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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 59. starptautiskās zinātniskās konferences pētījumu tematika bija ļoti plaša – eksaktās, humanitārās, izglītības, mākslas un sociālo zinātņu jomās.

Zinātnisko rakstu krājumā ***Daugavpils Universitātes 59. starptautiskās zinātniskās konferences rakstu krājums = Proceedings of the 59th International Scientific Conference of Daugavpils University*** apkopoti 2017. gada 6.–7. aprīlī konferencē prezentētie materiāli.

Daugavpils Universitātes 59. 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 59th International Scientific Conference of Daugavpils University.***

Proceedings of the 59th International Scientific Conference of Daugavpils University are published in three parts: part A. *Natural sciences*; part B. *Social Sciences*; part C. *Humanities.*

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EKONOMIKA / ECONOMY

THE ETHIC OF SUSTAINABILITY: FIRST COME, FIRST SERVED

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Abstract

The ethics of sustainability: first come, first served

Key words: *ethics, sustainability, development, next generation*

Ethical context is understood in the term sustainability, as taking into account not onlythe effectiveness, but also moral values and goals. Sustainability cannot be achieved without attention to its ethical dimensions. The ethical aspects of sustainability often remain implicit and as most analyses focus on the economic, social, environmental and technical issues. It is one of the main tasks of research.The aim of the research is achieved by describing the ethical context of sustainability. Consequently, the main tasks of the research are to define a reason for developing the ethics of sustainability and to describe the ethical context of sustainability. The key results: a survey on the responsibility level to the next generations.The methods of research are monographic, quantitative, quantitative, deductive and inductive.

Kopsavilkums

Ilgtspējīgas attīstības ētika: rindas kārtībā

Atslēgvārdi: *ētika, ilgtspēja, attīstība, nākamās paaudzes*

Analizējot ilgtspēju, ir saprotams, ka šim jēdzienam ir arī ētikas konteksts, jo ilgtspēja nozīmē ne tikai efektivitāti, bet arī morālās vērtības un mērķus. Ilgtspēja nevar nodrošināt, ja netiek pievērsta uzmanība ētiskajiem aspektiem. Šo aspektu izpēte bieži vien nav ilgtspējas nodrošināšanas fokusā, jo pamatā tiek veikta ekonomiskā, sociālā, vides un tehniskā izpēte. Šī pētījuma galvenais mērķis ir noteikt ilgtspējas ētikas attīstības iemeslus un aprakstīt ilgtspējas ētiskos aspektus. Savukārt galvenais rezultāts ir pētījums par atbildības līmeni pret nākamajām paaudzēm. Izmantotas šādus primārās pētīšanas metodes: monogrāfiskā, statistiskā, analīzes, zinātniskā indukcija un dedukcija.

The concept of sustainability is significant and hard to implement that is generally reference and has reached overall support. Sustainability is commonly assumed to require the balance of economic welfare, ecology and social equity. It is grounded on the ethical obligationnot only for the current population well-being, but also for the future generation well-being as well as its improved opportunities.

Sustainability is a recognized and commonly accepted basis for guiding a widespread variety of choices now. Sustainability recommends that in the decision making practise societies that have a good quality of life have a responsibility to certify future societies, while less prosperous societies are also able to realise living standard in which their basic needs are reached. The sustainability is a way to enhance the long term well-being of individuals and communities. It can be done by enhancing the natural and cultural environment and promoting opportunity and equality of social justice.

Businesses are using the idea of sustainability to expand the measure of success and environmental performance. Universities are put on sustainability to lead the changes of their

curriculum, as well as investments and interactions with local governments. It means that sustainability is a basis upon which can be built specific approaches for guiding decision making.

The Whistler2020 (Canada) sustainable community movement describes sustainability as "… a minimum condition for a flourishing planet in the long term" (Kilbert et at. 2010).

Nowadays the word "sustainability" is being used more and more frequently from a wide variety of perspectives and with a number of different purposes in mind. As a result, the "sustainability" is becoming hard to define to define. Probably the best known basic definition of sustainability is stated in Our Common Future, also known as the Brundtland Report, from the United Nations World Commission on Environment and Development (WCED) published in 1987: "…meeting the needs of the present without compromising the ability of future generations to meet their needs" (Kilbert et at., 2010). Much work has occurred since the Brundtland Report to explain the worldwide consensus about the goals of sustainability, development of subsequent and previous global efforts (such as Agenda 21, The Earth Charter, The Rio Declaration) on the goals, standards and models of sustainability. Actually sustainable development can be defined as development sustained thought time.

The most common definitions of sustainability are includes a two aspects: how to make it better. Nixon (2010) stated that sustainable economic development is the combination of a desperate concept to connect environment crisis and opportunity for large-scale economic development.

In the wide discussion (see e.g. Holmberg 1992, Reed 1997, Harris et al. 2001), there has been a rising acknowledgement of critical aspects of sustainable development: economic, social and environmental (Harris 2003).

An economically sustainability is ability to produce goods and services on ongoing basis. According to ordinary economic concept, efficient resource allocation should have the effect of maximizing utility from consumption. A social sustainability has to realise justice in resources of distribution, adequate opportunities and equity. An environmentally sustainability is ability to ensure stable resource base.

The goal of the ethics of sustainability is to guide people in their efforts to address real global problems and build more socially, environmentally, and economically sustainable institutions, practices and societies. The ethics of sustainability cannot succeed only in the realm of theory because as Kant famously declared "…ought implies can" (Kilbert et at. 2010). Sustainability without ethics is an empty shell, e.g., sustainability lacks a generative purpose and ends serving as a guide for reflection if we do not reflect the culture, values and methods to realize durability.

Sustainability proposed responsibility of contemporary society for the quality of life of today's population as well as the protection of resources needed for future generation. Everyone has

a right to till their needs for food and other basic needs such as clear air, clean water and a place to live and work. Further it supports economic activities, gives us a place for recreation and maintains of health.

Present generation have a duty to future generation to leave them a planet in at least as good as they got it. Therefore the framework of sustainability involves a better understanding of the ethical dimension. Through accepting of the ethics of sustainability, it becomes clear that sustainability is not only question on approach of solvinga variety of challenging problems of present generationit is the right method for thefor the right things to do. The significance of next generation is the central concept of sustainability.

Even if issues of intergenerational justice are raised by this definitionthere are still some clear dilemmas. For example, how is it possible to define the needs of future people when the needs of the majority of the world's present population are not being met?

M.P. Golding addressed this problem in 1972 when he suggested that a moral community can be organized only in one of two ways – by an explicit contract between its members or by a social arrangement in which each member benefits from the other member efforts.With respect to future generation neither an explicit contract nor social arrangement is possible thus rights cannot be attributed to future generation as a result of a contract or social arrangement (Kilbert et at. 2010).

Sustainability suggests that in the decision-making process societies while having a good quality of life have an obligation to ensure that future societies and contemporary less well-off societies are also able to achieve a standard of living in which their basic needs are met.

We have to realize that our decisions affect generation more going forward from now. Maybe we shoulddraw attention to present generation more than unborn generation? Maybe we should weigh our own utility less than the future generation's, because we assume there are a limited number of present generation but not limited next generation? Should we weigh each generation's interests equally?How much do present generation think about next generation and for how long are they able to think and attend?It is the most difficult ethical question of sustainability.

The author of the research at 2017 has conducted a survey with the following question imagine that you have 1 000 EUR that you must give to the future people; what amount will you give to the people each year? It is possible to give money to the next generation that will live in the following years: 2025; 2055; 2085; 2115 and 2145? These questions have been asked to 173 students.

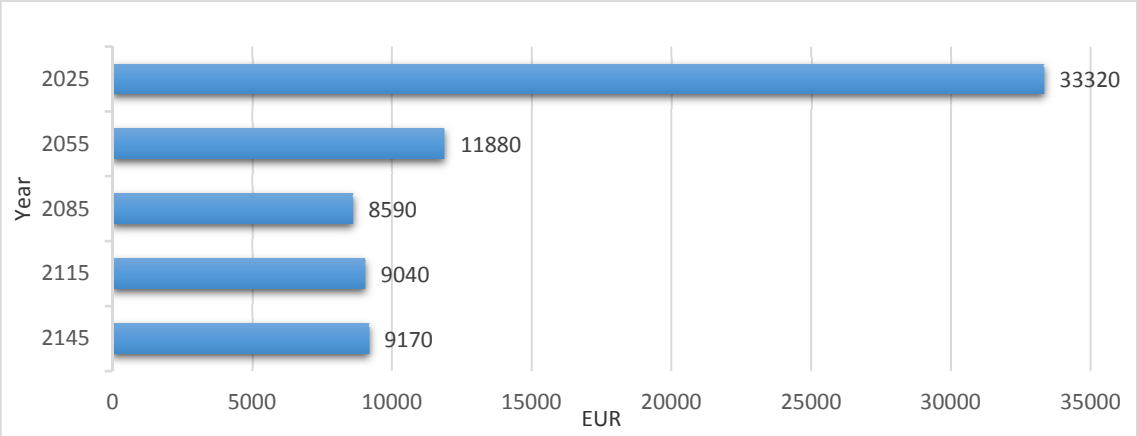

Fig. 1. **Money given to next generations**

Source: compiled by the author

The biggest amount of money (33 320 EUR or 46 % from a total sum of money) students give to the people who will live in 2025. The next in amount of money students give to the people who will live in 2055 (11 880 EUR or 16 % from a total sum of money), butit doesn't differ much from 2085 – the generation to whom students give 8 590 EUR (or 12 % from a total sum of money) We can see that for year 2115 and 2145 there is almost no difference in amount of money (13 % from a total sum of money for each of the years).

The author of research conducted the same survey 2015. The results was the same: 42 % from a total sum of money students give to the people who will live in 2025, 18 % from a total sum of money who will live in 2055, 12 % for 2085 and 14 % from a total sum of money for each of the years 2115 and 2014.

Typical prejudices are: nearer future people are closer relatives, so we have stronger obligations to them; most future people are non-existent, therefore, the question is why we should make sacrifices for non-existent people; they will have knowledge and technology we cannot predict; future people will be richer than us. A very strong principle "first come first served!"

As it was mentioned before in this article there are at least three critical aspects of sustainable development: economic, social and environmental. Therefore another question of the survey is what have to be more sustainable - economic, social or environmental development?

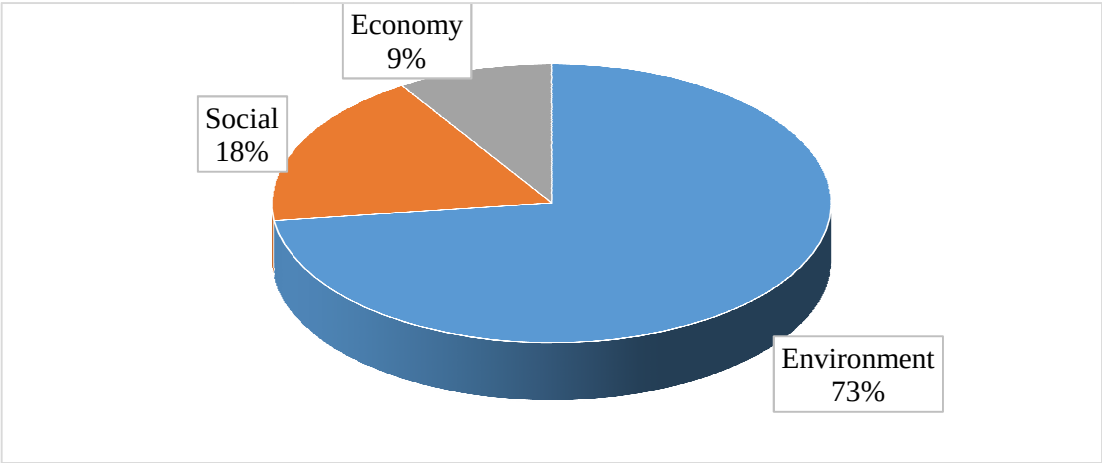

Fig. 2. **What have to be more sustainable?**

Source: compiled by the author

73 % from 173 students answered that environment have to be more sustainable. It means that present generation accepts that nature is the most important and they have to save for next generations. The respondents of the survey accept completely that our quality of life fundamentally depends on the environment. A stable climate with fresh air and clean water are prerequisites for healthy communities and a developing economy. At the same timeonly by expansion of our social objectives from the goal of economic progress toward the more comprehensive idea of the way how we will achieve sustainability. By setting our highlights on achieving sustainability and producing prosperity,it is a good perspective to improve our general quality of life.

In addition to general features, the ethics of sustainability must address a number of definite values helping to fill out the most important principles of sustainability related to economic, social and environmental aspects. Obviously, not all the ethics of sustainability will be equal in relation matters stated above. Though, suitable and complete ethics of sustainability must deal in some way with the values.

Sustainability offers traction to the idea that we are obliged to reflect future generation in our policies, in our interactions with nature, in our production and in our daily decision-making. These are all the matters which require an ongoing ethical discussion.

Alternatively, if future generation shared the same interests or social ideals as today's people, then it could be argued that they havethe equal rights to our, it is possible that due to technological progress and other factors it is for not imaginable the conditions of future generation and their conception of life and its values. Walter Wagner (2002) suggested that if we recognized the rights of future generation, then we would experience a greater degree of self-actualization and wellbeing (Atkinson et al. 2014).

Conclusions and suggestions

Through a better understanding of the ethics of sustainability it becomes clear why the framework of the sustainability is not only an approach for addressing and answering many difficult problems we are faced with, but why it is in fact the right approach andthe right thing to do.

The goal of the ethics of sustainability is to guide people in their efforts to address real global problems and build more socially, environmentally and economically sustainable institutions, practices and societies.

The issue of how tothe ethical problems in constructive and fruitful ways is vital but underappreciated – it is especially applicable for problems that concern with sustainability when a popular discourse often defines problems as ultimate choices between economic or environmental goods.One of the most important tasks of the ethics in such situations is to ask questions thatcan help to find good solutions

In order to summarize this discussion have to take into consideration the following quotes:

- an ethical aspect of sustainability as well as ethical principles and goals have to be taken into account in both theory and practice;
- we are obliged to reflect the future generation in our policies, in our interactions with the nature, in our production and in our daily decision-making;
- three different mechanisms (environmental, economic and social) should be reflected together to achieve the goals of sustainable development;
- a development process have to bebiodiversityadmissible, socially acceptable and economically feasible;
- environmental education and awareness have to be continued through education system from childhood to develop “earth thinking”; thus more attention should be drawn to other pillars of sustainable development (such as economy and social) in education system.

These are all matters that require an ongoing ethical discussion. Sustainability is not just a combination of different values, but a combined scheme in which the parts work together to reinforce each other.

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HUMAN CAPITAL DEVELOPMENT FEATURES IN RURAL AREA: VIDZEME REGION EXAMPLE/CASE ANALYSIS

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Abstract

Human Capital Development Features in Rural Area: Vidzeme Region Example/Case Analysis

Key words: *human capital, smart people, rural areas, development features, smart development*

One of main condition of sustainable state economic development is smart rural area development and most important to provide it, is human capital development. The aim of research is to find out the most important human capital development features in rural area in context of smart forming of inhabitants, which would serve as base for working out the guidelines to provide sustainable development of Latvia country space and region. For deeper research in Vidzeme region the districts Kocēni and Mazsalaca was chosen and they shows a different speed and level of economics development. For analysis of human capital development processes author used monographic method, statistics data analysis, data from questionnaires and interviews with focus groups and inhabitants in research areas. This research paper contains novelty in context of human capital theoretical theory - concept *smart people* is defined and find out its substance. This research paper contains analysis of human capital development situation in research areas and in Vidzeme region overall, clarifying the main development features in context of smart economics development. In process of analysis rural areas human capital development problems are displayed and solutions are proposed. Theoretical and practical results of this research will be used to work out the guidelines for Latvia country space smart development and for working out proposals for municipalities to make a policy in field of human capital development.

Kopsavilkums

Cilvēkkapitāla attīstības iezīmes lauku telpā:Vidzemes reģiona piemērs /gadījumu analīze

Atslēgvārdi: *cilvēkkapitāls, viedi iedzīvotāji, lauku telpa, attīstības iezīmes, vieda attīstība*

Ilgtspējīgas valsts ekonomikas attīstības viens no pamatnosacījumiem ir vieda lauku telpas attīstība, kuras nodrošināšanā galvenais ir cilvēkkapitāla attīstība. Pētījuma mērķis ir noskaidrot galvenās cilvēkkapitāla attīstības iezīmes novados viedas iedzīvotāju veidošanās procesa kontekstā, kas kalpotu par pamatu vadlīniju izstrādei Latvijas lauku telpas un reģionu ilgtspējīgas attīstības nodrošināšanai. Vidzemes reģionā novadu padziļinātai izpētei tika izvēlēti Kocēnu un Mazsalacas novadi, kas parāda atšķirīgus ekonomiskās attīstības tempus un līmeni. Cilvēkkapitāla attīstības procesu analīzē autore izmantoja monogrāfisko metodi, statistikas datu analīzi, izpētes teritorijās veikto fokusgrupu interviju datus. Cilvēkkapitāla teorētiskās koncepcijas kontekstā raksts satur novitāti- tiek definēts jēdziens *viedi iedzīvotāji* un noskaidrota tā būtība. Rakstā tiek analizēta cilvēkkapitāla attīstības situācija izpētes teritorijās, kā arī Vidzemes reģionā kopumā, ir noskaidrotas galvenās attīstības iezīmes viedas ekonomikas attīstības kontekstā. Analīzes gaitā tiek parādītas lauku teritoriju cilvēkkapitāla attīstības problēmas un piedāvāti risinājumu virzieni. Pētījuma teorētiskie un praktiskie rezultāti tiks izmantoti vadlīniju izstrādei Latvijas lauku telpas viedai attīstībai, kā arī priekšlikumu izstrādei pašvaldībām rīcībpolitikai cilvēkkapitāla attīstības jomā.

Introduction

The aim of the society development is the increase in welfare of the population that can be achieved through a sustainable development of society. “The principle of sustainable development provides for quality environment and balanced economic development for the present and future generations as well as rational use of natural, human and material resources, preservation and development of natural and cultural heritage” (Vidzeme Planning Region 2015). Sustainability is achieved by implementing a polycentric approach – developing regions and rural areas. At present, the concept of smart economy development is very topical – it is based on innovative economy and specialization, reasonable use of natural resources, provision of e-environment, active people and smart management (Rivža et al. 2016). In the previous study, the author observed that the most

important group of factors affecting the development of rural areas is human factors: availability of labour force, population activity, enterprising attitude of the population (Melbārde, Ore 2016). Human capital is the driving force behind the sustainable development; thus, it is important to explore the situation and processes taking place in the area of human capital in Vidzeme region.

The aim of the study is to find out the main features of the human capital development in municipalities in the context of smart population formation process, which would serve as a basis for the development of the guidelines for Latvian rural space and regional sustainable development. The following objectives were set for achieving the goal: to define the concept of smart people and determine its characteristic features; to assess the situation of the human capital in Vidzeme region in the context of the smart economy development, and find out the main development features of the human capital based on a case study; show the human capital problems and outline the directions for solutions. In this study Vidzeme region is understood as the rural territories – 25 municipalities included in Vidzeme Planning Region (hereinafter referred to as VPR).

The ESPON CUBE methodology (ESPON 2015) was used for grouping of rural areas and the selection of the areas for an in-depth study. In the framework of National Research Program ECOSOC-LV, based on the estimations of the level and pace of development, 4 municipality clusters were determined. For the in-depth study in Vidzeme region, Kocēni and Mazsalaca municipalities were selected. There is a sharp contrast between these municipalities in terms of the economic development and pace, as well as the location in the region. Kocēni Municipality shows a high level of development, but the pace of development is below the average (on the border with Valmiera city), while Mazsalaca Municipality has a high development pace, but a low level of development (located in the border area with Estonia); thus, it is important to explore the human capital aspects influencing the economic situation in the municipalities. In the framework of National Research Program ECOSOC-LV 31 participants were interviewed in three focus groups in Kocēni and Mazsalaca Municipalities (entrepreneurs, representatives of non-governmental organizations and local government employees).

The author conducted a study of the theoretic literature in order to show changes in the human capital content as a result of the changes in society, to define the essence of the concept of smart people and identify its main characteristics. Statistical indicators and focus group interview data was used to demonstrate the main features and problems of human capital development in the region.

Discussion

The content of the human capital concept has significantly changed due to scientific, technological and globalization processes since 2nd half of the 20th century. Initially, only to the knowledge, skills and competences acquired in the formal education system and used for the

purpose of obtaining income through employment were attributed to the human capital. The human capital – production skills, abilities and knowledge that an individual possesses and that are measured by the market price of the total of produced goods and services. The human capital is formed through the investment in people – the cost of training, preparation for production, health care, migration and commercial information search (Bekker 1993). Education is seen as a key component of the human capital, but recent studies emphasize man-made innovations together with the knowledge and skills as an essential human capital element (Nik Maheran, et al 2011, Gennaioli et al 2012). Currently broader human capital interpretations are dominating – including a wide range of personal qualities, world views, values that can directly affect the production performance. The human capital is created as a result of human transformation in order to endow them with the skills and abilities that would allow acquiring new techniques and ways of operation (Coleman 1988, Acemoglu et al 2014). In the most recent studies the human capital is viewed from the point of view of the competencies required, emphasizing the entrepreneurial ability that can be transformed into business (UNCTD 2008). The entrepreneurial ability includes four components: management competence, knowledge and skills, personal competence, social competence, enterprising attitude (Bikse 2011: 29).

Summing up the diverse interpretations of the human capital, it can be concluded that in the knowledge economy a person must have diverse competences allowing him or her to act wisely in order to ensure the sustainability of our society. The author proposes using the term smart people, including the necessary requirements for the human capital in it. The smart person definition offered by the author: a smart person is someone who has acquired diverse competences (knowledge, skills, abilities) through education or life experience, who is energetic and open to new ideas, cooperation and meaningful social relationships, intelligent in judgments and actions that are realized in active participation (business, non-governmental organizations, charities, and other activities significant for the individual and society). A smart person is characterised by four basic dimensions: competences acquired through education and experience, openness to ideas and enterprising attitude, the ability to form social relationships, active participation.

A smart person is able to adapt to changes in work functions and in the structure of enterprises, the rapid entry of innovation and technology in daily life, changes in the education content, challenges of the global world, thus providing the basis for the public welfare – the sustainable development of economy.

The research area is located in Vidzeme region – in Kocēni and Mazsalaca Municipalities where an in-depth study of the rural territory development was carried out. During the study the author identified the situation of the human capital through the analysis of the municipality human resources from the perspective of the fundamental dimensions characterizing smart people.

In Latvia, according to the last census, 32% of the residents are rural population. In Vidzeme Planning Region of 208.695 thousand inhabitants there are 183.874 thousand inhabitants or 88% of the population living in rural areas (State Regional Development Agency 2017). The statistics show that the economic development of Vidzeme region, in contrary to the overall situation in Latvia, is based on rural human resources. Kocēni and Mazsalaca Municipalities (including the town of Mazsalaca) are classified as rural municipalities with more than 50% of the population living in rural areas.

The municipalities studied show significant differences in the territorial development index (TDI): according to 2015 data, TDI of Kocēni Municipality is +0.419, while for Mazsalaca Municipality it is -1.84 (TDI of Vidzeme Planning Region is -0.778). The area of Kocēni Municipality covers 496.90 km², the population density (people/km²) at the beginning of 2017 – 12.96 (in 2016 -13.25), while the area of Mazsalaca Municipality covers 417.19 km², the population density (people/km²) in 2017 – 7.97 (in 2016 – 8.29) confirming the nationwide trend – the population decline (the Central Statistical Bureau 2017).

Table 1 summarizes and compares the main indicators describing the population in the research areas – Kocēni and Mazsalaca Municipalities.

Table 1. **The population in the research areas**

Indicators	Vidzeme region	Kocēni Municipality	Mazsalaca Municipality
Population at the beginning of the year (2017)	208 695	6441	3325
Long-term migration balance (2015)	-2212	-32	-62
International long-term migration balance (2015)	-1364	-43	-39
Working age population, % (2017)	61,5	60,2	59,4
Registered unemployment rate at the beginning of year, % (2017)	9,2	5	4,6
Long-term unemployed, the proportion of the total number,% (2017)	29,2	11,5	11,8

Source: State Regional Development Agency, 2017, the Central Statistical Bureau, 2017, the National Employment Agency, 2017.

The statistics show that the level of development of the territory is related to the availability of human resources: Kocēni Municipality has a positive territorial development index and twice the population than Mazsalaca Municipality with a negative territorial development index. Mazsalaca Municipality also has a smaller number of population at working age that significantly affects the availability. In both municipalities the number of inhabitants and the potential of human capital is reduced by the negative internal and external migration balance.

For the investigation of the situation, interviews were conducted in both municipalities in three focus groups which consisted of entrepreneurs (12), representatives of non-governmental

organizations – associations and foundations (10), and the staff of the local governments (9). The interviews were made on the basis of the smart people concept and focused on finding out the main features characterizing a smart population.

During the focus group interviews, the respondents emphasized the need of knowledge and **diverse competences** required by the rapid global changes. The obtained education was highly valued, but the criticism from the entrepreneurs was addressed towards the current education system model and the quality of knowledge. Knowledge is basically acquired in formal education, which is further supplemented in practice and further training. A part of the entrepreneurs emphasized that knowledge and experience was passed down from generation to generation, occupation was inherited (this is characteristic for Kocēni Municipality). Also the interest of the residents to develop their competencies and engage in lifelong learning is more characteristic of Kocēni Municipality. In both municipalities one of the core competencies was emphasized – the need to communicate in foreign languages to be able to acquire new knowledge and skills, build cross-cultural cooperation and socialize, develop business. In general, the residents can communicate in at least one foreign language, the English knowledge is weaker in older people, but young people know it well.

Digital literacy of the population for practical everyday use is adequate, but almost all interview participants stressed the need to improve the IT skills to be able to use the latest IT tools in their professional activity. IT infrastructure is sufficient in both municipalities, so all focus group participants were users of the Internet resources, and the representatives of the non-governmental sector were particularly active in social networks. The local government representatives and also entrepreneurs acknowledged that the scientific research potential was used minimally both in exploring the topical issues of the municipality and for business support.

