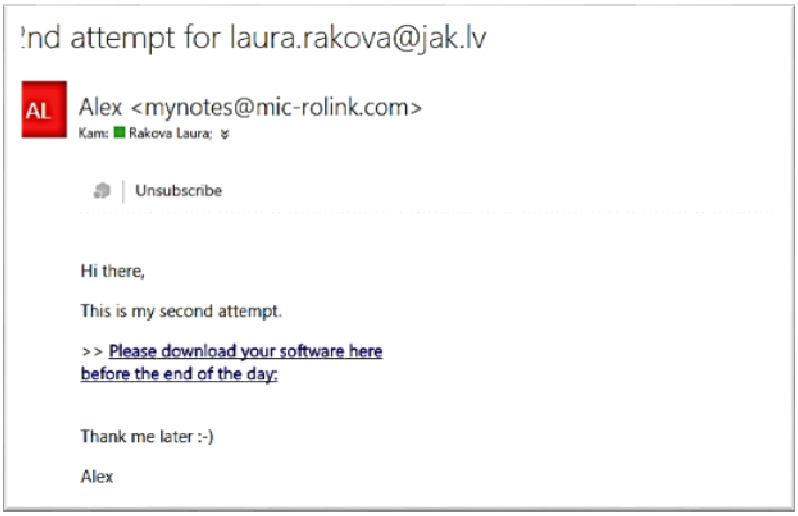
Steve Stasiukonis,(Bisson, D. *Social Engineering Attacks to Watch Out For*) Secure Network Technologies, in 2006 described one of such attacks. To assess customer financial security, Steve and his team infected dozens of USB with a Trojan virus and placed them in a company parking lot. Led by curiosity many customer's employees took the USBs and switched them to their computers. Thus key logger software was activated, that gave Steve access to many employees' data (Bisson 2015).

Trojan horse, a computer virus, mostly is spread by the baiting method.

Malicious software attacks of a "Trojan horse" is a typical example of social engineering. They are called according to the analogy with Trojan War, where after a long siege of Trojan city the Greeks could not conquer the city so they used war ruse – made a huge wooden horse with some soldiers inside, pretending that they were leaving. Trojans pulled the horse into the city as a victory trophy. The next night the Greek soldiers crept out and let other troops into the city, so winning the war. Today's Trojan horse type software functions, according to the same scheme to bypass protection. It can be hidden in many different ways – as a video file, bill or can be hidden in an absolutely useful application.

There are two very typical ways how such Trojan horses get to a company – as e-mail attachments or in different data transmitters, for instance, USB flash memory. Very often an attacker depends on people curiosity to open a corresponding file. For example, a user may as if accidentally be sent an e-mail with an attachment "pay-roll.xls.exe" or at the entrance of the company there is a "lost" flash memory with a photo session of a girl on the beach and "video.exe" file.

An example of baiting on the 2nd image.




2nd image**. Image made by author "Example of baiting"**

Chris Nickerson, a founder of security consulting company "Lares" carried out an experiment. By using a technique of social engineering he wanted to make sure how unprotected the society was. He purchased a T-shirt for 4 dollars with a lettering of computer company "Cisco". Pretending to be a technical worker of Cisco, he entered company premises. It was easy for him to get necessary information. Furthermore, he left infected USB memory cards on the desks (Goodchild 2012)

*Pretexting*

Information is obtained pretending to be another person, for example, IT auditor, plumber etc. The premises, equipment are inspected, coming in person into an office as well. (Bisson 2015).

It is an action which is prepared, according to the before developed scenario or algorithm. As a result, a person gives back specific information or performs a specific action. Such a type of attack is usually used speaking on the phone. To apply this technique it is necessary to gather personal data (address of the place of residence, phone number, name, surname etc.) at the beginning. Having these data a deceiver enlists your trust.

*Sniffing*

"Sniffing" – A criminal can carry out analyses of data packets transmitted over a network using a special program, which works in the computer switched to this network, trying to capture names and passwords, which users apply to access their accounts, their account numbers and codes as well which are used in the Internet deals – payments about purchases or other payments from in the Internet transmitted data.

*Reverse social engineering*

The aim of attack is to pursue people that they ask a deceiver for help themselves.

To reach that, a cracker uses following techniques:

1. Diversion – he damages his victim's computer.
2. Advertisement – a deceiver «accidently» offers a victim his service – «If you have any problems with a computer – call the following phone number».

It is a classic basic model: you receive data, which their owners are ready to share with you. But unlike a classic technique a data owner tells them to you voluntarily. It is an effective three-step-procedure: you make trouble for a data owner, provide contact with yourself, and then carry out an attack.

Experiment: you change your clothes to be a cleaner, and with all tools visit a protected object. Inconspicuously you change a phone number of a technical support service on the notice board with yours and damage one of PCs. Very soon you will receive a phone call and a PC owner will tell you everything you want. Your authorization does not cause suspicion – a person knows who he is calling!

Bank option is IVR-phishing. A victim receives a letter from the bank with a forged number of customer services, where a user is asked to call. He is asked a credit card number there or even something more. Who is asking – a person? But not – an answering machine! But machines do not cheat!!!

**Conclusions**

1. Using of social networks at work for private needs and not sufficient knowledge of social engineering issues threaten security of organization data.
2. The most curious and polite employees are potential victims of social engineering.
3. People do not pay enough attention to the suspicious letters in e-mail.
4. Most people are nice and trustworthy strangers

**Suggestions**

1. Usage of social networks and e-mail for private needs at working place have to be regulated by strict rules and their implementation have to be controlled.
2. A person responsible for data security has to be appointed; employees have to be educated in issues of social engineering
3. People should seriously deal with the suspicious e-mails
4. People should not trust strangers.

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