The interview responses showed the high cultural consciousness of the people – cultural and family values, their preservation was a major incentive for both human capital internal migration – the change of the place of residence, and the start of eco-business and organic farming, as well as the involvement in NGOs. It should be noted that family was emphasized as a value not only in private but also in the professional sphere, as evidenced by the fact that more than half of the interviewed entrepreneurs represented family businesses. Analysing the human capital in the municipalities in the context of entrepreneurial abilities, it must be concluded that the majority of the interviewed had developed their entrepreneurial abilities, first, by working in paid employment, while some had been raised in this way in the family.

It is characteristic for Mazsalaca Municipality that young people want to get a well-paid job, but do not want to be entrepreneurs, which indicates weakly developed entrepreneurial abilities and alludes to weaknesses in the general education system. **Enterprising attitude** as a personality trait

is necessary for everyone in order to find a motivation for action, take the initiative, responsibility and risk in achieving goals. The study shows that this personality trait is often inherited or formed in the family. The research shows that in Kocēni people are more enterprising, oriented towards using new opportunities and towards growth, as evidenced by the wish of the surveyed entrepreneurs to increase the export capacity of their production, develop new products. Creativity, **openness to new ideas** and initiatives appear in the activities of NGO representatives.

The most problematic aspect of smart people in the municipalities is **establishing collaborative and meaningful social relationships**. At the moment competition prevails over cooperation – competition can be observed between regional governments, on business level and between the generations, which does not allow the full use of the municipalities' natural resources, human capital and scientific potential for achieving the individual objectives and the objectives of the society as a whole. The local government employees show initiative in coordination of the communication and cooperation, but the residents are reluctant, and a wide network of social relations in municipalities has not been developed. The activists of non-governmental organizations are most open to cooperation.

Smart and active participation of the municipality residents manifests itself in business, cultural and sports activities, events of associations, foundations and non-governmental organizations. Business activity is significantly higher in Kocēni Municipality with 667 economically active companies on April 27, 2017, while in Mazsalaca only 294; also the number of non-governmental organizations, associations and foundations in Kocēni is twice as high than in Mazsalaca, namely 75 and 37 (LURSOFT 2017). The activities of non-governmental organizations focus on the preservation of natural, cultural and historical values; the main motivators for the activity are self-development opportunities, the sense of mission that they work for the common good of the municipality and the region, a change of the habitual environment, an opportunity to share experiences and also earn additional income.

Conclusions

The development features of smart people in Vidzeme region municipalities:

- The education and experience of the residents ensures sufficient range of competences and creates the preconditions for full-fledged involvement in the development of the municipality;
- Sustainable thinking is forming, based on the cultural and historical values, local patriotism and the preservation of environmental resources;
- The development of entrepreneurial potential is taking place, determined by a family tradition, an individual's education and business experience as well as a set of enterprising characteristics.

- Groups of the population are learning to communicate and collaborate, mainly determined by the initiative of local government employees;
- The activity of non-governmental organizations has increased, supported by the presence of enthusiastic people and the involvement in rural space processes.

The main problems of the human capital development:

- Insufficient development level of entrepreneurial competences in young people;
- Scientific research potential is minimally used for the improvement of the municipality governance and business development.
- The dominating competition and isolation hinders the creation of a broader network of cooperation and social relations, limiting the implementation of new ideas.

Possible directions for solutions:

- Local governments, entrepreneurs and communities could build networks of cooperation with the educational and research institutions of the region, thus ensuring the full use of the offer of these institutions in knowledge and skills acquisition and support to the work entrepreneurs and local governments;
- It could be useful for the local governments to establish a collaboration platform to ensure communication with the community of the municipality, to facilitate the consolidation, as well as the self-initiative of the residents.

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TIESĪBU ZINĀTNE / LAW

ACTIVITIES OF THE STATE BORDER GUARD AFTER SUBMISSION OF THE APPLICATION FOR GRANTING REFUGEES OR ALTERNATIVE STATUS

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Abstract

Activities of the State Border Guard after submission of the application for granting refugees or alternative status

Key words: *State Border Guard, international protection, asylum seeker*

Growing refugee crisis situation has exacerbated the situation in the European Union in recent years. Single asylum policy obliges Latvia to be engage in this issue. Our country in recent years has made considerable efforts to the implementation of the latest European Union directives and to meet their requirements to those asylum seekers who apply for asylum Latvian or pursuant to an action plan for persons in need of international protection, transfer and reception of Latvian, are moved to Latvia from other Member States.

A number of institutions Latviaare involved inasylum procedure. One of the first contact institutions for persons in need of international protection is the State Border Guard. The officials of State Border Guard conduct the preliminary operations for international protection of applicants, as an application for refugee status or alternative status must submit the State Border Guard units. Sequence of actions and procedures are firmly established by Latvian Asylum Law. When handling asylum seekers, border guards must also comply with all the rules of international law, especially those concerning human rights.

Asylum statutory activities of State Border Guard operations are carried out immediately after the application for refugee status or alternative status submission or receipt of asylum seekers from other Member States. It is the task of State Border Guard to identify and examine applicants for international protection. State Border Guard's activities are important because the information resulting from an asylum seeker may affect the decision on the granting of asylum or denying to grant the refugee status.

Kopsavilkums

Valsts robežsardzes darbības pēc iesnieguma par bēgļa vai alternatīvā statusa piešķiršanu iesniegšanas

Atslēgvārdi: *Valsts robežsardze, patvēruma meklētājs, iesniegums*

Ar katru gadu pieaugošā bēgļu krīze ir saasinājusi situāciju visā Eiropas Savienībā. Vienotā patvēruma politika uzliek par pienākumu tajā iesaistīties arī Latvijai. Mūsu valsts pēdējo gadu laikā ir izdarījusi ievērojamu darbu, lai tiktu ieviestas jaunākās Eiropas Savienības direktīvas un pildītas to prasības attiecībā pret tiem patvēruma meklētājiem, kas lūdz patvērumu Latvijā vai, ievērojot rīcības plānu personu, kurām nepieciešama starptautiskā aizsardzība, pārvietošanai un uzņemšanai Latvijā, tiek pārvietoti uz Latviju no citām dalībvalstīm.

Latvijā patvēruma procedūrā ir iesaistītas vairākas institūcijas. Viena no pirmajām, kas saskaras ar personām, kurām nepieciešama starptautiskā aizsardzība ir Valsts robežsardze. Tieši Valsts robežsardzes amatpersonas veic pirmatnējās darbības ar starptautiskās aizsardzības pieprasītājiem, jo iesniegumu par bēgļa vai alternatīvā statusa piešķiršanu ir jāiesniedz Valsts robežsardzes struktūrvienībās.Darbību secība un kārtība ir stingri noteikta Latvijas Patvēruma likumā. Veicot darbības ar patvēruma meklētājiem, robežsargiem jāievēro arī visas starptautiskās tiesību normas, īpaši tās, kas skar cilvēktiesības.

Patvēruma likumā noteiktās Valsts robežsardzes darbības tiek veiktas uzreiz pēc iesnieguma par bēgļa vai alternatīvā statusa piešķiršanu iesniegšanas vai patvēruma meklētāja uzņemšanas no citas dalībvalsts. Tieši Valsts robežsardzes uzdevums ir identificēt un pārbaudīt starptautiskās aizsardzības iesniedzējus. Valsts robežsardzes darbības ir svarīgas, jo to laikā gūtā informācija par patvēruma meklētāju var ietekmēt lēmuma par patvēruma piešķiršanu vai nepiešķiršanu pieņemšanu.

The goal of the article is to examine the State Border Guard officials' activities during the first phase in asylum procedure immediately after the submission of the application for granting refugee and subsidiary protection status. Several steps have been set to reach the goal of the paper

i.e. to investigate and analyze international protection statistics in Latvian and the European Union as well as activities prescribed by the Asylum law of Latvia whilst dealing with asylum seekers in the context of international law. While writing the paper the methods of analysis, comparison, historical and legal interpretation have been used.

The persistence of armed conflicts, social and economic crisis in different regions of the world, as well as global poverty has affected the migration intensity from third countries to the European Union (hereinafter - EU). Most of the migratory persons apply for asylum in EU countries. The EU is legally obliged to comply with its international obligations and to grant asylum to war refugees, thus validating the values of the whole EU in respect for asylum and protection of human rights. Until recently the asylum granting policy in Latvian, although much stronger than in most other EU countries, it was out of public discussion circle, because a very small number of people sought refuge in Latvia. At present moment, the situation has drastically changed. The crisis in the EU asylum sphere as well as in our country has aroused unprecedented interest in asylum issues. Public debate in all media hit both asylum seeker resettlement issues and the development of the new Asylum Law and its impact on society as a whole, attracting the attention of various organizations.

In Latvia from 1998 to 2016 altogether 2118 persons asked for international protection (in comparison in 2014 there were 364 asylum seekers which is the largest number from all years). Within EU resettlement program there were 169 displaced persons. Asylum seekers' main countries of origin in 2016 were Afghanistan, Syria, Russia and Iraq. Refugee status has been granted to a total of 118 persons, while the subsidiary protection status - 255 persons. (OCMA statistics).

In 2016 as a whole in the EU for the first time an asylum application for international protection was submitted by 1,258,850 persons. However in 2017 during the first two months the request for international protection was submitted by more than 47 thousands. These are the people who have never asked for protection in any of the EU Member States. Still the largest number of international protection applications are in Germany, Italy, France, Greece, Spain, Austria and Hungary. (EUROSTAT 2017)

In Latvia an asylum seeker is considered to be a person who within Latvian asylum procedure prescribed by law has expressed the desire for granting refugee or alternative status. It is established by law that a person requesting asylum can come only from third countries or have a stateless person status. A person is considered to be in asylum seeker’s status since expression of such request for international protection until such time as the completion of the administrative procedure for the adoption or the last instance decisions on granting or rejecting asylum. All foreigners who after evaluation procedures do not qualify as refugees or who are not granted

alternative status international protection is not granted and may be returned back to their previous home country or country of origin.

In Latvia within the asylum procedures are involved the Office of Citizenship and Migration Affairs (hereinafter –OCMA) Asylum department, the State Border Guard of the Republic of Latvia (hereinafter – SBG) and Administrative court of specific region where asylum was requested.

Within the asylum procedure in individual stages are involved in the Orphan's Court and the Legal Aid Administration. If asylum is requested by an unaccompanied minor then the Orphan's Court is involved in asylum procedure. Orphan's Court, taking into account the interests of the minor, shall decide on the appointment of a representative of the minor and accommodation during the asylum procedure. (OCMA Review 2016) Unaccompanied minors representative's role is very important since he or she participates in initial interview conducted by the SBG as well as in-depth interview conducted by OCMA, if necessary the representative participates in children's age identification procedure, if there is doubt about the age of a person, the representative participates in the child's family members search and identification, possible return to the family, represents the minor in asylum procedure or if the minor has been detained then in detention case, etc. (Djačkova, Zonberga 2016).

The functions of the SBG are to ensure the state border inviolability, security and illegal migration prevention. One of the tasks that SBG ensures is the entry, exit, residence and transit conditions control, as well as performing the actions to be taken within its competence in line with the Asylum Law. (Border Guard Act 1997)

The asylum can be requested both inside the country and at the border or border crossing points and border surveillance units. Within the context of this paper the author describes border guards as officials who are the first to communicate and conduct initial activities with asylum seekers. There can be different situations i.e. asylum seekers arrive with documents and request asylum and on the contrary there can be situations when they cross the border illegally and request asylum after they had been detained. Since asylum seeking is not an illegal activity such persons cannot be punished for illegal entry or residence in a territory of a country with a precondition that an asylum seeker had immediately introduced himself or herself to the official and stated the reason or illegal arrival in the country. In relation to the fear of persecution or other emergency situations whilst escaping the country of origin asylum seekers might not be in possession of required documents hence quite often asylum seekers are forced to cross the border illegally due to situations and conditions when legitimate border crossing is impossible in line with determined border crossing procedures.

Officials of the SBG within their duties must comply with strict rules laid down by the law in accordance with generally recognized principles of human rights. Otherwise, the European Human

Rights Convention for the Protection and fundamental freedoms for everyone whose rights and freedoms as set forth in this Convention are violated shall serve as an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity. (Human Rights and Fundamental Freedoms Convention for the Protection, Art.13)

The request for international protection in Latvia can be submitted also to officials of the OCMA, the State Police or Prison guards. In such case officials not later than in three days period shall contact the SBG in order to submit asylum application within the procedures prescribed by the Asylum Law. Any oral request shall be processed in written form. Application for granting refugee's or alternative status must be submitted in person to any structural unit of the SBG. According to Asylum law there are two areas determined:

1. Asylum request can be submitted at border crossing point or in transit zone before entry to Latvia;
2. Asylum request can be submitted in a structural unit of the SBG if person is already residing in Latvia.

After receipt of the application or asylum seekers in accordance with the European Parliament and of the Council of 26 June 2013 Regulation (EU) No. 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for a third-country national or a stateless application for international protection lodged in one of the Member States (hereinafter - Regulation no. 604/2013), SBG records applications received within the three working days after receiving it (in a case of a large number of asylum seekers, the period may be extended to 10 working days).

According to internal regulations of the SBG immediately after submission of application for granting refugees or alternative status the asylum seeker is introduced with the rights and obligations as stipulated in the Asylum law. According to Asylum law it is required to ensure that the asylum seeker is able to use his rights and fulfil his obligations under the SBG and the OCMA in a timely manner to inform him or her of the asylum procedure, rights and obligations as well as period of asylum procedure. Asylum seeker is introduced on the possible consequences if the asylum seeker does not comply their obligations and shall not cooperate with the institutions involved in the asylum procedure as well as the consequences of asylum application withdrawal, effects on the asylum procedure, the institutions involved, bodies providing legal aid, as well as reception conditions, including the right to receive health care services. That information to the asylum seeker is provided in writing in a language which he or she is able to understand, or in a language that is reasonably supposed to be understood. If necessary such information is provided orally.

Simultaneously with the asylum seeker's presentation of his rights, the person is given information about the possibility of being transferred to another EU country. SBG officials give to

asylum seeker a booklet of the European Commission and explain the information it contains. EC booklet mainly contains information relating to the European Parliament and Council Regulation No. 604/2013 (26 June 2013), which provides criteria and mechanisms for determining the Member State responsible for a third-country national or a stateless application for international protection lodged in one of the territories of the Member States (hereinafter – the Dublin Regulation) conditions. Sometimes a situation arises when the Member States is not really clear as to which of the countries must take responsibility for applicants for international protection. To sustain non-refoulement principle - the prohibition to expel the person from the country against his/ her will to a country where their life or freedom is in danger, the Dublin Regulation is in force. Similarly, the Dublin Regulation provides that an applicant may not submit applications for asylum in several countries at the same time.

Each asylum seeker from the age of 14 years shall be fingerprinted to verify his identity. Fingerprints are checked against Eurodac system. The legal basis of this system is determined by the European Parliament and Council Regulation (EU) No.603 / 2013 (26 June 2013).

Commission Regulation (EU) No. 118/2014 (2014, January 30) amending Regulation (EC) Nr.1560 / 2003 laying down detailed rules for the application of Council Regulation (EC) No.343 / 2003 laying down the criteria and mechanisms for determining the Member State responsible for the third-country national examining an asylum application lodged in one of the Member States Annex X contains a joint booklet for providing information to all applicants for international protection according to (EU) No. 604/2013 and repealing Regulation (EU) No. 603/2013 applied. With regard to the collection of fingerprints the asylum is informed of the need to cooperate and to allow to collect his/her fingerprint as well as the fact that, if necessary, there will be need to repeat collection of fingerprints. The results of fingerprint collection are checked against Eurodac database to determine whether asylum has been requested earlier or the fingerprints were previously obtained whilst crossing the border. This helps to determine which Dublin country is responsible for examining an asylum application. An asylum seeker shall be informed of the time limits for the storage of fingerprints to Eurodac, the possibility of requesting information about their data saved in the Eurodac and the right to request such data to be stored or deleted, as well as the authorities responsible for data processing and data protection supervision.

In Eurodac data can be used only for statutory purposes. From July 20, 2015, fingerprints can be searched by institutions such as the police and the European Police Office (Europol), which may require access to the Eurodac database for the purposes of prevention, detection and investigation of serious criminal offenses and terrorism.

Fingerprints constitute an important element of a person's identity, but it does not happen only with the collection of fingerprints. When a person is entering for the first time or submits an

application for international protection in the EU for the first time, the fingerprints will not help to identify the person. To identify asylum seekers and to ascertain his/her nationality is possible by the asylum seeker and his or her belongings' inspection. Whilst inspection the SBG officials have the right to seize items and documents if they can play a significant role in the examination of the application or they may pose a threat to asylum seeker or other persons. All activities carried out during the inspection are specified in the report, describing separately the inspection of the person and the property he or she possesses. When con ducting inspection of the person i.e. body search specific indicators (of torture or other physical violence) can be significant during decision-making in the asylum procedure. Asylum seeker is inspected only by the same gender SBG official with respect for human dignity, as well as the physical and psychological integrity principles. Minors and their belongings are inspected in the presence of legal representative. Study author would like to emphasize the fact that in Latvian legislation in comparison to the EU neighbouring countries, Lithuania and Estonia, the conditions of person's inspection by the same gender officials were introduced much earlier. Of course, even before the new Law on Asylum was established it was prescribed that the inspection shall be carried by the same gender officials and this principle was observed by the officials of the SBG.

SBG has the right to determine the documents, objects, language, medical and other examinations and tests (both for the same asylum seeker and to his/her belongings). There are several types of examination. SBG most often applies examination of asylum seekers in detention cases, document technical examination, dactyloscopic examination and forensic examination. Within document technical examination are studied various Latvian and foreign documents, as well as free style made documents. Officials may encounter with cases where an asylum seeker conceals his age, refuses to disclose it or just doesn't know it. In such a case forensic medical examination is determined, during which doctors examine a person's body and conclude, if not certain, at least an approximate age of a person. Office of Citizenship and Migration Affairs of the European Migration Network Latvian contact point of cooperation with the OSCE Office for Democratic Institutions and Human Rights office in 2017, 22 and 23 March, organized the International Conference on third-country nationals whose expulsion or return to the country of origin is not possible also addressed questions of asylum seekers. In most countries, a persons' identification problems are similar. Identification takes place at several levels - diplomatic channels, interviews (in person, by telephone, video conference mode), fingerprints, photography, co-operation with the responsible authorities and various experts (there is high importance of cultural and linguistic experts in nationality determination). Latvian Law on Asylum also describes these options.

During exploration of SBG officials' activities whilst dealing with asylum seekers the author of this paper has come to following conclusions:

1. In the Republic of Latvia the initial activities with asylum seekers are carried out by the State Border Guard i.e. accepting and registering applications for granting refugee or alternative status, activities to identify asylum seekers and to determine his/her nationality.
2. The results of asylum seeker's identification activities are taken into account when deciding to grant or not to grant asylum.
3. Qualitative information acquisition from the asylum seeker, identified objects detected during inspection and examination significantly accelerate the identification of asylum seeker as well as the asylum procedure in general.
4. Constant SBG officials training activities on working with asylum seekers are needed taking into account the latest trends, as well as the involvement of other institutions' experts from across the EU.

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THE CONCEPT OF „KNEW OR SHOULD HAVE KNOWN ABOUT THE INVOLVEMENT IN TAX FRAUD" APPLICATION IN TAX FRAUD, ACTUAL CONDUCT AND ASSESSMENT

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Abstract

The concept of „knew or should have known about the involvement in tax fraud" application in tax fraud, actual conduct and assessment

***Key words**: value added tax, tax fraud is the assessment of the facts*

Since joining the European Union, taxation in Latvia is largely affected by the European Union. Practice has demonstrated that the application of the value added tax, both by the tax administration and the Administrative Courts, extensively uses the findings of the Court of Justice of the European Union, the interpretation of which and the sufficiency of evidence often differs from the original application of legal regulations, thereby creating different explanations, the result of which a dishonest taxpayer can develop new fraud schemes, thus causing significant losses to the national budget. The Supreme Court Administrative Case Department has noted in value added tax cases that the attitude of the taxpayer towards the transaction and correspondence of the transaction with generally accepted commercial practices are substantial. While at the court hearings it is observed that the taxpayer raises only general assertions that the direct counterparty was registered in the value added tax payer register, that the taxpayer had done everything that the law requires of it, that the transaction has been carried out with a legal entity and it is possible to trace the transaction based on the transaction source documents, at the same time no rebut is proposed to the statements in the State Revenue Service audit and resolution that, for example, the counterparty knows nothing about the activities of the company, and this may indicate that the source documents have been executed formally, so that the taxpayer could get fiscal benefits from the national budget. In view of the above, the author analysed the case law concerning the factor of the concept of „knew or should have known about the involvement in tax fraud". This study identifies and analyses the theoretical framework of the value added tax fraud cases.

Kopsavilkums

Jēdziena „zināja vai vajadzēja zināt par iesaisti nodokļu izkrāpšanā" piemērošana nodokļu izkrāpšanā, faktiskā rīcība un vērtējums

***Atslēgvārdi:** pievienotās vērtības nodoklis, nodokļu izkrāpšana ir faktu vērtējums*

Kopš iestāšanās Eiropas Savienībā, Latvijā nodokļu piemērošanu lielā mērā ietekmē Eiropas Savienība. Prakse liecina, ka pievienotās vērtības nodokļa piemērošanā, gan nodokļu administrācijā, gan Administratīvajās tiesās plaši tiek izmantotas Eiropas Savienības Tiesas atziņas, kuru interpretācija un pierādījumu pietiekamība bieži vien ir atšķirīga ar sākotnējo tiesību normu piemērotāju, tādējādi radot dažādus skaidrojumus, kuru rezultātā negodprātīgs nodokļu maksātājs var izstrādāt jaunas krāpšanas shēmas, radot būtiskus zaudējumus valsts budžetam. Augstākās tiesas Administratīvo lietu departaments pievienotās vērtības nodokļa lietās ir norādījis, ka ir būtiska nodokļu maksātāja attieksme pret darījumu un darījuma atbilstība vispārpieņemtajai komercpraksei. Savukārt tiesas sēdēs novērojams, ka nodokļu maksātājs izvirza tikai vispārīgus apgalvojumus, ka tiešais darījuma partneris bija reģistrēts pievienotās vērtības nodokļa maksātāju reģistrā, ka nodokļu maksātājs ir darījis visu, ko no tā prasa likums, ka darījums ir veikts ar juridisku personu un pēc darījumu attaisnojuma dokumentiem ir iespējams izsekot darījumam, bet tajā pašā laikā netiek atspēkots Valsts ieņēmumu dienesta auditā un lēmumā norādītais, piemēram, ka tiešais darījuma partneris neko nezina par uzņēmuma darbību, var liecināt, ka attaisnojuma dokumenti ir noformēti formāli, lai nodokļu maksātājs no valsts budžeta varētu iegūt fiskālās priekšrocības. Ņemot vērā minēto, autors analizēja judikatūru attiecībā uz jēdziena „zināja vai vajadzēja zināt par iesaisti nodokļu izkrāpšanā". Šis pētījums identificē un analizē teorētiskos ietvarus pievienotās vērtības nodokļa krāpšanas lietās.

Introduction

Since joining the European Union, taxation in Latvia is largely influenced by the European Union. In the process of application of the value added tax the findings of the Court of Justice of the European Union are extensively used both by the tax administration and the Administrative Courts thus the interpretation and the sufficiency of evidence often differs from the original application of legal regulations, thereby creating different explanations. The aim of the article is to analyze the

case law of value added tax in disputes regarding the concept of „knew or should have known about the involvement in tax fraud", as well as whether in the Latvian legislation there are sufficient preconditions for the taxpayer to be able to deduct input tax.

To achieve the aim, the following tasks are defined:

1) analyze and collect the case law of value added tax in disputes regarding the concept of „knew or should have known about the involvement in tax fraud";
2) define the problems and identify the potential problems of combating value added tax fraud.

A descriptive, dogmatic and historical method is used to achieve the aim.

Discussion

Paragraph 1 of Part One of Section 92 of the Value Added Tax Law sets forth that if goods are acquired and services are received for ensuring of taxable transactions or for ensuring of such transactions carried out in other countries which are to be taxable, if they would be carried out inland, the input tax shall be the tax amounts indicated in tax invoices received from other registered taxable persons for the goods acquired and services received. The above legal provision determines the main prerequisites for the taxpayer to obtain the right to deduct the input tax on transactions, i.e. the invoice must correspond to the transaction that has taken place in fact, the transaction is really needed to provide for economic activity and taxable transactions. In the study, the author shall research whether the prerequisites discussed in the above legal provision are sufficient for the taxpayer to be able to deduct input tax.

The Court of Justice of the European Union 28 February 2013 order in case C-563/11, SIA Forvards against the State Revenue Service, confirmed the findings strengthened in the European Union Court of Justice case law Article 17, paragraph 2, subparagraph a) of the 10 April 1995 Council Directive 95/7/EC must be interpreted as preventing the tax invoice recipient being refused the right to deduct value added tax paid in input tax based on the fact that, in view of fraud committed or irregularities allowed by the issuer of such invoice, the transaction associated with this invoice is considered as one that has not actually happened, unless it is proven, based on objective evidence and not requiring the recipient of the above tax invoice to carry out an inspection, which it does not have to carry out, that this recipient knew or had to know that the above transaction is involved in fraud in the field of value added tax, which the submitting court must examine. However, the above judgment does not provide a full explanation of what the specific objective evidence would be like. The Court of Justice of the European Union notes that if there are indications that allow the suspicion of existence of irregularity or fraud, according to the circumstances of the case, an informed market player may be obliged to find out information about another market player, from which it intends to purchase goods or services, in order to verify its reliability.

According to the case-law of the Court of Justice of the European Union, if the tax administration makes a conclusion out of fraud implemented or irregularities allowed by the tax invoice issuer that the transaction, for which the tax invoice has been issued and which has been mentioned in support of the value added tax input tax deduction right, has not actually happened, the tax administration, to be able to refuse the right to deduct input tax, must prove, based on objective evidence and not requiring the recipient of the tax invoice to carry out an inspection, which it does not have to carry out, that the recipient knew or had to have known that the transaction is involved in fraud in the field of value added tax (see, for example, the 6 December 2012 Court of Justice of the European Union judgment in the case No. C-285/11 Bonik, Paragraph 45). It follows from the above that if the tax administration and the Court finds that the transaction has not actually happened then the tax administration and the Court must prove that the taxpayer knew or had to have known it.

In Paragraphs 39-50 of the 21 June 2012 judgment in the unified case C-80/11 and C-142/11 Mahagében, the Court of Justice of the European Union has confirmed that the value added tax payable on the prior or subsequent transactions concerned has or has not been paid to the national budget is irrelevant to the right of the taxpayer to deduct input value added tax. National authorities and Courts must prohibit the exercise of the right to deduction if it has been proven, based on objective evidence, that the reference to the right to deduct input tax have been fraudulent or abusive. Referring to the right to deduct input tax is fraudulent or abusive if the taxpayer knew or had to have known that by making a purchase, it participates in the value added tax-taxable transaction related to fraud. In its turn, the taxpayer, who did not know or could not have known that the supplier had intended the respective transaction as a fraud or that another transaction included in the supply chain before or after the transaction performed by the taxpayer is associated with a value added tax fraud, may not be penalised with a refusal of the right to deduct input tax. Otherwise, such liability, which is without fault, would exceed the set of measures necessary to protect the national budget interests.

In its 10 September 2013 judgment in case No. SK-12/2013 the Republic of Latvia Supreme Court Senate Administrative Case Department pointed out that to deny the right to deduct input tax, one of the following circumstances must be established:

1) the transaction has never happened in fact (in fact, the goods have not been delivered at all and only documents have been executed),
2) the taxpayer itself has engaged in the transaction with a fictitious company, thus in the abuse of the tax system,
3) the taxpayer had been informed that it is involved on the transaction with a fictitious company.

Evidence that any of these circumstances exist with a large degree of probability must be provided by the tax administration, but they must be rebutted by the taxpayer.

So, referring to the right to deduct value added tax is fraudulent if the taxpayer knew or had to have known that by making a purchase or receiving a service, it participates in the value added tax-taxable transaction related to fraud.

A finding has strengthened in the case law that: the concept of „knew or should have known about the involvement in tax fraud" is the assessment of the facts, which needs not to be proved separately yet. The mere facts, on the basis of which such an assessment is made, must be proven. Proving the fact can also use indirect evidence, which, in their entirety, form a compelling basis for the conclusion regarding the existence of the fact (see,Paragraph 8 of the 9 May 2016 Republic of Latvia Supreme Court Administrative Case Department action meeting resolution in the case SKA-974). According to the case law, to deny the right to deduct input tax, in the justification of the administrative act the tax administration uses indirect evidence, such as that the business partner has not registered the structural units, has not declared employees, the type of economic activity does not match the transaction in dispute, an insignificant margin or disproportionate markup has been used, etc., which represents an overall assessment of the facts.

If there is reason to question whether the transaction partner of the applicant was able to complete the particular transaction (i.e. that the transaction had actually happened exactly with that transaction partner), it must be clarified whether the taxpayer was involved (or had been aware or should have been aware that in that way it becomes involved) in tax fraud (see, Paragraph 19 of the 12 June 2013 Republic of Latvia Supreme Court Administrative Case Department action meeting resolution in the case No. SKA-21).

The Court must evaluate the circumstances pursuant to the provisions of the Administrative Procedure Law. Part One of Section 154 of the Administrative Procedure Law sets forth that the Court assess the evidence in accordance with its own convictions which shall be based on comprehensively, completely and objectively verified evidence, and in accordance with judicial consciousness based on laws of logic, findings of science and principles of justice. Part Three of this Section sets forth that the Court judgment shall state why preference has been given to certain evidence in comparison with others, and why certain facts have been recognised as proven while other facts as not proven.

In Paragraph 81 of its 21 February 2006 judgment in case C-255/02 Halifax, the Court of Justice of the European Union has stated that whether the main purpose of the transactions is only gaining tax advantage results from the real substance and significance of the transactions concerned. In so doing, the Court may take account of the purely artificial nature of those transactions and the

links of a legal, economic and/or personal nature between the operators involved in the scheme for reduction of the tax burden.

Part 14 of Section 23 of the Law on Taxes and Duties sets forth that the tax administration shall assess the amount of tax liabilities based on the economic nature and substance of the individual transaction or a set of transactions carried out by the taxpayer rather than only on the basis of their legal form.

It follows from the above discussion that special meaning must be given to the economic content of the transaction and evidence characterising such. It is often observed in Courts that in the justification of its position the taxpayer is relying on the transaction source documents, not understanding that the tax administration and the Court shall also consider the relevance of the information contain therein to the actual circumstances.

According to the case law of the Court of Justice of the European Union as well, the transaction must have taken place in fact. To evaluate any activity as economic activity, it is necessary to take into account the principle of economic reality. It is especially the basic criterion for the application of the system of value added tax (see, Paragraph 23 of the 20 February 1997 judgment in the case C-260/95 Commisioners of Customs and Excise vs. DFD.S A/S, Paragraph 43 of the 28 June 2007 judgment in the case No. C-73/06 Planzer Luxembourg).

It is recognised in the case law that the true goals of the taxpayer's action can be revealed by whether and how its behaviour matches the understanding of normal transaction partner selection and transaction execution control process that corresponds to the essence of commercial activity. Commercial activity is essentially an activity focused on making profits. It will undoubtedly include making economic considerations in the planning of own actions, including in the selection of transaction partners, to evaluate and prevent potential economic or operational sustainability risks. Thus, a hard to explain indifference, negligence or recklessness that characterizes the selection of a transaction partner can be of substantial importance in clarifying the true nature of the transaction. According to the Court's position so far, such treatment of the contractor may be assessed critically (see, for example, the 11 September 2014 Supreme Court Administrative Case Department action meeting resolution in the case No.SK-522 12/2014). Of course, the person may not be convicted only of unreasonable risk, but indications that make recognising it irrelevant to economic realities are one of the considerations that should be taken into account when assessing the role of the person in the execution of documentation not corresponding to the actual course of the transaction (see, Paragraph 8 of the 30 March 2016 judgment of the Republic of Latvia Supreme Court Administrative Case Department in the case No.SKA-151/2016.). In the above case the Court found that before the conclusion of the transaction the applicant had not ascertained if the transaction partner has the appropriate expertise and qualifications, namely, if the potential partner offered the

service then the applicant relied that it is also able to perform it; in fact, the applicant relied on the formal verification of data about the counterparty, its registration in the value added tax payer register, etc., without performing any other extra checks.

In the value added tax cases, one of the main criteria of examination is to find out whether the transactions with the persons specified in the documents have existed in reality, or have actually taken place. It is therefore important that the taxpayer is able to explain in detail how the transaction had progressed. Accordingly, according to the taxpayer's explanations and source documents, the institution and also the Court shall check whether the progress of the particular transaction in the particular actual circumstances is credible and practicable. In such a case, it is evaluated what behaviour, upon concluding transactions, the particular actual circumstances should be expected of a taxpayer as a careful manager, so that such transactions would be recognised as credible, possible and as the ones that have taken place.

In its 6 August 2013 resolution in the case No. SKA-739 the Republic of Latvia Supreme Court Senate Administrative Case Department has specified the criteria, according to which a taxpayer can make sure of whether the counterparty is a reliable and honest transaction partner:

1) by looking into the value added tax register,
2) by examining the scope of authorisation of persons with whom the transaction is concluded (by checking the information recorded in the Register of Enterprises, checking the authorisation)
3) by personally contacting representatives of the party to the transaction. If it turns out that the representatives of the party to the transaction (statutory or authorised ones), who have directly participated in the transaction (have signed documents related to the transaction), know nothing about the transaction, there is a reason for the conclusion that the taxpayer had known or should have known that it is participating in activity related to value added tax fraud. Although the possibility cannot be ruled out that the counterparties are denying transactions deliberately, therefore this fact must be checked as well.

However, this list of the Supreme Court is also not absolute, since it can significantly vary in each particular case.

The State Revenue Service has developed information material which contains recommendations for the evaluation of the counterparty and the transaction risk. Although the information material contains a broad scope of possible checks of the counterparty, this listing also cannot be considered absolute, as it is also correctly noted by the tax administration. The author believes that if the taxpayer would carefully comply with the counterparty and transaction risk assessment criteria both of the Court and the tax administration, then it would be the difficult to imagine a situation that, upon concluding a transaction with the counterparty, a taxpayer would know nothing that the above transaction is involved in fraud in the field of value added tax.

Considering the above, the taxpayer can prevent fraudulent activities itself, if, before the conclusion of the transaction, it would carefully check the credibility of the counterparty, and thus the fraudulent transactions would be more difficult or even impossible to carry out without the participation of the taxpayer itself.

Conclusions

In the light of the above, a taxpayer who wishes to deduct input tax from amounts payable to the budget, it is not sufficient that it has verified that the person is registered in the State Revenue Service as a value added tax payer, it has received the goods and the appropriate tax invoice or has paid the tax invoice for the service, and a product or service is used to provide for its taxable transactions.

The taxpayer must be able to prove that the transaction has actually taken place with the declared transaction partner. Moreover, one must be able to explain why it was chosen to conclude the transaction with the particular counterparty. One must be able to provide the economic reasons, for example, how the price was agreed, whether it was made sure that the counterparty has the manpower resources, material and technical base as well as experience in provision of the services concerned. Selection of counterparties corresponding to the sense of the commercial activity must be justified. Thus, the concept of „knew or should have known about the involvement in tax fraud" is the assessment of the facts, which primarily relies on the activities performed before the closing of the transaction with the particular counterparty by the taxpayer, as a careful merchant, itself.

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THE MOMENT OF THE COMPLETENESS OF THE SMUGGLING: CRIMINAL ASPECTS

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Abstract

The moment of the completeness of the smuggling: criminal aspects

Key words: *smuggling, customs control, customs control point, customs border, customs territory, goods trafficking, completed criminal offense*

In the daily routine of criminal law authorities or on the contrary looking for adequate legal solution in complicated cases basic concepts of the criminal law are often forgotten because at the beginning they seem obvious with an inalterable meaning. Notwithstanding a correct appreciation of them is crucial in every category of cases in every specific occasion in order to adopt a fare settlement of criminal legal relations.

One of those basic concepts of the criminal law mentioned before is the moment of the completeness of a criminal offense. Taking into account that uncompleted criminal offense does not have all the constituent elements of a criminal offense set out in the Criminal Law and according to that the harm caused by it is minor the determined punishment must be lesser as well.

Studying materials of juridical practice, it shall be concluded that in the cases of smuggling courts generally do not attach importance to the moment indicating when goods actually have been moved over the customs border, do not taking into account the thesis adopted by the Court of European Union interpreting the complex European Union customs matters regulation. Courts do not take into account significant differences that occur defining the moment from which the public interest harm is caused depending on the place where unlawful movement of goods has happened (*green border* or customs control point) and the form of the movement of goods avoiding customs control (through customs control point applying customs procedure or without it).

Criminal aspects of the smuggling are especially important to discuss in the context of the Latgale region taking into account that the Latgale region shapes the European Union external customs frontier. It shall be noted that the customs frontier status (European Union instead of the Republic of Latvia) is still not specified in the disposition of the Paragraph One Section 190 of the Criminal Law.

Kopsavilkums

Kontrabandas pabeigtības brīdis: krimināltiesiskie aspekti

Atslēgvārdi: *kontrabanda, muitas kontrole, muitas kontroles punkts, muitas robeža, muitas teritorija, preču pārvietošana, pabeigts noziedzīgs nodarījums*

Ikdienas rutīnas darbā vaiarī tieši pretēji – meklējot adekvātu juridisko risinājumu komplicētās lietās – bieži vien tiek piemirsts par krimināltiesību pamatjēdzieniem, kas iesākumā šķiet nepārprotami skaidri un izpratnē nemainīgi. Taču to pareizs novērtējums katrā lietu kategorijā un katrā konkrētajā gadījumā ir neatsverami būtisks adekvātam krimināltiesiskam noregulējumam.

Viens no šādiem jēdzieniem ir noziedzīga nodarījuma pabeigtības brīdis. Ņemot vērā, ka nepabeigta noziedzīga nodarījuma gadījumā izdarītais pilnībā neatbilst Krimināllikumā nostiprināta noziedzīga nodarījuma sastāvam un tādēļ arī kaitīgums ir mazāks, arī sodam ir jābūt vieglākam.

Izvērtējot tiesu praksi, secināms, ka kontrabandas gadījumā tiesas nepiešķirt nozīmi brīdim, ar kuru preces uzskatāmas par pārvietotām pāri muitas robežai, neņemot vērā visas Eiropas Savienības Tiesas atziņas, kurās interpretēts komplicētais Eiropas Savienības muitas lietu normatīvais regulējums. Tiesas neievēro, ka būtiskas atšķirības brīdī, ar kuru tiek apdraudētas valsts ekonomiskās interesēm, var būt atkarīgas no preču prettiesiskās pārvietošanas vietas (pāri *zaļajai robežai* vai caur muitas kontroles punktu) un veida (caur muitas kontroles punktu, piesakot vai nepiesakot muitas procedūru).

Kontrabandas aspektus īpaši svarīgi aplūkot Latgales reģiona kontekstā, jo šeit atrodas Eiropas Savienības ārējā muitas robeža, kas, starp citu, joprojām nav akcentēts Krimināllikuma 190.panta pirmās daļas dispozīcijā.

Introduction

To determine fairly the punishment for a criminal offence it is crucially important to detect the precise moment, which completes the criminal offense and constitutes all the elements which composes the particular criminal offense. The Section 190, Paragraph One of the Criminal Law of the Republic of Latvia, where the criminal liability for the economic smuggling is determined, is

not an exception. The aim of this article is to clarify the moment of the completeness of the economic smuggling, comparatively analysing European Court of Justice and Supreme Court of the Republic of Latvia case law and Criminal Law of the Republic of Latvia and European Union recent legal initiatives.

Endless topicality of smuggling as a criminal phenomenon has been shaped by establishing an opportunity thereby to satisfy avaricious motives of the offender, which still is one of the main prompters of human behaviour. With a goal of illegitimately gaining profit or decreasing outcome the internal market of the country gets complemented with goods, for which customs payments have not been paid, importing or exporting of which is not allowed for some reasons, or less goods are being transported over border of the country, or different goods from the declared goods to the customs, or not receiving any information about the movable goods.

One of the circumstances that drives performing of smuggling, is inequivalent welfare level between neighbour countries, which provides an opportunity to let out comparatively expensive goods, which is possible to sell for a smaller price than that, which would be formed if the established compulsory payments of the countries would be taken into account.

Latvia, by becoming a member state of the European Union (hereinafter – the EU), entered the customs territory of the EU and thus was incorporated into its unified internal market. Considering that free movement of goods prohibits the member states to establish any limits of trades, smuggling into Latvia or on other mutual borders of the member states is not possible anymore, however it cannot be admitted, that our level of welfare is high enough and equal in all classes of the society to turn off the desire of deriving profit by going beyond procedures established by law.

Notwithstanding for Latvia, mostly for customs officials in Latgale region, from now on it is entrusted to guard all the outer border of regional organisation from threats of economical nature on the border with Russia and Belarus in total of 449 km lengthwise.

Taking into account the economical states of these countries and Latvia, in near future a decrease of occasions of illegal movement of goods is not prospective. Moreover, the globally unstable political situation has created new prerequisites for improving conditions for smuggling – mutual economic sanctions between western countries and Russia, by prohibiting access to opposing outlets, but preserving the necessity of goods, which favours criminal intentions of complementing the markets of countries with illegal goods.

To provide the established order of country in developing social relations, the essential interests are protected by threatening criminal liability in case they are offended. Legislator has failed to establish the harm of smuggling clearly, because threshold of criminal liability is redefined too often and the amounts of fines are changed significantly. Notwithstanding that the justice

principle provides to establish the punishment individually in each criminal offense case and in accordance with the actions of the person.

Therefore, it is important to establish the moment, which completes the criminal offense. In Special part of the Criminal Law (hereinafter – the Criminal Law) the constituent elements of completed criminal offenses are regulated. In case of an uncompleted criminal offense, the performed action does not fully correspond with constituent elements of criminal offense, because it does not contain all of the imposed indications (Section 15, Paragraph One of the Criminal Law), for which criminal liability for certain actions is stipulated.

Preparing for criminal offense and its attempt, which features active behaviour from a person, certainly confirms its criminal intent to actually endanger interests protected by the Criminal Law, however, by not fully completing the criminal offense, the offender does not reach his goal and does not create potential negative effects in the surrounding environment, which attests lesser harm. Certainly, the stage of the criminal offense attests the character of the criminal offense, which is to be taken into account when choosing the punishment (Section 46, Paragraph Two of the Criminal Law) (Liholaja 2016: 7). Punishment for uncompleted criminal offense should be lesser, accordingly interpreting the conditions provided by Section 53 of the Criminal Law, which are to be taken into account, when choosing punishment for criminal offense that has not been completed.

The moment, which establishes a criminal offense as completed, is definable by construction of the constituent elements. In connection with formal constituent elements the performance of an unlawful action must be established, but in connection to material constituent elements – the arising of the harmful effect.

Wording chosen by the legislator should be evaluated in context with terminology of the corresponding law sector, considering, that exactly the fact assessment according to demands of the particular law sector allows to assess lawfulness of a person's action and to detect harmfulness.[1]

In Section 190, Paragraph One of the Criminal Law the so called legal definition of economic smuggling is given, which stipulates criminal liability for bringing in of goods or other valuables into customs territory of the Republic of Latvia (hereinafter – LR) or taking out thereof by any illegal way. According to basic structure of smuggling, criminal liability is imposed if smuggling has been committed on a substantial scale. The criminal punishment is increased according to qualified structure in Paragraph Two of the Section, if smuggling has been committed by a group of persons pursuant to prior agreement, or according to particularly qualified structure in Paragraph Three of the Section, if smuggling has been committed on a large scale. Reference to scale

[1] In legal literature it is repeatedly pointed towards the blanket character of the disposition of smuggling. See: Русанов2011: 67, Михайлов, Федоров 1999: 11, Волчкова 2016: 102.

characterizes a material structure of criminal offense, namely, in these cases criminal offense is completed at the moment of causing of harmful effects (Liholaja 2007: 36).[2]

In case of second particularly qualified circumstance in Paragraph Three, when smuggling has been committed in an organised group, structure of criminal offense is formal, thus the legislator stresses dangerousness of particularly coordinated actions in committing a carrying out of a common criminal intent.

When assessing court practice of Latvian courts with regards to when smuggling is performed completely, namely, if goods have been moved over customs border of the EU and brought into the internal market of the EU, doubt arises about adequate assessment of actual circumstances according to legal regulation and European Court of Justice (hereinafter - ECJ).

Grammatically smuggling is completed by bringing goods into customs territory of LR or taking out thereof illegally. In doctrine of Latvian criminal law moment of movement of goods is tied only with actual movement of goods over customs territory of LR (Krastiņš 1999: 23; Saforostovs 2011: 314). For comparison, dynamic controversy is observed between lawyers of Russia.[3]This issue is particularly updatable at the present moment in context with several decisions in the past years of the Supreme Court of the Republic of Latvia, in which it is clearly stipulated that legal conclusions in criminal law are viewable within the legal system, taking into account the previously formulated opinion of Administrative case department of the Supreme Court of the Republic of Latvia, which is based on interpretation of regulation by the ECJ.

ECJ has analysed legal aspects of taking out of goods already on April 2nd, 2009 in its decision in case C-459/07 „*Veli Elshaniv.Hauptzollamt Linz*" and then secured it on April 29th, 2010 it its decision in case C-230/08 "*Dansk Transport og Logistik v. Skatteministeriet*". In these cases, the court unmistakably explained the definition of illegal movement, which until before has not been defined in the regulation of the EU, and linked the fact of illegal movement of goods with potential harm to economic interests of the EU.

ECJ has indicated, that illegal bringing in of goods is characterised by the Community Customs Code[4] Section 38-41.

Goods are brought in illegally, if, firstly, after bringing in of goods into territory of Community customs the goods are not taken to customs office or in free trade zone immediately, and, secondly, after taking the goods to customs office the goods are not presented to customs immediately.[5]

[2] This thesis already adopted in practice and theory could be challenged, because basically the scale of the subject of the offense does not describe the harmful effects of the offense, but the subject of the offense (the objective side), against which the unlawful actionis directed.
[3] See: Čevers 2015: 39-41.
[4] On May 1st, 2016 Union Customs Code overall has taken over the previous regulation.
[5] Decision of April 2nd, 2009 of the ECJ in case No C-459/07 „*Veli Elshani* v. *Hauptzollamt Linz*".Para. 20-26.

The order stipulated by the Community Customs Code provides that customs services are informed about bringing in of goods by receiving all respective information about the sort and amount of goods which then allows to identify the custom tariff.[6]It is necessary for foreign goods to harmonically join the internal market.

In discretion of ECJ illegal movement of goods is completed, when goods have crossed the first customs office, which is located in the Community customs territory, by not taking and presenting the goods there.[7]Until this moment the goods are considered to have not entered the internal market and in connection with unlawful competition have not yet endangered the goods of Community.[8] Thereby "unlawful introduction" is established only if the person with goods has left the Customs Control Point or at all events has unmistakably disclosed its intention of not declaring the goods to the customs office, by moving goods over the "green" border.[9]

In the aforementioned decisions, opportunities of considering customs debt extinguished have been analysed, in cases if customs debt has arisen on account of unlawful introduction of goods and goods are arrested in relation with unlawful introduction of goods or simultaneous or subsequent confiscation. In discretion of ECJ, according to Section 202 of the Community Customs Code, the customs debt arises at the moment, when it is clear, that requirements of Section 38 – 41 have not been completed, namely, simultaneously with the unlawful introduction of goods.[10] Notwithstanding the customs debt is extinguished and is not collectable if the goods are arrested before they have illegally crossed customs border or the first customs office.[11] First customs office is in the best position for preventing harm because of its location. When crossing it, a big possibility arises for the illegally brought in goods to enter into free movement of goods, while decreasing the chances for customs offices to accidentally discover these goods by performing spot checks.

Even though Supreme Court of the Republic of Latvia has clearly expressed that by arresting the smuggled goods in the first customs office, a claim of compensation of property with relation to unpaid taxes is rejectable, the court still does not observe the conclusions of the ECJ regarding the moment, when movement of goods and thus smuggling as a criminal offense is completed. For example, in case No SKK-323/2016 it is established that a person had arrived to LR by vehicle from the Republic of Belarus, by entering customs control point (hereinafter – CCP) *Silene*, where the person filled in an application of moving of excise goods and indicated, that the person is transporting 1 000 l of gas, 0,5 l alcoholic beverage and 40 cigarettes. During an in-depth spot

[6] Ibid. Para. 22.
[7] Ibid. Para. 24-26.
[8] Decision of April 2nd, 2009 of the ECJ in case No C-459/07 „*Veli Elshani* v.*Hauptzollamt Linz*". Para. 29, 32, 33.
[9] Conclusions of Advocate-General Paolo Mengozzi in case No C-459/07 „*Veli Elshani*v.*Hauptzollamt Linz*". 04.11.2008. Para. 39-40.
[10] Decision of April 2nd, 2009 of the ECJ in case No C-459/07 „*Veli Elshani*v.*Hauptzollamt Linz*". Para. 27.
[11] Ibid. Para. 28-38.

check it was established that under floor of the tag-along, there were hidden 328 400 cigarettes with excise stamps of the Republic of Belarus. The undeclared goods were arrested before the first customs office was crossed and the goods did not enter the free circulation of goods.

Likewise, in case No SKK-26/2017 it is established that a person had arrived to LR by vehicle with a tag-along from the Republic of Belarus, by entering CCP *Silene* and not declaring 200 000 cigarettes, which were hidden in the tag-along, in a space under fake metal cistern compartment. All the same in this case the hideout was found during an in depth spot-check in the territory of CCP. The court established in these cases, that goods are not considered brought in because of the fact of their arrest, however did not consider a possibility of qualifying these criminal offenses as uncompleted. If the goods are not brought in, then customs border has not been crossed contrary to what is stipulated in the disposition of Section 190, Paragraph One of the Criminal Law. If a person's action is directed towards committing a criminal offense (illegal movement of goods), but it has not been continued for reasons independent of the will of the guilty party (the offense is discovered and the goods are arrested in the territory of CCP), a person should be incriminated with attempt of a criminal offense in consideration with Section 15, Paragraph Four of the Criminal Law.

Despite the conclusions of ECJ, an issue has not been solved practically, with which moment the first customs office is crossed or rather in which moment the goods have crossed the customs border. Author submits that conclusions of ECJ regarding the relation between movement of goods and obligation of paying of taxes must be taken into account. Therefore, it is essential to establish if the goods have entered into illegal free circulation of goods, so that the person can operate the goods freely and the opportunity for the goods to become useful, thus causing real harm in amount of the unpaid taxes.

To establish when customs border is recognized as crossed and the goods have not reached further than the first customs office, various cases must be evaluated depending on place of movement of goods and implementing the customs procedure.

Firstly, in case of crossing the "green" border the goods are crossed over customs border in the moment of physical crossing of border of customs (country), because then, even though the goods theoretically are located in customs control, the customs are not informed at all about the movement of particular goods.

Secondly, by moving goods through the CPP, by not declaring a customs procedure (by hiding goods from customs control and not declaring them or by announcing, that there are no goods to declare), the goods have crossed the customs border with a customs officer's permission for further movement.

Thirdly, by moving goods through CPP, by declaring a customs procedure, the goods have crossed the customs border with the moment of releasing the goods[12] because henceforth the person can operate with accordance to the customs procedure chosen by the person and accepted by the customs. Releasing matches the moment when the country recognizes further operation with the declared goods, consequently confirms the location of the declared goods in its customs territory.

By evaluating the practical aspects of bringing in goods into customs territory or taking out therefor, it must be concluded that for lawful movement of goods consecutive and mutually connected actions – filing the customs declaration (declaring a customs procedure) and acceptance of the filed declaration, after which happens releasing of goods.[13] In discretion of the Author in such cases a criminal offense with a formal structure is considered completed with performing the final action, because for reaching a person's goal it is necessary to carry out both stages of movement of goods, between which a time gap exists.[14]

In accordance with the aforementioned, if after acceptance of declaration and before releasing of goods, a physical customs control occurs, by comparing the indicated in the declaration with actually anticipated goods to be moved in or out, and customs officer establishes, that as a result of discrepancy, tax payments will not be done, it cannot be considered, that goods have been moved, even though the person, by filing the declaration, has done everything that depends on the person for committing a criminal offense. Author submits that a completed attempt of smuggling is definable[15], when a voluntary refusal is not possible, because completing the criminal offense (releasing of goods, which would cause harmful consequences) is not dependant on the mover of goods.

Since after Law of October 29th, 2015 "Amendments of the Criminal Law" criminal liability for smuggling was tied with scale of the illegally moved goods. In accordance with Section 23.[1] and 20 of the Law "On the Procedures for the Coming into Force and Application of the Criminal Law", liability for an offense which has been committed on a substantial scale, shall apply if the total value of the property which was the subject of the offense was not less than ten times the minimum monthly wage as specified in the LR at that time, but on a large value – if fifty times the minimum monthly wage as specified in the LR at that time.

[12] Plenary of the Supreme Court of the Russian Federation at some point has evaluated very differentially the completness of smuggling depending on performing it and the manner of moving of goods, discovering the smuggling in a certain stage of movement; with releasing of goods smuggling is considered to be completed in cases if the smuggled goods are discovered outside of the territory of CCP (Постоновление Пленума Верховного Суда Российской Федерации от 27 мая 2008 года №6. О судебной практике по делам о контрабанде. Пункт 4, 5, 6)

[13] Releasing is an action, with which the customs office permits the use of goods for purposes that correspond with the stipulated customs procedure (See: Section 5, Article 26 of the Union Customs Code)

[14] Similar construction of completeness of a criminal offense was established in theory in connection with bribing, where its completeness was tied to accepting of offer of a bribe or its part (Krastiņš, Liholaja, Niedre 2009: 770-773; Krastiņš, Liholaja, Niedre 2008: 195-196)

[15] Regarding a completed attempt see: Krastiņš, Liholaja, Niedre 2008:211, 216, 217

Until aforementioned amendments of the Criminal Law the amount of smuggled goods was calculated by courts, by adding outstanding customs duty on imports, added value and excise tax to the customs value of the goods, thus clarifying, what would be the minimal value of the goods, if they would be lawfully let into free circulation (the Supreme Court of the Republic of Latvia decisions in cases No SKK-58/2015, No SKK-144/2015, No SKK-323/2016, No SKK-99/2016). Bearing in mind the regulation of criminal law, there is no basis to think, that in future a different algorithm will be chosen for calculating value of goods.

It is questionable, whether at present the minimal value of goods established by the courts is equitable to market price, because there are no obstructions for determining the actual price in the market, for example, for cigarettes and alcohol – the traditional smuggling goods.

The legislator, by willing to ease the applying of Section 190 of the Criminal Law, by refusing substantial harm as a constituent element, yet again has not succeeded to link the prerequisites of criminal liability with the endangerment of object of criminal offense. In the annotation of draft law, it is reasonably indicated that it is not necessary to tie criminal liability with the definition of substantial harm in cases of such criminal offenses, where harm is expressed in property amount. Therefore, it is strange, that criminal liability is finally not tied to the amount of outstanding tax payments, but instead to value of goods, let exactly the unpaid taxes and fees actually reflect the harm to the interests of the society, because independently of sort and value of goods – their use is permitted domestically or for export only then, if the according taxes are paid.

It must be indicated that European Parliament on October 25th, 2016, has adopted amendments in the Proposal for a Directive of European Parliament and of the Council in connection with breaches of regulations of customs and sanctions. If initially in the draft of the directive, for non-criminal character breaches of customs regulations, a pecuniary penalty sanction was anticipated in proportion to value of goods, then at present it is proposed to establish a sanction taking into consideration the financial consequences of the corresponding breach, namely, the unpaid customs taxes.

The stability of internal market is a precondition for existence of the EU and Section 190 of the Criminal Law and its application in this case must serve in favour of aims of the EU, therefore there is no basis to doubt the authoritative attitude of the EU institutions, who adequately assess peculiarities of object of a criminal offense in customs matters.

Conclusions

Comparatively analysing ECT and Supreme Court of the Republic of Latvia case law, it should be concluded that the actions committing the economic smuggling of the accused are not appreciated adequately by the courts of the Republic of Latvia, because the courts do not follow completely the view consistently expressed by the ECT. Without detecting the precise moment,

which completes the criminal offense, and therefore without constituting all the elements which composes the particular criminal offense, but convicting the accused for a completed criminal offence, the punishment imposed should be considered as unfoundedly severe.

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Tiesu prakse sodu noteikšanā par vairākiem noziedzīgiem nodarījumiem un pēc vairākiem spriedumiem, sodu saskaitīšanā un aizstāšanā (Krimināllikuma 50., 51., 52. pants). Sagatavojusi prof. V. Liholaja. Rīga: LR Augstākā tiesa, 2016.
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TERMINATION OF SERVITUDE OF ROAD THROUGH PRESCRIPTION

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Abstract

Termination of servitude of road through prescription

Key words: *termination of servitude, dominant real estate, servient real estate*

The daily lives of private individuals or professional activities of legal entities would be unthinkable without easements. It is laid down in Article 1130 of the Civil Law that: A servitude is such right in respect of the property of another as restricts ownership rights regarding it, with respect to utilisation, for the benefit of a certain person or a certain parcel of land. Based on this article, easements restrict ownership, thereby causing certain difficulties for the owners of encumbered (or servient) immovable properties. This legal position, however, is not perpetual, and Article 1237 of the Civil Law provides for several types of the grounds for the termination of easements, namely: 1) the renunciation of the easement; 2) by a single person accumulating both rights and duties; 3) the destruction of the servient or dominant property; 4) the fulfilment or expiration of a resolutory condition; 5) pre-emption; 6) prescription.

This article deals with one of the aforementioned grounds for terminating easements - prescription, providing an in-depth assessment of this essence and content, specific termination conditions and related problems.

Kopsavilkums

Ceļa servitūta izbeigšanās ar noilgumu

Atslēgas vārdi: *servitūtu izbeigšana, valdošais nekustamais īpašums, kalpojošais nekustamais īpašums*

Daudzu fizisku personu ikdienas dzīve vai juridisku personu profesionālā darbība nebūtu iedomājama bez servitūta institūta pastāvēšanas. Civillikuma 1130.pantā noteikts, ka "Servitūts ir tāda tiesība uz svešu lietu, ar kuru īpašuma tiesība uz to ir lietošanas ziņā aprobežota kādai noteiktai personai vai noteiktam zemes gabalam par labu." No minētā panta izriet, ka servitūts rada īpašuma tiesību aprobežojumus, kas savukārt rada virkni neērtību apgrūtinātā (jeb kalpojošā) nekustamā īpašuma īpašniekam. Taču šāds tiesiskais stāvoklis nav mūžīgs un Civillikuma 1237. pantā ir paredzēti vairāki servitūtu izbeigšanās pamati. Proti, 1) ar atteikšanos no tiem; 2) ar tiesības un pienākuma sakritumu vienā personā; 3) ar kalpojošās vai valdošās lietas bojā eju; 4) ar atceļoša nosacījuma iestāšanos vai termiņa notecējumu; 5) ar izpirkumu; 6) ar noilgumu.

Šajā raksta aplūkots viens no servitūtu izbeigšanas pamatiem – noilgums, padziļināti izvērtējot tā būtību un saturu, izbeigšanas īpatnības un ar to saistītās problēmas.

Introduction

Everyday life of many physical persons or professional operation of legal entities cannot be imagined without existence of servitudes. In accordance with Section 1130 of the Civil Law (Civil Law 1937) a servitude is such right in respect of the property of another as restricts ownership rights regarding it, with respect to utilisation, for the benefit of a certain person or a certain parcel of land (or the dominant property). It results from the said Section that servitude establishes restrictions regarding ownership rights, which in its turn causes inconveniences to owner of the encumbered (or servient) property. However, this legal condition is not everlasting and Section 1237 of the Civil Law foresees several general basis for termination of servitude that can be attributed also to termination of the servitude of right of way. Namely:

1) by renunciation of them;
2) by merger of the rights and the duties in one person;
3) by destruction of the servient or of the dominant property;
4) by a resolutory condition coming into effect or expiration of a time period;

5) by pre-emption; or
6) through prescription.

The author has dedicated a separate research for each basis of servitude termination, therefore this article views at only one of them – prescription, revealing the nature and contents of it, features of termination and the related problems.

Aim of the research is to determine the nature, contents, and features of termination of servitudes through prescription as well as to provide suggestions for improvement of the laws and regulations by analysis of the existing laws and regulations, opinions of the civil right experts and the case law. However, it has to be pointed out that at the moment the proposals are only conceptual in order to start a discussion about a new, simplified procedure for termination of servitudes that would both relieve the court work and save time and financial resources for owners of the dominant and servient properties.

Materials and methods

The research is based on conclusions of several civil right experts, e.g. V. Kalniņš, J. Rozenfelds, V Sinaiskis, N. Vīnzarājs, G. Višņakova, K. Balodis, K. Torgāns; however, the article due to the limited volume includes conclusions of G. Višņakovs, K. Balodis and K. Torgāns. During the research the author has analysed several valid laws and regulations, as well as historical sources – Part III of Collection of Local Laws of the Baltic States.

The following general scientific research methods have been used for the research:

Descriptive – detailed study of one of the basis for termination of servitudes – through prescription, by gathering of information, explanation of the obtained information, as well as problem identification.

Analytical – study of laws and regulations, opinions of authors in order to clarify the contents of termination of servitude through prescription and the problems within framework of the studied issue.

Induction and deduction – for expression of separate opinions throughout the research.

The following methods for interpretation of legal provisions have been used for the research:

Grammatical – study of the meaning and nature of concepts *prescription, termination of servitude, removal of servitude.*

Systemic – study of the termination of servitude of right of way, study of various legal provisions of the Civil Law and other laws for termination of servitudes of right of way through prescription.

Teleological – study of the legislator's purpose when including the rights to terminate servitudes of right of way; understanding of the social aim of it.

Discussion

Before adoption of the Civil Law on 28 January 1937 "the civil rights codified in the tsarist Russia were still effective in Latgale that were included in Binding X, Part 1 of the Collection of Russian Laws. But the remaining territory of Latvia was subjected to the Civil Law or the Part III of Collection of Local Laws of the Baltic States (CLLB) developed by the prof. **Friedrich Georg von Bunge** […]" (History of Latvian Law 2000: 271). Termination of servitude through prescription was regulated in Articles 1285-1296, Section four, Part III of the CLLB ((Part III of Collection of Local Laws) 1928: 154-156). Having evaluated the regulation provided in Article 1284 of Part III of the CLLB regarding termination of servitude through prescription it can be concluded that it is identical to provisions of the currently valid Section 1250 of the Civil Law "A servitude shall be terminated through prescription if the person entitled thereto has not voluntarily, within a period of ten years, used it personally or through other persons […]" (Civil Law 1937). The author is of the opinion that this basis for termination of servitude is very important as it puts an end to the indefinite legal condition that prevents the owner of the servient property from use of his property rights of full value. After reading of the said Section 1250 nothing indicates that there are several problems related to interpretation and implementation of this Section. Therefore it is essential to carry out initial in-depth analysis of the contents of this Section. Emphasis of the said Section is on voluntary not using, since in accordance with Section 1255 of the Civil Law if a servitude has not been used due to natural impediments or impediments created by the owner of the servient property himself or herself, the prescriptive period ceases to run. The legal doctrine states that the institution of prescription in the civil law was established with the aim to eliminate uncertainty in the property relations, to clarify situation when a person protractedly does not exercise his/her rights or does not require elimination of the possible dispute regarding the rights […] (Torgāns 2006: 276). For the purposes of the said law a lasting period is 10 years. However, in order to state whether prescription has set in it is necessary to determine the beginning of the prescription term. Unfortunately the Civil law does not stipulate basic principles for determination of beginning of the prescription term. K. Balodis points out that "term of the prescription of servitude to be registered in the Land Register cannot commence before registration in the Land Register as it cannot be used before registration in the Land Register" (Višņakova, Balodis 1998: 143). Also the judgement in Case Nr.SKC-458/2013 of 9 October 2013 provides that use of servitudes can only commence when it is registered in the Land Register (judgement in Case Nr.SKC-458/2013 of 9 October 2013).

It is important to note that not using of servitude of right of way in it does not establish a basis for termination of it. Servitude of right of way does not cease automatically. In this case owner of

the servient property only has the possibility to prove that owner of the dominant property has waived the right to use servitude or there no longer is a basis for existence of servitude.

In order to terminate servitude it shall be deleted from the National Real Estate Cadastre Information System and from the Land Register. However, in order to be able to do that a document is required forming basis for deletion of the entry on servitude of right of way.

In accordance with Section 111 of the Cabinet of Ministers Regulation No.263 of 10 April 2012 "Regulations on the Registration of Cadastre Items and Updating of the Cadastre Data" "An entry regarding encumbrance of real estate – servitude of right of way – shall be deleted from the Cadastre Information System in one of the following cases:

111.1. a document regarding termination of servitude of right of way has been submitted in accordance with Section 1237 of the Civil Law;

111.2. a valid court resolution regarding cancellation of servitude of right of way or its non-existence has been submitted;

111.3. an encumbrance plan has been submitted that does not contain information on real estate encumbrance previously registered in the Cadastre Information System, and the documents on cadastral surveying of the land contain un a document regarding termination of servitude of right of way" (Regulations on the Registration of Cadastre Items and Updating of the Cadastre Data, 2012)

In accordance with Section 31 of the Land Register Law (Land Register Law, 1937) "all the rights and the securities and restrictions of rights to be corroborated for an immovable property, as well as the changes and extinguishing of such rights, securities and restrictions shall be entered in a division". Entries of the Land Register shall be deleted on basis of a request for registration and the attached documents.

A question arises – what is the procedure for termination of servitude of right of way through prescription? So if ten years pass and owner of the dominant property has not used the right personally or through other persons, owner of the servient property upon expiry of the said term is entitled to ask the owner of the dominant property to terminate servitude of right of way. If owner of the dominant property gives his/her consent, it has to be drawn up in written form and all the formalities have to be carried out by submission of the respective documents to the State Land Service and the Land Register.

However, in cases when owner of the dominant property does not agree to terminate servitude of right of way through prescription and to sign agreement on termination of servitude or he/she was not present at the place of residence, the owner of the servient property has no choice but to apply to the court and request termination of servitude of right of way through prescription. Unfortunately it is a time-consuming and rather expensive procedure. However, the author provides

a simplified solution for the cases when the prescription sets in, but owner of the servient property has not been able to find the owner of the dominant property.

In order to facilitate work of the courts and to terminate servitude of right of way outside the court the author provides an alternative solution – sworn bailiff. The process would include the following activities:

1) owner of the servient property goes to a sworn bailiff and files a written application requesting to deliver a notice to the owner of the dominant property containing information on setting in of prescription and an offer to give his/her opinion regarding termination of servitude of right of way through prescription within 3 months (the author would like to note that the term has been set to give the time to the owner of the dominant property to evaluate all legal aspects and to make a decision. However, the term is subject to discussion) after receipt of the notice; the notice shall contain a reference that should the owner of the dominant property fail to give his/her opinion within the determined term it will be deemed that he/she has agreed to termination of servitude of right of way and a respective deed will be drawn up in confirmation of that;
2) on basis of the application the sworn bailiff shall deliver the notice to the owner of the dominant property, as in accordance with Section 74, Part 1, paragraph one of the Law on Bailiffs (Law on Bailiffs 2012) already now sworn bailiffs upon the request of interested persons shall deliver court summons and other documents. But the procedures by which a sworn bailiff shall deliver court summons and other documents is determined in the Cabinet of Ministers Regulation No.444 of 26 June 2012 “Procedures by which a sworn bailiff shall deliver court summons and other documents upon the request of interested persons” (Cabinet of Ministers Regulation No.444 of 26 June 2012 “Procedures by which a sworn bailiff shall deliver court summons and other documents upon the request of interested persons”);
3) if the notice has been delivered in accordance with the above-mentioned Cabinet of Ministers Regulations, but the owner of the dominant property has failed to provide his/her opinion regarding termination of servitude of right of way through prescription within 3 months after receipt of the notice, the sworn bailiff shall draw up a deed stating the fact that owner of the dominant property has failed to provide his/her opinion in written form within the determined term and it will be deemed that he/she has agreed to termination of servitude of right of way through prescription;
4) a deed drawn up by a sworn bailiff and signed by owner of the servient would establish a basis for termination of servitude of right of way in the State Land Service National Real Estate Cadastre Information System and the Land Register.

However, should the owner of the dominant property give his/her opinion within the set term, servitude of right of way could be terminated through prescription either on basis of a mutual agreement or by application to the court.

Whereas, if the sworn bailiff is unable to deliver a notice to owner of the dominant property due to the reason that he/she is not present in the given address and it is impossible to pass the document in person or to an adult family member of relative who lives together with the owner of the dominant property, the notice shall be published in the Latvijas Vēstnesis.

In order to stop the uncertainty in respect to termination of servitude of right of way and for the cases, when also after publication the owner of the dominant property fails to give his/her opinion, the sworn bailiff shall draw up a deed that is submitted by the owner of the servient property to the State Land Service and the Land Register for termination of servitude of right of way.

Conclusions

Termination of servitude of right of way through prescription at the moment causes a lot of problems to owners of servient properties. The offered conceptual solution is a novelty now and the author hopes for a wider public discussion to review the advantages and disadvantages of the offered solution. However, the author is of the opinion that approval and implementation of the offered solution would further modernisation of the laws and regulations, arrangement of data on real estates in the National Real Estate Cadastre Information System and the Land Register, eliminate the uncertain legal status of the servient property, facilitate the work of courts, save time and financial resources of owners of the dominant and servient properties, as well as would not affect the state budget.

Should the offered conceptual solution be approved it would be necessary to make amendments to the following laws and regulations:

- Land Register Law;
- Law on Bailiffs;
- Cabinet of Ministers Regulation No.444 of 26 June 2012 “Procedures by which a sworn bailiff shall deliver court summons and other documents upon the request of interested persons”;
- Cabinet of Ministers Regulation No.263 of 10 April 2012 “Regulations on the Registration of Cadastre Items and Updating of the Cadastre Data”;
- as well as other laws and regulations depending on the decisions passed in the result of discussion of the conceptual solution and the final solution.

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THE TOPICAL ASPECTS OF THE PUBLIC PARTICIPATION IN THE CONSTRUCTION PUBLIC PROCESS

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Abstract

The Topical Aspects of the Public Participation in the Construction Public Process

Key words: *construction public process, public participation, public interests*

Public participation in the construction public process is carried out in the form of public discussions and public implementation. The purpose of the public participation in the construction public processes is adopting the fairest, most appropriate decision in a certain situation which corresponds to the public interests, as well as the implementation of public administration supervision. Taking into account that the people's wish to participate in the construction public process is mainly related to the objectively solvable issues (distances between buildings, territory improvement, environment, etc.), it is necessary to expand those previsions of the Construction Law, when the public discussion of a construction conception is required to be held.

Kopsavilkums

Sabiedrības līdzdalības būvniecības publiskajā procesā galvenie aspekti

Atslēgvārdi: *būvniecības publiskais process, publiska apspriešana, sabiedrības intereses*

Sabiedrības līdzdalība būvniecības publiskajā procesā tiek īstenota publiskās apspriešanas un sabiedrības īstenošanas veidā. Sabiedrības līdzdalības mērķis būvniecības publiskajā procesā ir pieņemt taisnīgāko, lietderīgāko lēmumu konkrētajā situācijā, kas atbilst sabiedrības interesēm, kā arī īstenot publiskās pārvaldes uzraudzību. Ņemot vērā, ka iedzīvotāju vēlme iesaistīties būvniecības publiskajā procesā pārsvarā saistīta ar objektīvi risināmiem jautājumiem (attālumi starp ēkām, teritorijas labiekārtošana, vide, u.c.), nepieciešams paplašināt Būvniecības likumā tos nosacījumus, kad būvniecības ieceres publiskā apspriešana ir obligāti jārīko.

Introduction

The aim of the research is to determine the ways of implementing the public participation in the public construction process; the aim of the public participation and, taking into account the population's willingness to engage in the public construction process, mainly in relation to objectively solvable issues, to propose a direction to improve the Construction Law, in order to improve the public participation in the public construction process.

The research tasks are: to emphasize the importance of participation in the public construction process based on the public participation as a continuous process of interaction between the society and the public administration institution; to find out public consultations on construction; to consider important conditions for the public participation; to analyze the legal basis for the participation of the society arising from the Satversme of the Republic of Latvia; to consider the necessity of the public participation in the participation process; to explore the experience of the Scandinavian countries in organizing the public participation; to analyze the shortcomings of the Construction Law and its implementation - by offering an improvement direction.

The grammatical, systemic, comparative methods were used in the research.

The research highlights the constitutional significance and necessity of the public participation in the public construction process. The main direction of the public interest is analyzed and its implementation in the context of the positive experience of other countries, the direction of

improvement of the Construction Law in the context of the public participation in the public construction process has been proposed.

Public participation is considered to be a continuous process of interaction between the public and the State administrative body which is responsible for decision-making within the territorial planning and construction process. (Dietz 2008: 11; Черп, Виниченко, Хомулёво, Молчанова, Дайман 2000). It is based on several ideas. First of all, the participation provides comprehensive information on the planned construction project, thus promoting a well-grounded and fair decision-making process. Secondly, the public discussion convinces the public of the fact that the expressed opinions are discussed. (Kandil 2013 program; Meiere 2001; LR Satversmes tiesa 2004) Thirdly, public participation provides the supervision of the activities of the state and of the local governmental administrative bodies – it is a guarantee that decisions are made for the benefit of the public based on the principle of sustainability.

Construction has a significant impact on the population's quality of life, on the real estate development and on the economic development as a whole. Public participation, in its turn, provides the opportunity for the concerned parties to influence decisions relating to their lives, that's why "participation should be encouraged" (Ģenerāladvokātes secinājumi 2009). Public discussion's role is well-argued by the judgments of the Constitutional Court, stating that the main objective of the public participation is to ensure that the best possible decision is made for the benefit of the public. In this process, the interested public specifies its own solution that best corresponds with the interests of a certain territory. In the case (LR Satversmes tiesas spriedums 2007), where the residents of Ikskile protested against the five-storey real estate development instead of permissible private residence site development, it was recognized that exactly the interested public participation in the public discussion, the exchange of views among the parties, their objective evaluation and consideration form an integral base for the legitimacy of the decision to be made (Coglianese, Kilmartin, Mendelson 2008). Besides that, while implementing the public participation, the implementator of the construction project has a possibility to obtain information from a wide range of persons concerned, hence to gain a broad insight into 'concerns and opinions'. The document "Code of Good Practice for Civil Participation in Ensuring the Decision-Making Process", approved on the 1st October 2009 by the ministers of the Member States of the European Council (Code of good practice for civil participation in the decision-making process 2009; Sands 1995: 37-38), highlights that participation allows citizens getting acquainted with alternative options, thus ensuring the possibility of finding the best solution for the construction process. Within the context of the previously viewed reasons, the functions of the public discussion of construction are derivable from the purpose of public discussion: 1) informative function on environmental development and changes, 2) coordinating function among the public interest, the

construction initiator's interests and actions of the local government (construction board), 3) transparency-providing function, 4) public opportunities to participate in decision-making. The conclusions can be drawn that on a larger scale, the public discussion of the construction contributes to fairer and more efficient decision-making, as well as provides the public administration supervision on behalf of the public interests.

To order the public participation in a particular construction project's discussion would be meaningful, the public concerns and questions on a particular subject shall be identified, providing the public an opportunity to evaluate the alternatives and provide feedback on the decisions taken. (Downing 2013) Therefore, the view cannot be accepted that only informing during construction stage will ensure the maximum protection of the public's interests. Informing is only one of several components of the public consultation process.

The essence of the public discussion process follows from the stipulations of the Section 101, paragraph one of the Constitution of the Republic of Latvia, defining that "Every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government (Latvijas Republikas Satversme 1993). Furthermore, for the implementation of the types of participation, the effective mechanisms shall be in place, which can be achieved by combining the right to freedom of discussion (Satversmes 100. pants), freedom of gathering (102. pants), the right to address submissions to State or local government institutions and to receive a materially responsive reply (Satversmes 104.pants), with the right to education (Satversmes 112. pants). So, the mentioned sections constitute the public participation elements, because only an educated society, which has the right to express its opinions, gather and obtain information, can participate in and cooperate.

The mentioned components of the public participation allow identifying a number of conditions which are important for successful public participation:

1) sufficient resources to implement it (for example, activities of informing), 2) staff's and participants' abilities for participating (cooperative problem-solving skills), 3) the integrity climate (the result will not be achieved, if a construction design implementer is not trustful, or hypocritical behaviour), 4) faith on public investment worthiness (the belief that resources invested will lead to better decision-making process and will result in a better management) 5) the ability to engage in (public discussion organizer knows how to plan and implement a public participation process), 6) full transparency (timely exchange of information to educate the public about the issues and opportunities). Provided that the above considerations are observed, the time and effort invested in the public discussion process of a construction design will be rewarded, because a more acceptable, affordable and sustainable decision on the construction of a particular object is being made.

Local governments' obligation to provide the public with an opportunity to express their views follows both from Section 101, paragraph one of the Constitution, in conjunction with Section 115 (Latvijas Republikas Satversme 1993), from Section 4 of the Law on Territorial Development Planning (Teritorijas attīstības plānošanas likums 2011), conventions, binding for the Republic of Latvia, and other laws and regulations. Three binding public participation aspects follow from Section 115 of the Constitution. First, the public authorities are obliged to establish and ensure effective environment protection system. Second, the right to live in a benevolent environment has been recognized as a fundamental right. Regarding violation of these rights, an individual, based on Section 115 of the Constitution, has the right to apply to the court regarding such action (failure to act) of a public law body that infringes upon an individual's rights and legitimate interests. (Ehlers 1995: 15-16) Third, an individual is entitled to in accordance with legislative procedures to obtain the information about environmental conditions and to participate in environmental decision-making process related to the use of environment.

Public involvement is necessary, because each participant has specific knowledge that determines their specific role. Possible accusations are out of place that in general the population's low activity during the public discussion can be explained by the population's own reluctance to exercise their rights. Local governments should be interested during a construction process to offer a solution that would create the least possible public resistance to the creation of a specific object. Therefore, local governments in no case have the right to assume the public's inertia and thus justify their failure to act in cases where all possible should be done to inform the public about the proposed activity. (LR Satversmes tiesas spriedums 2004) Therefore, for public discussions it is necessary to create new activating public participation forms (for example, workshops, open days, exhibitions, surveys, studies, specific site's home pages on the Internet, special newspapers and newsletters), with the aim to involve the widest possible range of people and to create the best possible environment for new and creative idea generation.

Unfortunately, it is not typical of the Latvian local governments (Čepāne 2009; Čepāne, Statkus 2008), but the provisions of the valid Construction Law (Construction Law adopted in 2013) does not provide for public activation at all. Therefore, the local government's duty is during the process of discussion of a construction conception to get the public interested to participate in decision-making, not only to inform, it should be provided for in the legislation as a local government's obligation, not a choice.

The experience of the Scandinavian countries (Regional planning in Finland, Iceland, Norway and Sweden 2004: 7, 27; Somijas Zemes izmantošanas un būvniecības likums 2011; Norvēģijas Plānošanas un Būvniecības likums 2010; Zviedrijas Plānošanas un Būvniecības likums 2011) shows that the provision of information to the public shall be understood as a basic indisputable obligation

of a local government. The Scandinavian model shows two fundamental trends in informing the public. Firstly, the laws and regulations have been widely deployed the local government's responsible for the organization and ensuring the public participation in the construction process to find the best development solution. Secondly, it is stipulated that a local government needs to get the citizens interested in participating in public discussions. The mentioned facts convince everybody whose rights or legitimate interests might be affected/are affected, if accessibility and comprehensibility of the procedure, so that adds to the confidence in the activities of the public power entities.

Public participation includes a "consensus-building process" (Kandil 2013). The current technical regulation of the public discussion of a construction conception within a public discussion process is evaluated as a known compromise in the confrontation of opposite opinions. On the one hand, the opinion that public participation in the construction public process is an obstacle to economic development; that local governments prohibit construction based on the results of the public discussion of a certain construction and such a decision, the deputies make by voting hampers the economic growth of the construction industry and attracting foreign investors. (Likumprojekta „Būvniecības likums" sākotnējās ietekmes novērtējuma ziņojums 2011) On the other hand, the considerations that public participation is an integral part of construction public process. (Grozījumi Būvniecības likumā Nr. 1020/Lp11 2014) Aarhus Convention's Development Committee in the case against France (United Nations 2009) pointed out that public opinion has no right of veto with regard to the further development of objects under construction, however, if it is decided contrary to the public opinion, the competent institution shall seriously consider and justify the opinions.

According to Section 14, paragraph five of the Construction Law (Būvniecības likums 2013), the building authority shall ensure public discussion of the construction conception, only if construction of such object is proposed next to residential or public building, which may cause significant impact (smell, noise, vibration or pollution of another kind), but regarding to which an environmental impact assessment has not been applied.

Consequently, the legislator has recognized that in cases of significant pollution threats, the local governments' building authority shall use public assistance, in order to decide whether the development of a proposed construction is to be supported or not. In addition, the local government may provide for in the binding regulations also other cases when public discussion of a construction conception must be organised. Only after public discussion the building authority may take a decision on the construction conception of a proposed object.

As the basic instruments for achievement of a fair balance between the public general interests and the individual's fundamental rights (right to property), the European Court of Human

Rights in the case of Allans Jakobsons versus Sweden (Case Allan Jacobson v. Sweden 1989) recognizes the territorial planning and detailed plan. It is therefore justified when there is a valid detailed plan on place, not to hold further public discussion of a construction object. However, it should be noted that the cases where public discussion shall be ensured for a construction conception, are treated too narrowly. It is not taken into account that an object under construction can significantly worsen the living conditions of the population, significantly reduce property value, impact on the environment if an environmental impact assessment is not needed in accordance with the law "On Environmental Impact Assessment". Also a planned building can be a public building, implemented for public funds. In those cases, subject to the public participation objectives and functions, if there is no valid detailed plan, it would be necessary to ensure public discussion of a construction conception.

In cases where public discussion of a construction conception shall not be organized, public informing as a form of participation plays a significant role. The European Court of Human Rights in its judgement of the court stressed the importance of public access to information, in order individuals can assess the danger to which they are exposed. (Case of Taskin and Others v. Turkey 2011) In case of dangerous activities the public has the right to receive information. This aspect of the rights also is found in the assessment of the right to life and physical integrity, as people have the right to participate in decision-making that affects their lives and the quality of these decisions can be improved by actively participating (Guide 2011)

In the local government, information should be provided taking into account the historical and other local conditions of each place. On the one hand, it can be stated that the direct and unmediated real estate owners' informing requires additional funds from the local government's budget. On the other hand, it should be noted that these expenses related primarily, for example, to letter sending must be regarded as proportionate. For example, in the considered case of the Aarhus Convention's Development Committee against Lithuania (United Nations 2008) it was acknowledged that the information provided to the public can not be formal. Publication of information is important not just in general, but it shall be published in the particular public's most popular information source, such as in a local newspaper. Therefore, it would be important that the local government actively supervises the performance of duties, related with the public informing. For example, the Norwegian legislation requires that before giving permission to build, a local government shall establish the opinion of the neighbours (adjacent, opposite) and the views of interested parties, in addition, to identify the reasons for the objections, as long as the neighbours haven't confirmed in writing that they do not have any comment regarding a particular construction. The views expressed by the neighbours are assessed by the local governments in particular. In Norway, it is emphasized that decision-making in the local governments is based on a population elected government and

citizens' participation in accordance with the laws and regulations and the environment, so it should be organised so as to achieve the best possible option for the individual and society as a whole. (Planning and Building Act 2010)

In Austria, the idea prevails that an effective public participation in decision-making is a systemic benefit as provides the evidences underlying decision-making, contributes to the legitimacy and trust. (Better Regulation in Europe 2010: 77-85) Based on the consideration that engagement helps to create public confidence in political institutions "Standards of Public Participation" have been developed. Therefore, it emphasizes the importance of comprehensive guidelines for public participation and public discussion, and public awareness. The goal of the above mentioned is to establish the minimum requirements for good practices for the participators of the construction public process on the basis of the principles of public participation. Such practices should be supported and implemented in the public process of the Latvian construction.

Regarding the construction public process, the public is mainly interested in issues such as: the construction impact on the existing building and site construction completeness, free area conservation, insolation problems, distances between buildings (visibility from the windows, view from the window), building's height, children's playground location, waste containers placing, access roads and existing infrastructure (walkways), increase the number of cars (parking, exhaust gas), territory improvement and landscaping (to compensate for the green areas and for substantial reductions of free territory), reduction of the real estate value, changes in the life environment. Therefore, public participation should be viewed as a tool to help, first of all, to distinguish a significant impact on the current situation, secondly, while implementing the reconciliation function, ensure the population's supportive attitude towards the future construction.

Conclusions

1. Public participation in the construction public process is carried out in the way of public discussion and public implementation.
2. The purpose of the public participation in the construction public process is to take the fairest, most appropriate decision in a certain situation which complies with the public interests, as well as to perform the public administration supervision.
3. Taking into account that the willingness of the population to participate in the construction public process, is mainly related to the issues to be objectively solved (distances between buildings, territory improvement, environment, etc.), it is necessary to supplement the Construction Law with the conditions, stipulating the cases when public discussion of a construction conception is required to be held obligatory.

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THE PARTICIPATION OF UNITED KINGDOM IN POLICE COOPERATION AFTER THE EXIT FROM THE EUROPEAN UNION

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Abstract

The participation of United Kingdom in police cooperation after the exit from the European Union

Key words: *police cooperation, internal security, cooperation within the EU, fight against the crime*

Due to increase of the migration flow eurosceptic ideas in the UK realised in the Brexit – an exit process from the European Union. However, a common politics range is big enough to continue already working processes but under new conditions. The aim of this article is to find out answers on such issues like how the cooperation among EU and UK police services will develop after the Brexit. This issue is extremely important under new legal tools that are aimed to a more close cooperation that initially the UK had distanced itself from.

Kopsavilkums

Apvienotās Karalistes dalība policijas sadarbībā pēc izstāšanas no Eiropas Savienības

Atslēgas vārdi: *starptautiskā drošība, policistu sadarbība*

Apvienotā Karalistē eiroskeptiskas idejas, migrācijas plūsmas palielināšanas ietekmē, realizējas izstāšanas procesā no Eiropas Savienības. Taču kopējo politiku loks ir pietiekoši plašs, lai atsevišķas jomas turpinātu uzsākto sadarbību, taču pēc jauniem nosacījumiem. Šīs publikācijas mērķis ir meklēt atbildes uz tādiem jautājumiem, kā attīstīsies Eiropas Savienības dalībvalstu policijas dienestu sadarbība ar Apvienotas Karalistes attiecīgajiem dienestiem. Šis jautājums ir ārkārtīgi svarīgs, ņemot vērā jaunus juridiskus instrumentus, kas orientēti uz vēl ciešāku sadarbību, no kuras jau sākotnēji Apvienotā Karaliste bija norobežojusies.

Introduction

Police cooperation within the European Union is extremely important, but political decision introduces changes of cooperation. The aim of this article is to find out answers on such issues like how the cooperation among EU and UK police services will develop after the Brexit. The historical aspects and new legal instruments in the field of police cooperation will be analyzed to reach the target of article. Used scientific methods: comparative method, descriptive, analytical.

Inhabitants of the United Kingdom of Great Britain and Northern Ireland (here and after the UK) traditionally have favourable attitude towards police services. It is clear that such trust is gained by very high professional standards, duty methods but the main – very elaborate work flow. Another aspect is the very fast UK police reaction to new crimes, i.e. new structures are organised immediately according to criminal challenges.

Slightly describing the structure it should be noted that the main police force consists of territorial units which perform basic functions and the greatest amount of work. Policing is based on the Police Act. There are two more entities besides territorial units in London: The City of London police and the Metropolitan Police Service. In addition, there are special task independent units: British Transport Police, The Ministry of Defence Police –MDP, Royal Military Police - RMP, Civil Nuclear Constabulary - CNC and Serious Crime Agency. Also to police bodies must include such organisations that initially have nothing common with police but the only task is to protect the

law. And finally, there are services that ensure order in parks, events or in a special area, for example, in a port. Describing investigation functions it must be emphasized that criminal offenses are investigated by constables but serious crimes are investigated by detectives engaged in criminal investigation department (CID-Criminal Investigation Department). Detectives do measures starting with arresting to prosecution. Especially serious crimes including economic crimes are under investigation of SOCA – the Serious Organized Crime Agency. The SOCA just formally is under the Interior Ministry, but in the essence it is an independent body which took over the functions of previously existed separate entities. The SOCA maintains contacts with the Interpol, the Europol and the SIS. Scotland has an analogous structure - the Scottish Crime and Drug Enforcement Agency – SCDEA, while the Northern Ireland's structure is called The Organized Crime Task Force – the OCTF.

The United Kingdom is a country where the long time the police structure was not created and London citizens by themselves were those who kept the order in London. In cases where the outlaws openly impeded the peace and order military units came to help. Only in the eighteenth century when the city government began to worry about frequent outbreaks they made the decision to set up the police service in 1819. Citizens concerned about this decision because they did not want to lose their freedom and be limited in their rights, thus they were against the establishment of the service. However, the decision was made and the police structure established and staff recruitment was entrusted to military persons. Within three months the task was executed successfully and police structure organised. The system partially preserved even to the present day. As a result on September 29, 1829 the first police patrol appeared on the streets of London. Then the only policeman arming was a short stack and a whistle to call for help if necessary. The fundamental refusal of weapons was a compromise with the inhabitants because they were afraid that armed police officer will be just as ruthless as a soldier. The minimal arms principle has been preserved even to the present day, because since the establishment of the police it was set police's fundamental rule – to serve people not state. Of course, the current situation is different. Some units are armed, for example, police patrols use electric shockers Tiser since 2004. Weapon application has irreversible consequences and hence a high level of training must be insured before firearm usage, otherwise it is not allowed. At the same time, in the light of modern criminal tendencies, all police bodies are equipped with modern technology.

In 1973 the UK joined the European Economic Community, the European Atomic Energy Community - actually acceding to the Treaty of Rome, where common goals were to strengthen peace, democracy and prosperity. However, the treaty was several times amended and supplemented in later periods, the last time in 2012 with the Treaty of Lisbon. The Treaty of Lisbon is also known as the Reform Treaty as it really introduced a lot of novelties. The aim of reforms was

to improve and to make the EU action more effective and to ensure the safety of its citizens. In order to achieve the aims member states agreed on the instruments through which this should be done. Police, judicial and other competent authorities' cooperation should be strengthened to ensure security, developing of mutual recognition principle, and, if necessary, approximating of national criminal laws. As can be seen tools are ambitious not all countries were ready to accept these.

The Treaty of Lisbon introduced many changes into the criminal justice policy, giving up three-pillar structure and expanding the powers of the EU police and judicial co-operation matters. The ordinary legislative procedure is applied to the legislative process and co-operation is determined by classical legal instruments of the direct impact (regulations, directives). Member states agreed on the simplification of procedures to combat terrorism and other serious criminal offenses. For example, by new legal instruments administrative measures are implemented for money, property and other tangible assets freezing.

In order to prevent the fundamental aspect of national criminal justice system from endanger, a quarter of the member states may propose a special legislative procedure for certain laws, such as the creation of a European Prosecutor's Office, for example. It follows that the legislation is based on the Commission or on one quarter of the member states initiatives.

Though the strengthening of police cooperation dates back to 1985 when individual countries signed the agreement on the gradual abolition of the borders. In the result of European Union enlargement and further integration of the Schengen acquis into the European Union system took place (on October 2, 1997 the Treaty of Amsterdam was signed). It was intended to preserve the aim of the Schengen agreement by this step, namely to provide citizens with freedom, security and justice without internal borders. However, the United Kingdom as a European Union member did not joined the Schengen Agreement. Later, the protocols were added to the Treaty of Lisbon that Ireland and United Kingdom do not participate in all the Schengen acquis regulations.

While submitting notifications the United Kingdom retained its powers in monetary policy as well in accordance with its national law rights.

Thus, different cooperation possibilities developed among countries. This could not be characterized rather positively, and as a solution it was decided to use regulations for individual member states closer cooperation.

As the most colourful individual member states' initiative **The Prüm Treaty** from May 27, 2005 must be mentioned. It developed similar to the Schengen Agreement, that is, outside the EU law area, when several member states start a new cooperation mechanism among themselves. The cooperation is based on a desire to consolidate national DNA profiles, fingerprints and vehicle records. Novelty was evaluated as a very important perspective for the criminal investigation. Those measures were initiated by Belgium, France, Luxembourg, the Netherlands, Austria, Spain and

Germany, furthermore these countries proposed to carry out the data exchange to combat terrorism and the phenomenon of travelling criminals. Results appeared quickly in practice, previously undisclosed crimes were discovered.

Taking into account that the Prüm Treatybecame the most successful police cooperation project that was integrated into the EU directives (directive No 2008/615). The aim was to improve and deepen criminal offences, especially terrorism and cross-border crime, prevention, to maintain civil order during big events, to develop police and direct cooperation among member states. The Treaty directs norms on automatic exchange of DNS profiles, fingerprint and vehicle registration data. This system operates on a decentralized basis, through national contact stations, interlinking the participating states' DNA, fingerprint and vehicle registration databases. Using the Commission's s-TESTA network contact stations handle incoming and outgoing requests for DNA profiles, fingerprints and vehicle registration data cross-border comparisons. Stations powers to transmit such data to the end users are governed by a country national legislation. The UK did not notify their intention to participate in the Prüm decisions - Council Framework Decision 2009/905 / JHA (Council Decision 2008/615 / JHA and 2008/616 / JHA), and from December 1, 2014 the application was suspended for the United Kingdom.

The PrümTreaty simplified police cooperation, it means, the requests are done online and systematically that previously was carried out through the Interpol and took a lot of time. The particular importance in crime detection and investigation has information that may be located in other state law enforcement authorities. The availability principle is significant with that that national authorities as well as the Europol are entitled to get necessary information in another member state. However, that novelty and close compaction acts without UK participation.

As can be seen although the United Kingdom was one of the most important players in developing the European Union, but restrictions on economic and monetary cooperation, introduction of the euro, and closer police and judicial cooperation gradually distanced member states.

The UK initially distanced from direct cooperation in home affairs and justice. The Lisbon Treaty’s Part V "Area of freedom, security and justice", provides closer police cooperation. And exactly in the Part V the United Kingdom and Ireland do not participate. This means that no measures determined in accordance with Part V, no provision of any international agreements or the EU Court of Justice's decisions interpreting these measures are not binding and applicable in the United Kingdom and Ireland, as well as do not affect competences, rights and duties of these states. These decisions indirectly affected the subsequent events. In particular, on June 23, 2016, the UK held a referendum for staying in or exit from the European Union. In the result on March 28, 2017 the UK exit procedure from the European Union has started. Hence such successful EU initiatives

in police cooperation in the field of joint investigation teams, in European arrest warrants, in mutual recognition of financial sanctions, information and intelligence exchange simplification, cooperation in regaining proceeds of crime, exchange of information from criminal records and other cannot be realized in cooperation with the United Kingdom. Thereby the collaboration with the United Kingdom will be based on requests for legal assistance and on bilateral and multilateral co-operation agreements, which will require time-consuming co-operation mechanism.

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NON-MEDICAL PRACTIONER'S LEGAL LIABILITY IN HEALING RELATIONS

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Abstract

Non-medical practitioner's legal liability in healing relations

Key words: *healing, legal liability, non-medical practitioner, patient*

There is an ambivalent approach to healing in the legal system of Latvia. On the one hand, some new developments, despite being rather disputable, are identifiable in the regulatory framework for healing. On the other hand, the state currently disassociates itself from direct recognition of healing relations and their regulation in the legal system. It is necessary to legally protect the patient in healing relations, without leaving it only to non-medical practitioners' NGOs, where objectively justified preconditions for a necessity of national regulatory framework for healing have been established nowadays.

Two main kinds of possible unlawful acts in healing relations are clearly identified. First, a non-medical practitioner can commit an unlawful act by carrying out healing on a patient (for instance, cause harm to patients' health). Second, a non-medical practitioner can commit an unlawful act by abusing the position of a non-medical practitioner, which facilitates the commission of a wrongful act (for instance, swindle). Therefore, there is a necessity to legally prosecute a non-medical practitioner, who has committed an unlawful act that is directly or indirectly related to healing relations.

It has to be determined, whether there is a regulatory framework in Latvia, which directly provides for non-medical practitioners' criminal liability, administrative responsibility and civil liability for unlawful acts in healing relations.

Kopsavilkums

Dziednieka juridiskā atbildība dziedniecības attiecībās

Atslēgvārdi: *dziedniecība, dziednieks, juridiskā atbildība, pacients*

Latvijas tiesību sistēmā ir neviennozīmīga pieeja dziedniecībai. No vienas puses, ir konstatējamas, lai arī strīdīgas, bet tomēr iestrādnes dziedniecības normatīvajam regulējumam. Bet, no otras puses, valsts šobrīd norobežojas no dziedniecības attiecību tiešas atzīšanas un to regulēšanas tiesību sistēmā. Pacientu dziedniecības attiecībās ir nepieciešams tiesiski aizsargāt, neatstājot to tikai dziednieku nevalstisko institūciju ziņā, kur mūsdienās ir izveidojušies objektīvi pamatoti priekšnoteikumi dziedniecības valsts normatīvā regulējuma nepieciešamībai.

Izkristalizējas divi būtiskākie virzieni dziednieka iespējamajai prettiesiskajai rīcībai dziedniecības attiecībās. Pirmkārt, dziednieks var izdarīt prettiesisku rīcību, veicot pašu dziedniecību pacientam (piemēram, nodarīt kaitējumu pacienta veselībai). Otrkārt, dziednieks var veikt prettiesisku rīcību, ļaunprātīgi izmantojot dziednieka statusu, kas atvieglo šī pārkāpuma izdarīšanu (piemēram, mantas izkrāpšana no pacienta). Tādēļ rodas nepieciešamība saukt pie juridiskās atbildības dziednieku, kas veicis prettiesisku rīcību, kas tieši vai netieši saistīta ar dziedniecības attiecībām.

Izvērtējams, vai Latvijā pastāv normatīvais regulējums, kas paredz tieši dziednieka krimināatbildību, administratīvo atbildību un civiltiesisko atbildību par prettiesisku rīcību dziedniecības attiecībās.

Introduction

There is an ambivalent approach to healing in the legal system of Latvia. On the one hand, some new developments, despite being rather disputable, are identifiable in the regulatory framework for healing. On the other hand, the state currently disassociates itself from direct recognition of healing relations and their regulation in the legal system. It is necessary to legally protect the patient in healing relations, without leaving it only to non-medical practitioners' NGOs, where objectively justified preconditions for a necessity of national regulatory framework for healing have been established nowadays.

Two main kinds of possible unlawful acts in healing relations are clearly identified. First, a non-medical practitioner can commit an unlawful act when carrying out healing on a patient (for instance, cause harm to patients' health). Second, a non-medical practitioner can commit an

unlawful act by abusing the position of a non-medical practitioner, which facilitates the commission of a wrongful act (for instance, swindle). Therefore, there is a necessity to legally prosecute a non-medical practitioner, who has committed an unlawful act that is directly or indirectly related to healing relations.

The aim of the paper is to analyse, whethera non-medical practitioner can be held liable for an unlawful act in healing relations, to identify the current issues and suggest certain prevention solutions. Both Latvian and foreign literature, laws and regulations and legal practice materials related to healing relations are used in the present paper. In the development of the paper, the following research methods were applied – semantic, grammatical, analytical, historical, comparative, systemic and teleological method. A legal assessment of healing relations is provided in the paper, distinguishing the types of unlawful acts of a non-medical practitioner and assessing the possibility of attribution of legal liability to a non-medical practitioner and his ethical responsibility.

Legal assessment of healing relations

In modern society, healing relations are established rather often (in Europe 30 - 50%; in USA – 42%; in Africa, Asia, Australia – 76 – 86%; in Canada – 25%; in Latvia – 30%) (Kerridge, McPhee 2004: 164; Ernst, Cohen, Stone 2004: 156; BOЗ 2001: 87, 88, 92; BOЗ 2013: 25, 27; Breiha 2009: 9; CMPA 2012). There is also an opinion that the law allows a person to choose between a doctor and a non-medical practitioner (Benfelde 2015). There is an ambivalent approach to healing in the legal system of Latvia. On the one hand, some new developments, despite being rather disputable, are identifiable in the regulatory framework for healing. Yet, on the other hand, the state currently disassociates itself from the direct recognition of healing relations and their regulation in the legal system. However, in the analysis of the regulatory framework, no legal barriers for the establishment or existence of healing relations are identifiable. Therefore, a question arises, what is the legal character of healing relations, while currently there is no specific answer to it in the regulatory framework.

Healing, in fact, is recognized as a legal agreement, where parties equal in rights (a patient and a non-medical practitioner) agree on the conduction of treatment, respectively, healing methods. Therefore, it should be assessed, whether healing can be a subject of a legal agreement. On the one hand, regulatory framework does not forbid establishing healing relations, according to the principle of freedom of contract (See – Torgāns 2014: 41). On the other hand, two conformity criteria are proposed for the subject of legal agreement – morality and religion, where withdrawal from these criteria is acceptable only in exceptional cases, by violating essential basic postulates (CL ST 1993: s.1404, 1415; CL kom 1998: 31). Therefore, it should be considered, whether healing is not against morality, religion and its basic principles.

Assessing the compliance of morality with healing, dual arguments arise. On the one hand, assessing ideologically, healing is related to morality and serves for the achievement of its aims. The norms of morality are formed autonomously by the society itself, and with the aim to regulate society's relations (IV 1999: 490; Нерсесянц 2006: 104, 105). The emergence of healing historically roots in the society itself and its traditions. Moreover, the cooperation of society members in many different forms is the base for the societyexistence; therefore, it is the most essential value of society. Healing is one of the kinds of society cooperation with the aim to strengthen the members, and thus, the society itself. On the other hand, a certain healing might not be adequate for a certain society. There are various social groups in the world and due to that historically various societies with different traditions and aim achieving methods and tools are forming. The more diverse are these societies, the higher is the possibility that acceptable healingmethods will differ drastically. Therefore, it could be concluded that the idea of healing conforms to morality, as they have a common origin, and healing is also a tool of realization of society's values. Yet, it is possible on one condition, that a certain society in a certain time period recognizes a certain healing to be appropriate and acceptable or in conformity withits morality.

Nowadays, approximation of healing and religion is observed, which could be justified by the following arguments. Firstly, the interpretation of religious freedom is expanding; healing is no more recognized as the opposite of religion. Classically, religion is characterized as believing in God as an unearthly being, subordinating social relations to this belief (Нерсесянц 2006: 103, 104). The questions arise, which is the most compliant religion and does it support healing. Depending on the type of recognition by the state, religious organizations in Latvia are divided into two levels: 1) traditional religious organizations, recognized by the state by a special law; and 2) the other organizations (Satv kom 2011: 342; Balodis 2008: 117 – 123). Yet, regarding the religious freedom, one single religious belief is not highlighted; moreover, even atheistic and agnostic beliefs are included in the concept of negative religious freedom (a right not to believe) (Satv 1993: s.99; Satv kom 2011: 320). Thus, a more lenient approach of religion itself to different ideasstems from the idea of religious freedom provision, for instance, healing.

Secondly, healing and religion have a common aim. One of the aims of religion is caring for persons in need – for miserable persons (*personae miserables*), who are under God's protection, for instance, ill persons (Blūzma 2002: 57; БП 1999: s.b3). Although both healing and religion are directed towards the protection of a patient, still, different measures are applied for the achievement of this aim.

Thirdly, as there is a tendency of the state to recognize healing, healing must be accepted also by religion. Three models of state-church relations exist across the world countries: 1) strict separation of church (France, etc.); 2) moderate church separation model (the Baltic countries,

Germany, Spain, Italy, etc.); 3) state church model (Malta, Norway, Denmark, etc.) (Satv kom 2011: 338). The model of church-state relations in Latvia is based on the separation theory (Satv kom 2011: 319), yet, the influence of church on state affairs is also identifiable – the state functions are granted to church, for instance, the right to register marriage (CL ĢT 1993: s.53); recognizing religious organization as a participant of legal relations (ROL 1995: s.2, 5; CL ST 1993: s.1407); including religious principles in the regulatory framework, for instance, prohibition to use human foetus in scientific research (SRVL 2002: s.15(3); BIOK 1997: s.18(2)), prohibition to sell a body or its part (OIM 1993: s.18; BIOK 1997: s.21). In addition, it is emphasized that specifically church is separated from country, not vice versa (Satv 1993: s.99; Satv kom 2011: 322), that justifies the priority of state in the Latvian model of state-church relations.

Therefore, it can be concluded that healing relations are a legal agreement, where healing as a legal agreement subject is in conformity with morality and religion.

The question arises, shall healing be interpreted as a specific legal concept – advice and recommendation. It has limited civil law consequences, where the provider is responsible for the harm caused by advice or recommendation only in two cases – if they are provided harmfully deliberately (CL ST 1993: s.2318, 2319, 2320) or if the obligation to provide an advice is laid down by the law or the legal agreement (CL kom 1998: 599; Torgāns 2014: 430). Advice and recommendation provide only a vision of possible problem solution. Whereas in healing, except the statement and the reflection of a possible solution, an actual action is necessary for the achievement of healing aims. Thus, advice and recommendation is only one element of healing. Moreover, in advice and recommendation, the action is also expected from the plaintiff, but in healing, the action is conducted by the provider of advice and recommendation. Consequently, the concept of healing should be interpreted more widely than advice and recommendation, without limiting it only to the scope of advice and recommendation.

Types of non-medical practitioner's unlawful acts in healing relations

In healing relations, similarly to any other social relations, unlawful acts of its members cannot be excluded. Therefore, the types of non-medical practitioner's acts with negative legal consequences should be determined.

Two main directions of possible unlawful acts in healing relations are clearly identified. On the one hand, anon-medical practitioners' unlawful act, which is directly related to healing relations, is possible. It is characterized by the following features. Firstly, an unlawful act is committed directly in healing as treatment relations, violating the principles of healing conduction. Therefore, the harm of such act will be expressed directly in healing relations. Secondly, the injured person is the patient, towards whom the negative consequences of such unlawful actare directed. Thirdly,

such unlawful act of a non-medical practitioner in healing relations can express itself in three ways, depending on its closeness degree to healing as treatment.

An unlawful act of a non-medical practitioner is identifiable before the beginning of healing relations, if there are breaches in the acquisition of the status (for instance, a non-medical practitioner has not obtained education, has not carried out certification, registration). Therefore, if a person, who has not acquired the lawful status of a non-medical practitioner, will carry out treatment, it is recognized to be unlawful healing.

A non-medical practitioner can commit unlawful acts during the healing process. Such case might include: 1) breach of healing boundaries (for instance, the regulatory framework determines such cases, when healing is not allowable – patients with severe mental disorders or severe infectious diseases; participation thresholds are identified regarding a non-medical practitioner and a doctor in patients' treatment (for instance, a patient has received appropriate healing, according to the recommendation of a doctor, but it has caused the patient's health deterioration, where, according to the expert's statement, in case of such patients' health disturbances, a certain healing should not be conducted; the court has rejected the doctor's objection that the negative consequences were caused by healing as another medical intervention, not medical treatment, stating that the doctor is responsible for the recommendations provided to the patient, which should be based on the examinations, and holding the doctor legally liable (case McGroder v Magiure - Kerridge, McPhee 2004)); 2) unprofessional conduct of healing as treatment, where healing methods are recognized to be complicated to standardize (for instance, there are healing methods that are based on patients belief system (Adams, Cohen, Eisenberg, Jonsen 2002: 137)); 3) the violation of the patient's rights during healing (for instance, a non-medical practitioner conducts healing without the patient's consent to all applied healing methods, without providing relevant information).

A non-medical practitioner’s unlawful act is possible also after the completion of healing (for instance, disclosure of patient's information to the third parties). Therefore, a non-medical practitioner's liabilities, that continue also after the termination of healing relations, shall be determined.

On the other hand, a non-medical practitioner can commit an unlawful act that is indirectly related to healing. This action has the following characteristics. Firstly, an unlawful act and its consequences are beyond healing, as well as the achieved aim of an unlawful act is not related to healing as the patient's treatment (for instance, a non-medical practitioner advertised healing services, indicating skills that are not included in the competences of a non-medical practitioner; therefore, the Consumer Rights Protection Centre has enforced the Section 166 ^{13}(3) of the Latvian Administrative Violations Code, imposing a penalty on a non-medical practitioner for unfair

commercial practice (PTAC L 2010; ART S 2012; AA S 2013)). Secondly, legal status of a non-medical practitioner and healing is applied solely as a mean that facilitates the achievement of unlawful aims and realizes an unlawful act (for instance, an unlawful act against property (once, a non-medical practitioner was prosecuted in the Central District Court of Riga City for money extortion and raiderism attempt, threatening to use his non-medical practitioner's skills (Zvejsalnieks 2014); in turn Riga City Latgale District Court has reviewed the case according to Section 177(3) of the Criminal Law, where a non-medical practitioner, using the trust of the injured person, committed a fraud in large amount, receiving 80 000 EUR for forged handwritten rare folklore and ethnographic works (LETA 2013)); unlawful act against morality and sexual liberty (once, a non-medical practitioner was prosecuted for offences against morality and sexual liberty, according to Section 160(2) and 162(1) of the Criminal Law, that were conducted against a minor, gaining trust and using the authority of a non-medical practitioner in the family of the injured person and in society (KasJauns 2010))). Thirdly, a person injured by such unlawful act is the patient himself, or the third party. Therefore, the legal consequences of non-medical practitioner's unlawful acts, which are indirectly related to healing, are regulated by the general regulatory framework, taking into account this indirect relation to healing in the legal assessment of the situation.

Thus, it is important to determine an unlawful act of a non-medical practitioner, whichis directly related to healing in healing relations. However, currently, it is practically impossible, as there is no specific regulatory framework for healing relations, which should definitely be developed and implemented.

Types of legal liabilities and ethical responsibility of a non-medical practitioner in healing relations

The question arises, can a non-medical practitioner be held legally liable for an unlawful act that is directly related to healing, if there is no regulatory framework for healing.

On the one hand, every person has vested rights for redress for the caused infringement of rights (Satv 1993: s.92). In a civilised society, violation of the other person's rights is not allowable; therefore, the infringement of rights is recognized undesirable event in the society (Satv kom 2011: 151; Vītiņš 1993: 125; Torgāns 2006: 172). The aim of the legislator is to ensure the possibility for any person in both civil procedure and administrative procedure, criminal procedure and Constitutional Court procedure to receive judicial protection in case of the infringement of their rights (Satv kom 2011: 148, 149; ST S 2001: concl.). This legal provision is applicable directly and explicitly, where no special regulation is necessary for its specification, thus, determining factually absolute judicial protection principle against any infringement of rights, even if there is no direct statutory regulation for a certain legal relation (Satv kom 2011: 156; AT S 2010). The codes of

ethics of non-medical practitioners specify that a non-medical practitioner shall undertake the responsibility for all his decisions and actions (DzĒK 2013: s.10; DzĒK 2009: s.12; RDzĒK 2013: s.22). In addition, the idea of non-medical practitioners' legal liability is derived from the mentioned principle, where currently these codes of ethics actually replace special regulatory framework for healing. Therefore, it is certain that a non-medical practitioner becomes legally liable also for an unlawful act that is directly related to healing.

On the other hand, there are cases in the case-law, for instance, in the case-law of the Supreme court of Spain, where non-medical practitioners are released from legal liability for healing carried out inappropriately, stating, that non-medical practitioner is not a health profession and it is not legally allowed to conduct healing, therefore, it does not exist legally and cannot be recognized as an intervention in the medical field (BO3 2001: 111). This situation does not rebut the idea of non-medical practitioner's legal liability, but reflects another problem. Special legal provisions that regulate medical treatment are not applicable to healing, as healing istreatment, but it is not medical treatment. A non-medical practitioner, similarly to a doctor, can be an obliged entity in the court, if any harm has been done to a patient (Kerridge, McPhee 2004). In case of a non-medical practitioner's unlawful act, there is no obstacles to applythe general regulatory framework's legal liability, applying it to healing relations to the fullest extent possible.

Therefore, it is concluded that a non-medical practitioner is held legally liable for an unlawful act, which is indirectly related to healing, according to the general regulatory framework.

All legal liability types are applicable to a non-medical practitioner, insofar as they apply to healing. Firstly, civil liability might be attributed to a non-medical practitioner, as healing relations have civil nature. If a non-medical practitioner conducts healing inappropriately, infringing the patient's rights, it is an offence, regardless of the consequences of such healing, for instance, even if it might improve patient's health (CL ST 1993: s.1635(1), s.1636). Whereas appropriately conducted healing, even if it does not provide health improvements or deteriorate patient's health, does not bring civil liability, if a non-medical practitioner is not responsible for the occurrence of negative consequences.

Secondly, if the patient's health deterioration or the patient's death occurs because of inappropriate healing, the non-medical practitioner might be criminally liable for the patient's injuries or death by negligence (KL 1998: s.123, 131). Thirdly, it is currently limited, but not impossible to hold a non-medical practitioner administratively liable (for instance, for the provision of inappropriate information about the services (APK 1984: s.166^{12})). Therefore, a non-medical practitioner can be held legally liable for harm caused to a patient during healing, according to the general regulatory framework, insofar as they might be applied to healing relations.

Ethical liability is also attributed to a non-medical practitioner. Although it is stated that the professional societies of non-medical practitioners' can apply various penalties to a non-medical practitioner for the infringement of the ethical standards (for instance, warnings, fines, exclusion from the professional society or the loss of the status (Weir 2005)), only one kind of penalty is identified in Latvia – exclusion from the professional society for non-fulfilment of membership responsibilities, which are formulated rather abstractly and are only indirectly applicable to healing relations (VDzLS 2005: s.11.6., 12.2.; RS 2013: s.5.5., 6.2.). In fact, the mentioned exclusion of a non-medical practitioner would mean that a non-medical practitioner is not allowed to conduct healing.However, currently, a non-medical practitioner can continue to conduct healing, even after the exclusion, as the lack of the status of professional society's member is not an obstacle for the conduction of healing. Therefore, ethical liability of a non-medical practitioner, particularly in healing relations and regarding the patient is rather conventional, even declarative, as it is limited down to the decision making about the membership possibility in the professional non-medical practitioners' society and not about the permission to conduct healing.

Conclusions

1. The regulatory framework in Latvia does not provide a certain answer to whether the healing relations are allowable. In the analysis of the legislative system, no legal barriers are identified for the establishment or existence of healing relations. Healing is recognized as a legal agreement, where its subject is in conformity with the basic principles of morality and religion.
2. Currently, two main directions of a non-medical practitioner's unlawful act in healing relations are clearly identified – with direct or indirect relation to healing. The non-medical practitioner's unlawful act, which is indirectly related to healing, is possible to identify, applying the compliant general regulatory framework. Whereas the non-medical practitioner's unlawful act, which is not directly relatedto healing as a patient's treatment, currently is practically impossible or very complicated to identify, as there is no special regulatory framework for healing relations, which shall definitely be developed and implemented.
3. A non-medical practitioner shall be held legally liable for an unlawful act towards a patient in healing relations, according to the general regulatory framework, insofar as it is applicable to healing, regardless of the lack of special regulatory framework. Currently, a non-medical practitioner's civil and criminal liability are dominating. Whereas non-medical practitioner's ethical liability is actually declarative and does not reach its aim in healing relations.

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POLICY DOCUMENTS ON PATIENT'S RIGHTS IN LATVIA

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Abstract

Policy documents on patient's rights in Latvia

Key words: *policy documents, patients' rights*

The aim of the paper is to provide some insight into policy planning documents on patient's rights in Latvia. The number of applications in healthcare cases for the court is growing. It shows that patients are not satisfied with the policy regarding health care system and patients' rights protection related issue. The policy informs patients about their rights and responsibilities. It provides guidance to patients in providing health care services to patients. Patients shall be informed about these rights and as their responsibilities, as well as using policy documents.

The results of the paper shows that Latvian policy documents on patients' rights have to be improved. The paper has described some new ideas of policy documents on patients' rights in Latvia.

Kopsavilkums

Politikas plānošanas dokumenti pacientu tiesību aizsardzības jomā Latvijā

Atslēgvārdi: *politikas plānošanas dokumenti, pacientu tiesības*

Darba mērķis ir piedāvāt ieskatu politikas plānošanas dokumentu klāsta pacientu tiesību aizsardzības jomā Latvijā izpēti, noskaidrojot tādejādi trūkumus un priekšrocības politikas plānošanas dokumentu saturā pacientu tiesību aizsardzības jomā. Latvijā arvien vairāk pieaug strīdu skaits starp pacientiem un ārstniecības personām. Tas norāda uz komunikācijas problemātiku veselības aprūpes sistēmā starp pacientiem un ārstniecības personām. Politikas plānošanas dokumenti informē pacientus par viņu tiesībām un pienākumiem gan veselības aprūpes sistēmā, gan arī ārpus tās, sniedz priekšstatu par sistēmu kopumā. Politikas plānošanas dokumenti piedāvā vadlīnijas pacientiem realizējot savas tiesības uz veselības aprūpes saņemšanu

Darba rezultāti norāda uz to, ka politikas plānošanas dokumenti veselības aprūpes jomā Latvijā ir jāuzlabo. Darbā ir aprakstītas idejas Politikas plānošanas dokumentu veselības aprūpes jomā attīstībā un uzlabošanā.

Introduction

The aim of the paper is to provide some insight into the policy planning documents on patient's rights in Latvia. The number of applications in healthcare cases before the court is growing. It shows that patients are not satisfied with the policy regarding health care system and patients' rights protection related issue. The policy informs patients about their rights and responsibilities. It provides guidance to patients in providing health care services to patients. Patients shall be informed of these rights and their responsibilities, as well as using policy documents.

The results of the paper shows that Latvian policy documents on patients' rights have to be improved. The paper has described some new ideas of policy documents on patients' rights in Latvia.

Purpose of the paper

The aim of the paper is to provide some insight into an policy planning documents on patient's rights in Latvia and to identify preconditions for successful policy documents influence to protection of patients' and medical professional's rights. At the same time the target of the paper is to clarify the disadvantages and benefits in the content of the policy planning documents in the field of the protection of patients' rights.

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 policy documents and their influence in disputes between the patients and health care professionals.

The essence of the policy planning documents and a character of the situation

The definition of the policy planning documents is not used in the literature soirces very often. However there is existing legislation, which provides an explanation for the above mentioned term. One of them is the Development Planning System Law.

Section 6 of the Development Planning System Law states that the following types of development planning documents are distinguished:

1) policy planning documents;
2) management documents of institutions and territorial development planning documents.

The same section states, that “objectives, tasks and action for facilitating the development in one or several fields, sectors or sub-sectors of policy shall be determined in the policy planning document.”

From the mentioned there is concluded that the sense of the policy planning documents is the development of the development and development facilitation of the policy field. Therefore the health care policy planning documents must provide the visions and directions for development, with a target to improve the platform of action of the members involved in the specific field. It is essential, using the planning documents, to find a direction for the finding of favourable environment in a specific field.

In order to control the quality of the policy planning documents on December 2, 2014 there was confirmed the Cabinet Regulations No.737 “Regulations for the development of the development planning documents and impact assessment” (hereinafter – Regulations), whose target is to state the content, which must be included in the policy planning documents, as well as the term of their development, confirmation and operation, and performance of other actions, which determent the standards of the document quality and execution.

According to the article 11 of the Regulations the policy planning documents are the guidelines, plan and conceptual report (informative report). The article 12 explains that the guidelines are developed to state new average term development directions in the policies of fields. In the article 13 of the Regulations there is stated that the Plan is developed for a short term or an average term:

1) for introduction of the policy (guidelines) in one or more fields;
2) instead of guidelines, if in the average term there are not nominated new directions of development in the policies of fields;

3) the higher institutions for the execution of the given task.

While on the article 14 of the Regulations there is stated that the Conceptual report (informative report) shall be developed, if there is necessary to decide for an action on the execution of the previously stated policies of fields. Shall be noted that the conceptual report, which often is expressed as an informative report, has become as a policy planning document, with the validation of the Regulations. In accordance with the information provided in the annotation of Regulations, in order to realize the improvement of the field and the direction of development there was widely applied the progress of the conceptual issues for the revision in government as an informative report. Considering the mentioned above, the Regulations were supplemented with a new kind of the policy planning. The widespread use of the informative reports in the policy planning and dealing of conceptual issues become as a necessity for supplementation of the Regulations.

Need to note that the widespread use of the informative report between the policy makers indicates that the policy planning happens at a great rates, as exactly the mentioned policy planning document would let operatively react to problems in some field.

Therefore there exist several types of policy planning documents, which let the policy planner to act in the direction of the field improvement and development. From the Regulations arises that the field policy can be approved in guidelines, plans, laws, guidance documents, while the appropriate institution using the conceptual reports can deal with the issues, which at the specific moment are actual and to be resolved urgently. For example, within the conceptual issues can deal with the actual challenges of the field policy, to provide proposals about necessary action, including the development of a new normative regulation in the appropriate field.

Protection of patients' rights and their regulation

In accordance with the information provided by the Worlds Health Organization, the formation of the patient's right, as a term and a set of rights, was observed in 1948.

At this time the Universal Declaration of Human Rights recognizes "the inherent dignity" and the "equal and unalienable rights of all members of the human family".

Therefore exactly with the adoption of the mentioned Declaration, the patients' rights were viewed from the opinion of the human right concept. Hence, according to the information, provided by the World Health Organization, patient as a human being, by physicians and by the state, took shape in large part, thanks to this understanding of the basic rights of the person.

In 2002 European Charter of Patients' rights was accepted. The main tasks of the conception were considerable as the national level support for an issue, which affects the protection of the patients' rights in general. The mentioned document on the merits shows the attempt to show the patients' hopes for the more available health care, as well as indicate on the fact, that even more are recognized patients' rights in general. At the same time the much emphasis is on the fact that

patients, as service recipients, have not only rights, but also obligations in relation to themselves and their treatment process. Must recognize that developing the patients' rights institution, people will have more and more possibilities to recognize their responsibility, appealing for their non-medical help (Artamonova 2009)

Patients' rights in Latvia experienced their rapid development with the entering into force of the Law of the Patients' rights in 2010. Until 2010 the normative regulation of the patients' rights in Latvia was included in the Law of Medical Treatment, as well as in law "On Medical Practitioners", while it was more regulating rights and obligations of the health care service providers. Issues on patients' rights were affected very minimal, as one of the components of human rights. Patient's as health care service recipient's rights were regulated only by Consumer Protection Law and Civil Law. Patients' Rights Law has provided for patients a possibility to be well protected with a separate normative act, offering particular protection mechanisms of theirs rights. In accordance with clause 2 of the mentioned law the purpose of this Law is to promote favourable relationships between a patient and the provider of health care services, facilitating active participation of the patient in his or her health care, as well as to provide him or her with an opportunity to implement and protect his or her rights and interests.

Patients' rights are also included in the Constitution of the Republic of Latvia. Article 93 of the Constitutionstates that the law protects everyone's right to life. But article 111 states, that the state protects the health of people and guarantees to everyone a minimum of medical assistance.

At the same time the issue of protection of the patients' rights is included also in article 2 of the Law of Medical Treatment, where is stated that the target of this law is to regulate public relations in medical treatment, in order to provide a qualified diagnostics or prophylaxis of diseases or injuries, as well as qualified patients' treatment and rehabilitation, and to determine special regulatory rules of the medical institution economic activity.

Thereby, with the entry into force of the Patients' Rights Law and consolidation of patients' rights, from the other point of view there was perceived the institute of the patients' rights in general.

There are formed also other institutions and mechanisms for the protection of the patients' rights, patients started to use their rights to the interest protection more actively.

For example, in accordance with the last annual review of the Health inspection, which was published in 2015, Latvian population actively used their rights to submit claims for different nature violations, which are related to the quality of the health care and health inspection. For example, in 2015 in the State Health Inspection were reviewed 879 applications. Additionally the Health inspection representatives provided explanations and answers, responding to 2210 phone calls,

while onsite were 1550 visitors. The information provided by the Health inspection, shows that the number of complaints is growing every year.[16]

Considering the relatively high patients' activity it shall be logical to conclude that in the state level there are being actively working on the protection mechanisms of the patients' rights. In order to promote the development and modernisation of the protection mechanisms of the patients' rights, it is necessary to act according to a certain plan.

Studying the normative regulation, as well as policy planning documents, in the content of which shall be stated a development of the protection mechanisms of the patients' rights it is visible that there is no a clear policy for the resolving directions of the issue mentioned above.

Looking at the range of the policy planning documents there can't be found any document, where have been paid a special attention on the protection mechanisms of the patients' rights.

Policy planning documents and patients' rights

In this section there will be raised most important policy planning documents, in which there is included the issue about protection of the patients' rights.

On January 20, 2017 with an order of the Minister of Health was approved the Concept of the quality improvement of the health care system and patients safety. There was also approves the plan of the concept implementation. According to information provided in the concept, its aim is to achieve the improvement of patients' safety, improvement of the patients' trust to the health care system and formation of the common understanding about health care system and quality of treatment procedures, implementing the measures, which are stated in the plan of the concept implementation.

From the conception can be concluded that as a result of its realization is planned to achieve *the improvement of patients' safety, improvement of the trust to the health care system and formation of the common understanding about health care system and quality of treatment procedures.*

The concept text mostly accentuates the improvement of the health care field. Less attention is paid to the realization issues of the patients' rights.

However in the concept there are also articles, which directly highlight the protection of the patients' rights, as well as strategic challenges. For example, article 4.3 of the Concept states the issue of the review of patients' complaints. In the corresponding section there is provided that in the health care system the reviewing of the patients' or their family member's complaints is an important function of the Health inspection and in order to improve and develop it, it is "necessary to change the principles, thinking and a procedure in a way, so in the result instead of the finding

[16] Health inspection: "Annual report 2015" (viewed on 13.05.2017.) Obtained from http://www.vi.gov.lv/uploads/files/2015g_publiskais_parskats.pdf

"culprits" there shall be provided an objectivity and added value." In the Concept mentioning the protection of the patients' rights, there are more looked at operation models of medical treatment institutions and public institutions, rather than improvement of the patients' operation and progress for protection of their rights.

The article 5.2 of the Concept includes an issue about patients' safety. In the mentioned article there is stated that "the internal part of the treatment and care service quality is the provision of the patients' safety." The importance of the mentioned article is grounded by the statistics of the European Union, which indicates to the relatively large amount of the patients admitted in hospitals, which are victims of the health care incidents. [17]

The Concept provides a necessity to improve the field of patients' safety, providing particular measures to be executed for the achievement of the mentioned target, for example, the development and improvement of the national policy and programs in the field of patients' safety, as well as the involvement of patients and patients' organizations in the solving of the problem. It is planned that as a result of the Concept realization there will be improved the health care system management quality. And it will promote the increased patients' safety.

From the mentioned it is clear that in the Concept the questions on protection of patients' rights, including the safety, are viewed through the prism of the health care system improvement, not through the prism of the protection of the patients' rights.

The next policy planning document is from 2016 **The State health Insurance concept**.[18] In the Concept there are included patients' rights to the use of the e-health system, where as a result can be identified individual patients and them provided health care services and their costs. At the same time in the Concept there is offered to change the health care financing model, which would significantly reduce uncertainty and will improve the health care access for the population and will engage the financing flow with patients' needs and increase the transparency of the system. Actually in the Concept there are dissuaded the issues, which regulate implementation of the e-health, and insurance issues from the point of the state administration. In the Concept there is not analysed an offered the viewing model of the patients' rights and interests.

National development plan for 2014–2020[19] offers ideas for the improvement, planning and coordination of the health care service quality: in development of cardiovascular, oncologic, psychic illnesses, penetral network (including development of the patients' guideline). From the

[17] Olivia Wigzell, Andrzej Rys "Strategies across Europe to assess quality of care" Report by the Expert Group on Health Systems Performance Assessment, 2016, [viewed on 11.01.2017.].
[18] Sociālo reformu biedrība, "Valsts Veselības apdrošināšanas koncepcija", Skatīts: http://www.socialasreformas.lv/index.php/valdbas-koncepcijas/121-valsts-veselbas-apdroinanas-koncepcija
[19] National development plan for 2014 – 2020. Policy planning document of the Republic of Latvia. Obtained from http://polsis.mk.gov.lv/documents/4247

mentioned there is concluded that also here there is not viewed the protection mechanism of patients' rights, but the improvement of the health service quality.

Viewing the **Public Health Guidelines for 2014–2020**[20] there is concluded that the only article, where is mentioned a patient, is the article, which states that one of the ideas for guidelines is the formation of the qualitative, safe and long-lasting health care service system (including reducing of the patient contributions, reduction of queues for planned services, medicine accessibility for patients), providing the equal accessibility of services for all Latvian citizens. From the mentioned it is visible that the guidelines on their content protect again the improvement of the health care system, and do not mention the protection volume of the patients' rights.

Guidelines „e-Health in Latvia"[21] is another one policy planning documents, which partially states the possibilities for protection of the patients' rights. In the guidelines there is stated that e-health is developed for patients, in order to inform patients, let them to access to the medical personnel more easily, to acquire quick answers to their questions, which are related to the health condition of the particular patient.

In the guidelines there is an indication to the fact that a patient may protect his rights using e-health services, therefore receiving not only a useful service for itself, but also a realization of its rights to information.

Reviewing the important the Latvian policy planning documents in the field of the protection of patients' rights, it is visible that their content is wide enough. However there arise a lot of confusions and issues in relation with the improvement of the protection mechanisms for patients' rights.

Conclusion:

1. The volume of the protection mechanism and means for the patient's rights, which is mentioned in legislation, is not comprehensive.
2. Need to work on the improvement of the content of the policy planning documents, which affect exactly the observation and protection of the patients' rights.
3. Need to work on the development of the policy planning documents in the health care institutions (in both public and private).
4. In the development stage of the policy planning documents, must promote the cooperation between ministries and field specialists, including representatives of patients and patients' organizations, in order to prevent a situation, when the development of the policy planning

[20] Public Health Guidelines for 2014–2020. Policy planning document of the Republic of Latvia. Obtained from http://polsis.mk.gov.lv/documents/4965

[21] Cabinet Regulations No.660, from October 24, 2017. "Par pamatnostādņu "e-Veselība Latvijā" īstenošanas plānu 2008.–2010.gadam", Obtained from https://www.vestnesis.lv/ta/id/165286

documents is initiated in narrow subfields, not taking into consideration the planning documents existing in the responsibility of other fields.

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Parliament or the Republic of Latvia from December 20, 2012 “National development plan for 2014–2020.” Obtained from http://polsis.mk.gov.lv/documents/4247

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Health inspection: “Annual report 2015” viewed on 13.05.2017.] Obtained from http://www.vi.gov.lv/uploads/files/2015g_publiskais_parskats.pdf

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Г.В. Артамонова, “Организация защиты прав пациентов в системе медицинского страхования”, 2009 Кемеровская государственная медецинская академия (кем ГМА) p. 56.

CYBERCRIMES AND CYBERBULLYING PROBLEMS IN LATVIA AS A PART OF EU COUNTRIES

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Abstract
Key words: *Cybercrime, cyberbullying, regulations, internet threats*
While using different new technologies, we are facing not only conveniences and bonuses but also problems and crimes. Every day we use world wide web pages, we leave there our track, our identity data, credit card's data, photos, and another important detail about ourselves and lives. The problem is that we do not understand size of problem. We do not educate ourselves and not even kids about threats in the internet and do not make our lives safe by continuing using unsafe web pages and provide with our data different pages.
From the time, Latvia is a part of the EU we have different possibilities and strategies to protect ourselves and our data in the internet environment. European Commission provide us with different recommendations and actions regarding to cybercrimes. The main idea and aim of those recommendations is to make people feel safe about them and their children and relatives while using internet.
In that paper author put forward the problem of cyberbullying. The problem that becomes global and now is taking place at international level, region level and country level. In the paper author discusses cyberbullying definitions and legal recommendations and directions from the EU, compare it to real life statistics and analyses situation in Latvia as a part of EU countries.
Main methods are scientific literature analysis, legal literature and policy analysis, analysis of findings. It is necessary to combine all information and provide a complete view of the problem.

Kopsavilkums
Atslēgas vārdi: *Kibernoziedzība, kiberpazemošana, regulēšana, interneta draudi*
Izmantojot dažādas jaunas tehnoloģijas, mēs saskaramies ne tikai ērtībām un bonusiem, bet arī ar problēmām un noziegumiem. Katru dienu mēs izmantojam interneta mājas lapas, mēs atstājam tur mūsu "pēdas", mūsu identitātes datus, kredītkaršu datus, fotogrāfijas, kā arī citas svarīgas detaļas par sevi un dzīvi. Problēma ir tā, ka mēs nesaprotam šo draudu izmēru. Ne mēs paši, ne mūsdienu bērni nav daudz izglītoti par draudiem internetā un nav pieradināti interneta drošai izmantošanai, mēs turpinām izmantot nedrošas mājas lapas un atstāt savu informāciju nepārbaudītajās vietnēs.
Tā kā Latvija ir daļa no ES (Eiropas Savienības) mums ir dažādas iespējas un stratēģijas, lai aizsargātu sevi un mūsu datus interneta vidē. Eiropas Komisija nodrošina mūs ar dažādiem ieteikumiem un darbībām saistībā ar kibernoziegumiem. Galvenā ideja un mērķis šiem ieteikumiem ir, lai cilvēki jūtas droši par sevi un saviem bērniem, un radiem, izmantojot internetu ikdienā.
Šajā rakstā autors izvirzīja problēmu kiberpazemošana. Problēma, kas kļūst globāla, un tagad tiek izskatīta starptautiskā līmenī, ka arī reģionu un valstu mērogā. Tā raksta autors apspriež kiberpazemošanu definīciju un juridiskos ieteikumus un norādījumus no ES, salīdzina to ar statistikas datiem un analīzē situāciju Latvijā saistībā ar kibernoziegumiem, kā daļu no ES valstīm.
Galvenās metodes ir zinātniskā literatūra analīze, juridiskās literatūras un politikas analīze, secinājumi. Ir nepieciešams apvienot visu informāciju un sniegt pilnīgu priekšstatu par šo problēmu.

Introduction

Nowadays there is a huge number of people using internet. There is no doubt that population growth, that means that there is crime growth. As well where there is internet growth, there is cybercrime growth.

From the time, Latvia is a part of the EU we have different possibilities and strategies to protect ourselves and our data in the internet environment. European Commission provide us with different recommendations and actions regarding to cybercrimes. The main idea and aim of those recommendations is to make people feel safe about them and their children and relatives while using internet.

In that paper author put forward the problem of cyberbullying. The problem that becomes global and now is taking place at international level, region level and country level.

Regarding to that problem the aim of the paper is to analyse cybercrime and cyberbullying problem in Latvia and its legislation. The main objectives of the paper to identify cybercrime and cyberbullying definitions in the legislation of the Baltic States countries and the EU. In the paper author discusses cyberbullying definitions and legal recommendations and directions from the EU, compare it to real life statistics and analyses situation in Latvia as a part of EU countries.

Main methods are scientific literature analysis, legal literature and policy analysis, analysis of findings. It is necessary to combine all information and provide a complete view of the problem.

The population of people, places (i.e. smart buildings, smart cities), and things (devices) comprise the cyber-attack surface, which is growing exponentially larger every year. Microsoft frames digital population growth with its estimate that by 2020 four billion people will be online — twice the number that are online now, and the world will store 50 times more data than it does today[22]. Just for understanding the 2017 Identity Fraud Study, released by Javelin Strategy & Research, found that $16 billion was stolen from 15.4 million U.S. consumers in 2016, compared with $15.3 billion and 13.1 million victims a year earlier. In the past six years' identity thieves have stolen over $107 billion[23]. This numbers are only for the United States and author underlines that this is a huge amount and of course in smaller countries there will be a smaller numbers but still it is a very significant threat.

As it can be found in the statistics database in 2016 there were 71% of individuals using internet daily. If we analyse the Baltic States statistical situation on internet usage (Latvia, Lithuania and Estonia) then the share amount is 77% for Estonia, 68% for Latvia and 60% for Lithuania[24]. And daily all those individuals are facing threats from the screen side. We never know who is in front of us when talking about world wide web. Talking about the data we share using the internet there is a point of Ginni Rometty, IBM Corp.'s Chairman, President and CEO that "data is the phenomenon of our time. It is the world's new natural resource. It is the new basis of competitive advantage, and it is transforming every profession and industry. If all of this is true – even inevitable – then cyber-crime, by definition, is the greatest threat to every profession, every industry, every company in the world."[25] The author of the paper completely agrees with such kind

[22] Cybersecurity and Cybercrime Statistics Report. (2016) http://cybersecurityventures.com/cybersecurity-and-cybercrime-statistics/ Retrieved: 19.04.2017.
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[25] IBM's CEO On Hackers: 'Cyber Crime Is The Greatest Threat To Every Company In The World', Steve Morgan (2015) https://www.forbes.com/sites/stevemorgan/2015/11/24/ibms-ceo-on-hackers-cyber-crime-is-the-greatest-threat-to-every-company-in-the-world/#57c80dcf73f0Retrieved: 11.04.2017.

of explanation. Because all our data now can be find there, some of it is hidden and secured, some not and our task is to understand what kind of information do we leave by using internet, sending and receiving content, emails, etc.

The meaning of cybercrime

As it can be found on the European Commission webpage[26] cybercrime consists of criminal acts that are committed online by using electronic communications networks and information systems. And here is a problem - all cybercrimes are taking place online and online network has no limits and borders.

At first there should be an understanding that there can be different cybercrime types. Parker[27] provide us with a categorization based on the role of a computer during the performance of a crime:

- computer as an object of a crime;
- computer as a subject of a crime;
- computer as the means for a crime;
- and computer as a symbol.

The author wants to point out that such categorization can be used also nowadays even it was drawn up more than 30 years ago. Kaspersen says that the term cybercrime is usually applied to any crime for the commission of which the use of Internet is essential[28]. The main legislative practice approach that shows to be less concerned with the role of a computer can be found in the Convention on Cybercrime proposed the following categorization:

- offences against confidentiality, integrity and availability of computer data and systems;
- computer-related offences;
- content-related offences;
- offences related to infringements of copyright and related rights.

This categorization may be therefore considered a de facto world standard due to the high acceptance of the Convention worldwide[29].

Cyber-dependent crimes can only be committed using computers, computer networks or other forms of information communication technology. They include the creation and spread of malware for financial gain, hacking to steal sensitive personal or industry data and denial of service attacks to cause reputational damage[30].

[26] Cybercrime (2016) https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/cybercrime_enRetrieved: 07.04.2017.
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[30] Cyber Crime Assessment 2016. Need for a stronger law enforcement and business partnership to fight cyber crime (2016) http://www.nationalcrimeagency.gov.uk/publications/709-cyber-crime-assessment-2016/file Retrieved: 09.04.2017.

Cyber-enabled crimes, such as fraud, the purchasing of illegal drugs and child sexual exploitation, can be conducted on or offline, but online may take place at unprecedented scale and speed[31].

There can be a classification that will show the meaning of cybercrime in a little different way:

- Crimes specific to the Internet, such as attacks against information systems or phishing (e.g. fake bank websites to solicit passwords enabling access to victims' bank accounts).
- Online fraud and forgery. Large-scale fraud can be committed online through instruments such as identity theft, phishing, spam and malicious code.
- Illegal online content, including child sexual abuse material, incitement to racial hatred, incitement to terrorist acts and glorification of violence, terrorism, racism and xenophobia. (European Commission website)[32]

In that classification, it is important to understand that all those crimes are happening not only involving computer, but also dealing with the world-wide web. Author shows that there can be different classifications and different points but the whole idea is one – cybercrime means illegal actions that causes performance of the crime in different ways like fraud, data stealing and more serious outcomes like terrorism. There are legislative actions in the world, in the European Union and in each country that deals with and protect us from that kind of a crime.

Legislative actions in the European Union and Latvia

Several EU legislative actions contribute to the fight against cybercrime. These include:

2013 – A Directive on attacks against information, which aims to tackle large-scale cyber-attacks by requiring Member States to strengthen national cyber-crime laws and introduce tougher criminal sanctions;

2011 – A Directive on combating the sexual exploitation of children online and child pornography, which better addresses new developments in the online environment, such as grooming (offenders posing as children to lure minors for the purpose of sexual abuse)

2002 – ePrivacy Directive, whereby providers of electronic communications services must ensure the security of their services and maintain the confidentiality of client information;

2001 – Framework Decision on combating fraud and counterfeiting of non-cash means of payment, which defines the fraudulent behaviours that EU States need to consider as punishable criminal offences.

[31] Cyber Crime Assessment 2016. Need for a stronger law enforcement and business partnership to fight cyber crime (2016) http://www.nationalcrimeagency.gov.uk/publications/709-cyber-crime-assessment-2016/file Retrieved: 09.04.2017.

[32] Cybercrime (2016) https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/cybercrime_enRetrieved: 07.04.2017.

Since 2006 in Latvia is active Convention on Cybercrime[33] and there is a point that in article 35 – 24/7 Network the party that shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, etc. in Latvia is State Police General Crime police department. In that document, also can be found each cybercrime's meanings.

In the Republic of Latvia, it is used the European Union legislation and only several points adopt them to the Latvian legislation[34]. The author of the paper thinks that there should be more points in the legislation in Latvia and exactly in the Criminal Law that specify points and their meanings. Otherwise it is just taking over legislation. Also, the author wants to stress out the last date of changings – 27/11/2008, which is almost 10 years ago. Considering that internet quality is growing up, people knowledge about internet usage and sometimes for not good reasons is also growing up, there should be some more amendments. But there were another change in legislation. Personal Data Protection Law in Latvia was fulfilled in February 2014[35]. In May 2016, minor technical amendments were adopted through regulations of the Cabinet of Ministers on the application templates for the registration of personal data processing and personal data protection specialists[36].

National cyber security policy in Latvia is developed by the next institutions:

1) Ministry of Defence (MOD) – coordinates development and implementation of information technology security and protection policy, as well as cooperates in the provision of international cooperation. he National Cyber Security Policy Coordination Section of the MOD organises and provides support for the implementation of cyber security policy.
2) Ministry of Foreign Affairs (MFA) – coordinates international cooperation and Latvia's participation in various international initiatives related to the cyber security.
3) Financial and Capital Market Commission (FCMC) – regulates and supervises activities in cyber space of members of the financial and capital market cyber space; the Bank of Latvia (BoL) promotes secure and smooth operation of payment systems, while credit institutions are responsible for secure availability of electronic services in their sector.

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4) Ministry of Economics (MoE) – develops economic policy and promotes the development of competitiveness and innovation.
5) Ministry of the Interior (MoI), State Police (SP) and Security Police (SeP) – implement the policies for combating crime, public order, security protection, and the protection of rights and legal interests of individuals, as well as coordinates the settlement of crisis situations.
6) Information Technology Security Incident Response Institution CERT.LV – monitors and analyses developments in cyber space, reacts to incidents and coordinates their prevention, carries out research, organises educational events and training, as well as supervises the implementation of obligations specified in the Law on the Security of Information Technology. CERT.LV provides support for Latvian and foreign state and municipal institutions, entrepreneurs, and individuals.
7) Ministry of Education and Science (MoES) – promotes knowledge and understanding of cyber space and its secure use.
8) Ministry of Welfare (MoW) – implements the social policy and the policy for the protection of children's rights.
9) Operation of the Safer Internet Centre of Latvia NetSafe Latvia is ensured by the Latvian Internet Association, educates society about possible risks and threats online, and promotes the use of secure internet content.
10) National Armed Forces (NAF) and Cyber Defence Unit (CDU) – provide support in crisis situations.
11) Non-governmental organisations in the IT sector – provide support, consult and cooperate with the Council in developing and implementing the cyber security policy1.
12) Ministry of Transport (MoT) – organises the implementation of communication policy.
13) Constitution Protection Bureau (CPB) – oversees the critical infrastructure.
14) Ministry of Justice (MoJ) and Data State Inspectorate (DSI) – develop, organise and coordinate the policy on rights in the field of personal data protection, freedom of information and supervision of electronic documents.
15) State Joint Stock Company "Latvian State Radio and Television Centre" (LSRTC) – the only provider of reliable certification services, which ensures the infrastructure of electronic identity cards and electronic signatures.
16) Ministry of Environmental Protection and Regional Development (MEPRD) – organises the governance of state ICT and coordinates the electrisation of public services, whereas State Regional Development Agency (SRDA) ensures the operation and development of solutions for shared use of state ICT[37].

[37] CYBER SECURITY STRATEGY OF LATVIA 2014–2018 https://www.enisa.europa.eu/topics/national-cyber-security-strategies/ncss-map/lv-ncss Retrieved: 09.04.2017.

Yet Steve Wilson, the head of the European Cybercrime Centre, noted that there were reasons to be positive about progress in tackling cybercriminals. "2016 has seen the further evolution of established cybercrime trends…. However there are many positives to be taken from this year's report. Partnerships between industry and law enforcement have improved significantly, leading to the disruption or arrest of many major cybercriminal syndicates and high-profile individuals associated with child abuse, cyber intrusions and payment card fraud, and to innovative new prevention programs such as the no more ransom campaign."[38]

The meaning and legislation of cyberbullying

Oxford dictionary provide us with following meaning of cyberbullying - The use of electronic communication to bully a person, typically by sending messages of an intimidating or threatening nature[39].

The main idea is that it is willful and repeated harm inflicted using computers, cell phones, and other electronic devices. The main elements characterize cyberbullying is:

- Willful: The behavior should be deliberate, not accidental.
- Repeated: Bullying reflects a pattern of behavior, not just one isolated incident.
- Harm: The target must perceive that harm was inflicted.
- Computers, cell phones, and other electronic devices: This, of course, is what differentiates cyberbullying from traditional bullying.[40]

There are no standards specifically targeting cyberbullying at international level. In Article 19 of the UN Convention on the Rights of the Child (UNCRC) on the protection from all forms of violence is applicable to bullying online. At regional level, the Council of Europe has adopted a range of legally binding measures relevant to bullying online. The EU has only a 'supplementary' role in this field consisting of supporting, coordinating or supplementing the initiatives adopted by Member States at national level. Although the EU has only a limited role, EU action on cyberbullying cannot be completely excluded. While research at national level on cyberbullying among young people recommends a preventive approach rather than a punitive one, a different intervention might be necessary to tackle cyberbullying perpetrated by adults. Currently, there are no EU specific legal instruments targeting cyberbullying.The EU has adopted a range of legal provisions relevant to cyberbullying such as the Directive on victims' rights[41] and the Directive on

[38] The 2016 trends in cybercrime that you need to know about. Holly Ellyatt (2016) http://www.cnbc.com/2016/09/28/the-2016-trends-in-cybercrime-that-you-need-to-know-about.html Retrieved: 09.04.2017.
[39] Oxford dictionary (2017) https://en.oxforddictionaries.com/definition/cyberbullying Retrieved: 11.04.2017.
[40] Cyberbullying Research Center http://cyberbullying.org/what-is-cyberbullying Retrieved: 11.04.2017.
[41] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, L 315/57, (14 November 2012).

combating child sexual abuse[42]. At national level, none of the 28 EU Member States have criminal legal provisions targeting cyberbullying specifically. In the absence of a specific criminal offence for cyberbullying, all Member States address cyberbullying within the legal framework of other offences in a broad range of areas such as: violence, anti-discrimination and computer related crimes. Likewise, none of the 28 EU Member States has specific legislation on cyberbullying in the civil area. However, the consequences of cyberbullying may attract pecuniary or non-pecuniary sanctions[43].

As this problem become more and more serious and overtaking it should be pointed out that there is a need of evaluating risks and problem sides in each separate country and as well in Latvia. This can be next step of analyzing the problem and finding the best solutions to prevent it.

Conclusions

To conclude analysis of the meaning and importance of the cybercrime legislation the author come forward with the following points:

1) Cybercrime consists of criminal acts that are committed online by using electronic communications networks and information systems. And here is a problem - all cybercrimes are taking place online and online network has no limits and borders. It means that it is impossible to use only one kind of regulation in every country, but by using some common legislation and adopt and integrate it to each country will work good for preventing and protecting citizens.
2) A lot of different institutions are working together to protect country from the cybercrime threats. Only cooperation with ministries, unions, etc., can produce productive work and preventing legislations and regulations.
3) Every year the tendency of cybercrime is growing up that causes a real threat for the citizens using computer and internet, leaving their information and data inside in the web and sharing it with unknown people.
4) The main points of cyberbullying are willful, repeated action, harm and computers, cell phones, and other electronic devices.

It is a new and actual theme to continue analysis and make more new researches because of its growing tendency and popularity.

[42] Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335/1, (17 December 2011). This Directive has been implemented by all Member States considered under this study, except Denmark.

[43] CYBERBULLYING AMONG YOUNG PEOPLE (2016) Directorate General For Internal Policies Policy Department C: Citizens' Rights And Constitutional Affairs http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571367/IPOL_STU(2016)571367_EN.pdf Retrieved: 12.04.2017.

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HISTORICAL DEVELOPMENT AND EVOLUTION OF THE PURPOSE OF THE INSOLVENCY PROCESS

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Abstract

Historical development and evolution of the purpose of the insolvency process

Key words: *insolvency process, purpose, law, development*

The development of the purposes of the insolvency process are rooted in the relatively late history of the insolvency sphere of the independent Republic of Latvia and at the same time in such a rapidly changing legal framework (already third Insolvency law is in force). At the same time changeable purposes of the insolvency process and legal regulation caused the different interpretation and understanding concerning the sense and application of the insolvency sphere for the entrepreneurs, state sector and for the society at all. Also it is referable to the real and actual aims of it.

For example, in comparison with the so-called "middle" Insolvency law (at 01.01.2008. replaced the law "On the Insolvency of Undertakings and Companies") defined purpose: to promote renewal of the solvency of the subject of the insolvency and to protect the interests of the aggregate of the creditors in the case of the limited solvency or insolvency of the debtor, and purpose of the actual Insolvency law: to promote the honouring of the obligations of a debtor in financial difficulties and, where possible, the renewal of solvency, applying the principles and lawful solutions specified in the Law, it is possible to establish, how changed the vision of the lawmaker and parties, involved into the insolvency process, concerning the purpose of the legal act and the whole insolvency process sphere at all.

In the process of the application of the regulations of the insolvency law, parties, involved in the process, such as individuals and institutions, as well as administrators of insolvency proceedings, courts and creditors, as well as the third parties (including state), quite often have incorrect comprehension concerning the real purposes of the insolvency process.

Among the authors identified purposes, the next prevail: fulfilment of the obligations of a debtor; to bring the assets back to the market as fast, as possible; creating favourable environment for the investments; improvement of the business environment; protection of the interests of creditors.

In the research in order to make conclusions and proposals are used analytical and descriptive methods. Using these methods, normative acts and purposes of the legislator to insolvency process and compliance of them with the insolvency politics, implemented in the state, are analysed in order to make conclusion and proposals.

Kopsavilkums

Maksātnespējas procesa mērķu vēsturiskā attīstība un evolūcija

Atslēgvārdi: *maksātnespējas process, mērķis, likums, attīstība*

Maksātnespējas procesa attīstības tendences ir meklējamas samērā nesenajā maksātnespējas jomas vēsturē, atjaunotajā Latvijas Republikā un vienlaikus jau tik strauji mainīgajā tiesiskajā vidē (šobrīd spēkā ir jau trešā Maksātnespējas likuma redakcija). Tiesiskā regulējuma un maksātnespējas procesa mērķu mainība ir radījusi uzņēmējiem, valsts pārvaldei un sabiedrībai kopumā dažādu izpratni par šīs jomas nozīmi un pielietojumu, kā arī tās patiesajiem mērķiem.

Piemēram, salīdzinot tā saucamā "vidējā" Maksātnespējas likuma, (kurš, ar 01.01.2008 aizstāja likumu "Par uzņēmumu un uzņēmējsabiedrību maksātnespēju") likumdevēja izvirzīto likuma mērķi: *veicināt maksātnespējas subjekta maksātspējas atjaunošanu un aizsargāt kreditoru kopuma intereses parādnieka ierobežotas maksātspējas vai maksātnespējas gadījumā*, un šobrīd spēkā esošā Maksātnespējas likuma mērķi: *veicināt finansiālās grūtībās nonākuša parādnieka saistību izpildi un, ja iespējams, maksātspējas atjaunošanu, piemērojot likumā noteiktos principus un tiesiskos risinājumus*, var konstatēt, kā ir mainījies likumdevēja un šajā procesā iesaistīto pušu redzējums par normatīvā akta un attiecīgi paša maksātnespējas procesa mērķi.

Maksātnespējas procesā iesaistītām personām un institūcijām, piemērojot tiesību normas, kā maksātnespējas procesa administratoriem tā tiesām un kreditoriem, tā arī trešajām personām (ieskaitot valsti), samērā bieži veidojas izkropļota izpratne par patiesajiem juridisko personu maksātnespējas procesa mērķiem.

Starp autora identificētajiem mērķiem prevalē: parādnieka saistību izpilde; aktīvu pēc iespējas ātrāka nonākšana atpakaļ tirgū; investīcijām labvēlīgākas vides radīšana; uzņēmējdarbības vides uzlabošana; kreditoru interešu aizsardzība.

Pētījumā, izmantojot salīdzinošo un analītisko metodi, ir analizēti likumdevēja maksātnespējas procesam izvirzītie mērķi un to atbilstība valstī īstenotai maksātnespējas politikai.

Introduction

The purpose, as the meaning and definition, according to open source web dictionaries - *is the reason for which something exists or is done, made, used, also described as an intended or desired*

result, end, aim or goal (www.dictionary.com / www.thesaurus.com). Author, taking into account the abovementioned meaning and definition provided, in the provided article is analysing the purposes of the insolvency process and the correlation within the frame of the insolvency politics, implemented in the state according to the political planning documents and the norms of legal acts.

Discussion

According to the current Insolvency law, the insolvency process in the Republic of Latvia consists of three major processes: Legal Protection Proceedings (Section 3. of the Insolvency law), Insolvency Proceedings of a Legal Person (Section 4. of the Insolvency law) and Insolvency Proceedings of a Natural Person (Section 5. of the Insolvency law). Author in the article is analysing the purpose of the Insolvency Proceedings of a Legal Person, in consideration of the topic of the author's doctoral thesis concerning the legal framework of the insolvency process of the legal persons.

Insolvency proceedings of a legal person vs. Legal protection proceedings

In order to analyse the purpose of the insolvency process, firstly it is necessary to look critically on the definition of the insolvency proceedings of a legal person. According to the Insolvency law, which is currently in force, the insolvency proceedings of a legal person are (Section 4. Paragraph one of the Insolvency law):

- an aggregate of measures of a legal nature;
- within the scope of which the claims of creditors are settled from the property of a debtor;
- in order to promote the honouring of the debtor's obligations.

Seeing the will of the legislator, strengthen into the norms of the Law, three major accents can be identified – that the measures of the concrete proceedings must be of the legal nature, the property of a debtor is the basis for the settling the claims of creditors, and all of the above mentioned actions are focused on the honouring of the debtor's obligations.

On the other side, when we are speaking about the insolvency proceedings of legal persons, the legal protection proceedings can take place, where these proceedings are (Section 3. Part one of the Insolvency law):

- an aggregate of measures of a legal nature;
- with a purpose is to renew the ability of a debtor to settle their debt obligations;
- in the case if a debtor has come into financial difficulties or expects to do so.

Despite the proceedings of the insolvency process, the legal protection proceedings are aimed and purposed to the renewing the ability of a debtor to settle their debt obligations, of course in the frame of measures of a legal nature and in circumstances, there a debtor has come into financial difficulties or expects to come into financial difficulties.

Summarising the scope of the norms of Law, regulating the proceedings of the insolvency process, when the subject is a legal person, author come to conclusion, that legislator filled the legal norms with an accent on legal nature of the aggregate of measures in both cases, where the aims and purposes are to fulfil the debtor's obligations and also to renew the playability of debtor, if it is possible.

Historical development of the normative acts

From the historical development perspective, we can see that already third Insolvency law is in force, but modernisation of the sphere of insolvency is not sopped and already new extensive amendments with amending law as of 22 December 2016 took place. So, distinctively this New Year 2017 brought the so called new era in the regulation of the insolvency process and the parties, involved in it (this amending law come into force on 6 January 2017).

Nevertheless, the purpose of the insolvency process also performed major changes within the every new law come into force.

According to the legal norms of the Law "On the Insolvency of Undertakings and Companies", that established first basis for the insolvency procedures, the purpose of this law wasn't clearly defined in the normative act, as a clear statement of the legislator. Some thesis and the germs of purpose of the law can be found in the sections concerning the procedures of the bankruptcy and restoration of the debtor.

According to the Section 102 clause one of the Law "On the Insolvency of Undertakings and Companies", defining the basic principles of bankruptcy proceedings - *the principal purpose of bankruptcy proceedings is to satisfy, as fully as possible, the claims of creditors by obtaining maximum income from the sale of the property of the debtor.* According to the Section 1 and Section 82 clause one of the Law "On the Insolvency of Undertakings and Companies", restoration and the scope of its measures there defined, characterizing the restoration term - *resolution of a state of insolvency manifested as the carrying out of planned measures with the purpose of preventing a possible bankruptcy of an institution, restoring its solvency and satisfying the claims of creditors,* and stressing out, that - *as restoration shall be considered various kinds of lawful measures directed towards renewal of solvency of the debtor.*

Considering the so-called "middle" Insolvency law (at 01.01.2008. replaced the law "On the Insolvency of Undertakings and Companies") defined purpose: *to promote renewal of the solvency of the subject of the insolvency and to protect the interests of the aggregate of the creditors in the case of the limited solvency or insolvency of the debtor* (Section 1 of the Law), it is clearly viewable, that legislator has put quite a big effort to define the clear purpose of the Insolvency law. Despite the norms of previously analysed Law "On the Insolvency of Undertakings and Companies", the new objectives, promoting the:

- renewal of the solvency;
- protection the interests of the aggregate of the creditors, if the renewal of solvency was not possible due to the limited solvency or insolvency took place.

And finally, evaluating the norms of the current Insolvency law and taking into account, that the Law was developed after Global financial crisis (Year 2008) and in period, when Republic of Latvia received the loan from the World Bank, also purposes of the law by itself and the insolvency proceedings of the legal persons changed dramatically. The new purpose of the Insolvency law (Section 1 of the Law) was built on the three principles:

- to promote the honouring of the obligations of a debtor in financial difficulties;
- and, where possible, the renewal of solvency;
- to apply the principles and lawful solutions for both above mentioned actions.

So, by the legislator will, it's clearly stated, that priority of the insolvency proceedings is to honour the obligations of the debtor against the renewal of solvency of debtor, as it was stated in the so-called "middle" Insolvency law. And only where it is possible, the renewal of solvency of the debtor can take place. Additional prove of such kind of will of the legislator is the definition of the insolvency proceedings of a legal person, that stated that proceedings *are an aggregate of measures of a legal nature, within the scope of which the claims of creditors are settled from the property of a debtor, in order to promote the honouring of the debtor's obligations* (Section 4 of the Law).

In addition to the normative regulation, that presumes obligatory nature, the brand new political planning documents there adopted in the sphere of insolvency proceeding and state policy.

The will and vision of an executive power was distinctly expressed when the government of Republic of Latvia at 21 September of 2016 adopted the Insolvency Policy Development Guidelines for the Years 2016-2020th (hereafter - Guidelines), and Implementation plan for the Guidelines. According to the Guidelines, the structure of two level purposes – "Main purpose" and "Purpose" took place:

- Main purpose of the Insolvency Policy - *is to promote commercial and economic activity of population, promote the creation of an attractive business environment and attracting investment*;
- Purpose of the Insolvency Policy - *to promote the honouring of the obligations of a debtor in financial difficulties and, where possible, the renewal of solvency*.

Conclusions

Passing through the years, the will of the legislator and accordingly the purpose of the insolvency process and insolvency proceedings of the legal person's insolvency process experienced diametrically changes. Starting from the restoring the solvency of the debtor as primary

purpose to satisfying the claims of the creditors from the property of debtor (after selling all the property and actives of a debtor) as the secondary purpose.

Global financial crisis (Year 2008) was the borderline for the new goals and purposes for the whole economical and financial sector, and insolvency sphere was not the exception. Under the stress of the financial crisis and guidelines of the international creditors (such as the World Bank and others) brand new regulation for the insolvency proceedings took place, there primary purpose was not the restoring the solvency of a debtor, but very fast realisation of the property of a debtor (in the period of 6 months) in order to satisfy the claims of the creditors and bring back the actives to the market as soon as possible.

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APPLICATION OF OBSOLETE AND RIGHTS LIMITING TERMS FROM THE ASPECT OF THE LAW

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Abstract
Key words: *Investigation institutions, Illegitimate and unjustified act, Unlawful or unjustified act*
Since 28 May 1998 until now the law "On the Compensation of Losses Caused as a Result of an Unlawful or a Wrongful Action of an Investigation Institution, a Public Prosecutor's Office or a Court" (hereinafter – Law on the Compensation of Losses). The above mentioned regulatory enactment provides for the amount and procedure how the losses indicated in the law are compensated, which have been caused as a result of an unlawful or a wrongful action of an investigation institution, a public prosecutor's office or a court; it also provides for the procedure, how these losses are compensated.
Before the elaboration and coming into effect of the Law on the Compensation of Losses, no regulatory enactment provided for the possibility of the compensation of losses in Latvia in the cases, when the losses were caused by state administration official or court, similar possibility was provided by the norms of the Civil Law, but due to the lack of the separate regulatory enactment, the application was not ensured.
As a result of study it was found out that no actual normative regulation contains the term "investigation institution" and its interpretation, creating the problems regarding the application of the law, because, if the explanation of the term "investigation institution" has not been included into any laws and regulation in force, its explanation shall be found in the normative regulation not in force, otherwise the Law on the Compensation of Losses cannot be applied. It is also possible to draw a conclusion that the terminology used in the Law on the Compensation of Losses differs from the terminology used in the Criminal Procedure Law. Besides, the terminology used in the Law on the Compensation of Losses limits the legal person's rights.

Introduction

The aim of the research and the challenge is to find out whether the existing Law "On the Compensation of Losses Caused as a Result of an Unlawful or an Unjustified Act of an Investigation Institution, a Public Prosecutor's Office or a Court" terminology limits any rights or adopting a new law „Law on the Compensation of Damage Caused in the Record-Keeping of the Criminal Proceedings and Administrative Violations" takes into account the limits and terminology is created by different entities and rights, thereby resolving any aimed.

In order to achieve a successful result of the study was used different methods of research, such as analytical, to explore multiple sources, analyze and compare the existing regulatory frame work with the bill, the descriptive method to describe the existing issues until the end of outstanding legal limits, as well as several other research methods were used, who helped discover the restrictive legislation and anageing term use and unexpected solution.

Since 28 May 1998 until now the law "On the Compensation of Losses Caused as a Result of an Unlawful or an Unjustified Act of an Investigation Institution, a Public Prosecutor's Office or a Court" (hereinafter – Law on the Compensation of Losses). The above mentioned regulatory enactment provides for the amount and procedure how the losses indicated in the law are compensated, which have been caused to natural persons as a result of an unlawful or an unjustified act of an investigation institution, a public prosecutor's office or a court, while they perform their

official duties; it also provides for the procedure, how these persons' infringed social and labour guarantees are ensured. Before the elaboration and coming into effect of the Law on the Compensation of Losses, no regulatory enactment provided for the possibility of the compensation of losses in Latvia; however in the cases, when the losses were caused by state administration official or court, similar possibility was provided by the norms of the Civil Law, but due to the lack of the separate regulatory enactment, the application was not ensured.

Descriptive part

While analyzing the application of rights limiting terms from the aspect of the Law on the Compensation of Losses, as a result of study it was found out that no actual normative regulation contains the concepts "investigation institution" and "investigating person" or the explanation of concepts. In order in case of the application of the Law on the Compensation of Losses to gain at least insight into the concepts used in the law, we shall look for their explanation in the transitional provisions of the amendments to the Criminal Procedure Law, because the above mentioned normative regulation comprises the explanation of the terms used in the Law on the Compensation of Losses. Namely, since 29 July 2008 there are amendments to the Criminal Procedure Law in force, which did not contain the concepts "investigation institution" and "investigating person"; however, the transitional provisions comprised and up to now there is regulation taken into account that the terms "investigation institution" and "investigating person" used in the laws and regulations till the gradual specification of the formulation shall be understood as the terms "investigative establishment" and "investigator"; besides it should be pointed out that the investigation institutions, the investigating person and the chief of investigation institution as those directing the proceedings act only at the stage of the institution of criminal case and at the stage of pre-trial investigation up to the moment, when it is proposed to decide regarding the issue on the institution of criminal prosecution.

The regulation existing in the Law on the Compensation of Losses from the aspect of concepts differs from the one, which is in force in the record-keeping of criminal proceedings and administrative record-keeping. Lack of unified terminology causes the limitation of rights. The most explicit example to this is the fact that due to lack of the concept of a legal person, the Law on the Compensation of Losses does not ensure the legal person's rights to request and receive the compensation for the losses caused. Since Chapter VIII[1] of the Criminal Law provides for the coercive measures applicable to legal persons, namely, For the criminal offences provided for in the Special Part of this Law, a court or in the cases provided for by the Law – a public prosecutor may apply a coercive measure to a legal person governed by private law, including State or local government capital company, as well as partnership. Latvian Administrative Violations Code also provides for the liability of legal persons, namely Section 14.[1] stipulates that in special cases

provided for in this Code and binding regulations issued by local government councils legal persons shall be subject to liability for administrative violations. But due to lack of the concept of a legal person in the Law on the Compensation of Losses, this Law does not ensure the legal person's rights to request and also receive the compensation for the possible losses caused. There is no doubt – more general regulation does not disappear, namely, if a person finds hat his/her rights have been infringed, he/she by referring to Sentence 3 of Section 92 of the Constitution of the Republic of Latvia is entitled to bring an action to the court on the recovery proper compensation. The lack of a special law on its merits does not violate and limit the applicant's constitutional rights to the judicial protection, however, creates different conditions for a separate group.

At present, it is planned to substitute the Law on the Compensation of Losses by elaborating the draft law "Law on the Compensation of Damage Caused in the Record-Keeping of the Criminal Proceedings and Administrative Violations" (hereinafter – Draft Law). The basic guideline of the new law is to identify the legal basis for the compensation of damage, its types and conditions for the determination of damage amount, as well as to set the legal procedure how persons are ensured the right to proper compensation from the losses or personal damage – the right guaranteed by the Constitution of the Republic of Latvia, namely, the right guaranteed in Sentence 3 of Section 92.

The Draft Law provides that in addition to a natural person's rights to the compensations of damage, a legal person of private rights may have the right to the compensation of damage; such legal basis is being strengthened for the compensation of damage caused during the criminal proceedings. In spite of this, the Draft Law as a legal norm shall be interpreted in connection with other legislative norms in Section 5 of the Draft Law providing the legal basis for the compensation of damage caused in the record-keeping of administrative violations, the legal person's rights to the compensation are not envisaged, thus, similar to present situation, if the Draft Law comes into effect with the formulation it has now, the legal person's rights to the compensation in full will not be ensured and there shall be applied Sentence 3 of Section 92 of the Constitution of the Republic of Latvia.

It should be pointed out that the term "illegitimate act" is a narrower concept than the terms "illegitimate administrative act" and "illegitimate actual act" used in the Law on the Compensation of Losses Caused by State Administrative Institutions.

Conclusions

The Law on the Compensation of Losses envisages concepts **unlawful and unjustified act**, namely, an act is **unlawful**, if there have been violated substantive or procedural norms, whereas an act is **unjustified**, if the decision at the moment, when it was made, complied with the substantive and procedural norms, but later the legal basis for the compensation of losses has emerged. In the Draft Law there are envisaged different concepts, namely, illegitimate and unjustified act. These

terms have been provided with the following explanation: an act is **illegitimate**, if there have been violated substantive or procedural norms, and later one of the legal basis for the compensation of damage stipulated by this law has come into existence, the act is **unjustified**, if, after there had been a decision made in compliance with the substantive and procedural norms, one of the legal basis for the compensation of damage indicated in this law has come into existence; besides, an act is unjustified also in cases, when applying the law On the Prevention of Money Laundering and Terrorism Financing, later there has come into existence one of legal basis for the compensation.

Thus the concept of unjustified act is made a bit broader by providing more detailed explanation, but by introducing a new concept its essence is not being changed, namely, the explanation of an illegitimate act and an unlawful act is identical.

Taking into consideration the above mentioned, it is necessary to harmonize the terminology included into the regulatory enactments of the Republic of Latvia, thus ensuring legal clarity. At the same time this would make easier the work of the users of respective regulatory enactments, as well as it would not cause any doubt about the appropriate interpretation of terms used in the regulatory enactments. Thus it is necessary to point out that the unity of terminology is essential and, without relevant substantiation, the change of terms may cause multiple problems regarding the application of a regulatory enactment, as well as to cause restriction of rights. Similarly and with good reason it is recognized in the guide for the development of regulatory enactments, namely, that the unity of terminology is essential in the text of the law and in language in general. A term is not changed without good reason. This, of course, is not related to cases, when an imprecise or a wrong term is being replaced by a precise, systemic term, or, when alongside with the changes in the society and regulatory norms the old terms are being eliminated and the new terms are being created. Thus, by introducing new terms during the process of elaborating the Draft Law – the terms, which, in point of fact do not differ from previous ones, there is a situation created, when applying and interpreting the laws and regulations there might arise more uncertainty and application problems.

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LEGAL FRAMEWORK OF THE USE OF FORCE IN INTERNATIONAL LAW

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Abstract
Key words: *use of force,General Assembly, Security Council*
The use of armed force between the states is regulated by the international customary law and treaty law. When we speak about control of the use of force by the international customary law it is worth mentioning the Hague Convention (III) on the Opening of Hostilities of 1907 which stipulates, that hostilities should not commence without previous warning and General Treaty for Renunciation of War as an instrument of National Policy (Kellogg –Briand pact) in which the Contracting Parties condemned recourse to a war for the solution of international controversies, agreed that the settlement or the solution of all disputes or conflicts would never be sought except by pacific means and didn't refuse from the use of force for self-defense. Nowadays the Charter of the United Nations remains the primary source of the rules for evaluating the legality of the use of armed forces by the states. According to the Article 1 of the UN Charter the first purpose of the United Nations is to maintain international peace and security, and with this aim the Member states agreed to:
- Determine the prohibition on the threat or use of armed force in their relations (Article 2 of the Charter of the United Nations).
- Create an effective collective security system (Chapter VII of the Charter of the United Nations).

The UN Charter provides two main exceptions from the prohibition expressed in Article 2 (4):
1) According to the Article 39 of the Charter of the United Nations, the Security Council may authorize collective security operations when they conclude that there is a situation of threat to the peace, breach of the peace, or act of aggression. However, over the years there were situations when five permanent members of Security Council used their right for veto on the base of certain political involvements.
2) The second exception is embodied in Article 51 of the Charter of the United Nations and provides the Member states the right of self–defense against an armed attack.

The aim of the research is to analyze the problematic aspects of application in practice of these exceptions from general prohibition of the use of force.

Kopsavilkums
Atslēgvārdi: *spēka pielietošana, Ģenerālā Asambleja, Drošības padome*
Spēka pielietošanas jautājumu regulē gan starptautiskās paražu tiesības, gan starptautiskie līgumi. Vērtējot spēka pielietošanas kontroli starptautisko paražu tiesībās, būtu jāatceras par Hāgas 1907.gada III Konvenciju par karadarbības uzsākšanu, saskaņā ar kuru karadarbība nevar tikt uzsākta bez iepriekšējas nedivdomīgas brīdināšanas par to, kā arī par 1928.gadā parakstīto Konvenciju par atteikšanos no kara kā nacionālās politikas instrumenta (Keloga-Briāna miera pakts), kurā dalībvalstis nosodīja karu, kā starptautisko nesaskaņu risināšanas paņēmienu, vienojās par starptautisko strīdu un konfliktu miermīlīgu risināšanu un vienlaikus neatteicās no spēka pielietošanas pašaizsardzības nolūkā. Mūsdienās Apvienoto Nāciju Organizācijas Statūti (turpmāk –Statūti) satur regulējumu, kas nosaka pieļaujamos bruņota spēka pielietošanas gadījumus. Atbilstoši Statūtu 1.pantam Apvienoto Nāciju mērķis ir uzturēt starptautisko mieru un drošību un šā mērķa labad dalībvalstis vienojās:
- Noteikt spēka draudu vai spēka pielietošanas aizliegumu savstarpējās attiecībās (Statūtu 2.pants).
- Izveidot efektīvu kolektīvās aizsardzības sistēmu (Statūtu VII nodaļa).

Statūti satur divus izņēmumus no 2.panta ceturtajā daļā iekļautā aizlieguma:
1) Atbilstoši Statūtu 39.pantam Drošības padome var pilnvarot kolektīvās aizsardzības operācijas, ja secina, ka pastāv draudi mieram, miera pārkāpums vai agresijas akts. Tomēr gadu gaitā ir bijušas situācijas, kad pieci pastāvīgie Drošības padomes locekļi ir izmantojuši savas veto tiesības, pamatojoties uz noteiktām politiskām interesēm.
2) Otrais izņēmums ir iekļauts Statūtu 51.pantā un nosaka dalībvalstu tiesības uz pašaizsardzību no bruņota uzbrukuma.

Pētījuma mērķis ir analizēt šo izņēmumu no vispārējā spēka pielietošanas aizlieguma piemērošanas problēmjautājumus.

Introduction

The prohibition of the use of force is included in the Charter of the United Nations signed on June 26 1945 in the San Francisco conference. Since that time any use of force has been lawful only if it is justified by the exceptions and purposes embodied in the Charter.

The Charter of the United Nations traditionally regulates relations between the countries. According to Article 1 the first purpose of the United Nations is to maintain international peace and security and to this end, to take effective collective measures to prevent the threat to the peace and to suppress acts of aggression or other breaches of the peace. The purpose of the United Nations is also to settle international disputes or situations which might lead to a breach of the peace by peaceful means in accordance with the principles of justice and international law. (UN Charter, Article 1 para.1). To achieve this purpose, the Member States agreed:

- to impose to all Member States the prohibition of the threat or use of force against the territorial integrity or political independence of any state, or other activities inconsistent with the Purposes of the United Nations (UN Charter Article 2 para.4);
- to establish an effective system of collective security (UN Charter Chapter VII).
- At the same time the Charter contains three exceptions from the general prohibition on the use of force:
- according to the Article 39, the Security Council can authorize collective security operations, if it establishes that there is a threat to the peace, breach of the peace or act of aggression. However, the existing decision-making procedures do not exclude the possibility when five permanent members of the Security Council veto each other decision and stop the decision making process, basing only on the internal political interests;
- the second exception is enshrined in the Article 51 and offers the Member States the right to use armed force for self-defense;
- the third exception is obsolete and is no longer applicable nowadays. It is related to the allied states, victorious in the Second World War and former enemy states. These articles made possible for the victorious countries to use force measures unilaterally and without involvement of the Security Council in cases of rebirth of the belligerent spirit in any of the defeated countries. In addition the Article 106 of the Charter stated that while waiting for coming into force of special agreements mentioned in the Article 43, the parties of the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, could take actions that were necessary for the purpose of maintaining international peace and security. These articles prove the fact that the Charter of the United Nations was primarily created for the interests of victorious countries and not for the interests of the whole international community in general. (Colb 2010)

Methods

Analyzing the first above mentioned exception from the prohibition on the use of force, by using historical, analytical, comparative and systematic methods, the author will describe and analyze the main problematic questions the international society is facing with nowadays.

Discussion

During the process of the establishment of the new international organization the problem of an effective executive body, its functions and its distinctive features in comparison with the plenary institution, representing all the future member states, were actively discussed. Different opinions were expressed during these discussions. The countries, which were in the so-called United Nations group were in the state of war with the Axis countries and in January 2, 1942 signed the United Nations declaration against the Axis countries. The countries of the United Nations group wanted to be in a leading role in the future organization, which was considered to be as a reasonable condition, taking into account their primary responsibility for the insurance of the peace that they had achieved and that would be necessary in the future. Thus, some suggestions about the inclusion in the executive body of the so-called Great Powers (the United States, the United Kingdom, the Soviet Union, China, and later France) were made; the other suggestions were made about their legally and politically privileged status. The representatives of the other countries which were also in the group of the United Nations had a critical attitude towards the privileged status of these Great Powers. They pointed to the importance to respect the national interests not only for these countries but also for their ones. They called for the participation of all-countries in decision-making processes with regard to the future world order and wanted to gain the right to vote in the certain crisis situations. Insisting on these requirements, these states referred to the equality and democratic principles of the international law and expressed their doubts for the giving to such small executive body such a broad right to issue binding decisions in relation to the sovereign states. Nevertheless after the negotiations the countries agreed that there should be a link between the special responsibility of the Great Powers for the organization's functions and their privileged position in the new organization. (Simma 2002)

Such discussions resulted in the endowment of the Security Council with primary responsibility for international security and peace (UN Charter, Article 24) and by giving a secondary role to the General Assembly with its general mandate to discuss and adopt the recommendations (UN Charter, Article 10). This solution was previously orally formulated during the Dumbarton Oaks negotiations in 1944 by its participants (the United States, the United Kingdom, the Soviet Union and China), and later in the Yalta Conference in February 1945, which was attended by the United States, the United Kingdom and the Soviet Union leaders who reached the agreement about voting procedures. Despite the serious opposition of medium and small countries these order was accepted in April - June of 1945 in San Francisco. The authors of the Charted understood that the system of the League of Nations failed because of the lack of clear sharing of power between the political institutions. That’s why a strict separation of power between

the executive body and the plenary body, composed from all the Member States, was accepted. (Simma 2002)

The Post-war period, however, revealed that such sharing of power between the Security Council and the General Assembly is ineffective in the situation of the East – West conflict and sudden increase of the number of Member States in 1955- 1960s. It also became clear that no changes in that sharing of power system were possible. Therefore, from 1959 and from the intensification of the East-West conflict the General Assembly began to play a leading role in deciding problems of maintenance of peace and security. The Security Council proved its inability to make decisions, because of frequent use of veto right by its members. The number of sessions of the Security Council decreased over the period of time between 1950 and 1960. Such situation clearly diverted the responsibility for peacekeeping towards the General Assembly. There were attempts to create the legal bases for such situation. (Simma 2002) In 3 November 1950 the General Assembly adopted resolution 377A "Uniting for Peace". According to this resolution, in case of absence of consensus between five permanent members of the Security Council when it fails in exercising its primary responsibility for the maintenance of international peace and security, the General Assembly considers the issue immediately with appropriate recommendations to Member States for collective measures, including the use of armed force when it is necessary to maintain or restore international peace and security.

The previous mentioned attempt was unsuccessful. Generally, recommendations are statements without binding legal force. The takeover the power of the Security Council would be contrary to the Charter of the United Nations. Therefore, such action of the General Assembly was explained by the will to draw attention that in case of necessity the General Assembly could recommend to the Member States to take collective measures including the use of force. (Tomuschat 2011)

There is an opinion that the General Assembly resolution 377A contains a certain potential, which can dismantle the balance of power in the Organization of the United Nations. However such possibility has not been used yet. There is a point of view that the Member States of the General Assembly are too weak to oppose the Security Council decisions and anyway the General Assembly will need the support of at least one permanent member of the Security Council.(Tomuschat 2011)

So far as the attempt of the General Assembly to take responsibility for the peace and security failed and because of the increase of number of Member States it became too complicated for the General Assembly to gain the dominance. The countries once again turned to the articles of Charter which shared the power. As a result the number of the Security Council sessions has increase since the 1960s. Does it mean a certain stabilization of the role of the distribution of the roles between the General Assembly and the Security Council, or only a peaceful period in the existence of both

institutions, which may be changed considering the dynamic development of the organization, remains an open question. (Simma 2002)

Nowadays disputes become more intensive about the Article 24 of the Charter, which gives extensive rights to the Security Council and strengthens the dominance of Great Powers with a lower representation of the smaller countries. Such situation creates concerns amongst the smaller countries about interference of the Security Council in their internal affairs and updates the question of the need for reforms. (Simma 2002)

Kosovo crisis of 1999 has created a threat to the existing system. After the increase of human rights violations in Kosovo NATO made the decision to attack the Federal Republic of Yugoslavia (Serbia and Montenegro) without Security Council authorization. Such action could be recognized as the violation of the Charter of the United Nations, but the Security Council with certain cautions approved NATO actions *ex post facto* by its Resolution 1244 of 1999. (Cassese 2005)

The inability of the Security Council to make timely appropriate decisions in certain situations continues to promote the increase of the role of the General Assembly. Because of the veto right used by the Russian Federation the Security Council did not adopt the draft resolution, which urged countries not to recognize the results of the referendum in the Crimea. Previously the Russian Federation blocked the necessary decision which aimed to sop the systematic violation of human rights in Yugoslavia and expressed negative attitude to NATO humanitarian intervention in Kosovo. Despite such strong political attitude in Kosovo problem, the Russian Federation has changed its opinion in the case of Ukraine, by using the reference to humanitarian intervention for justification of the deployment of the Armed Forces in Crimea. (Lakimenko 2014).

The Russian Federation explained the annexation of the Crimea by the need to defend the ethnic Russian representatives from violations of human rights. The United Nations High Commissioner for Human Rights in its report of April 15, 2014 did not recognize any violation of human rights towards the ethnic Russian representatives in Ukraine, which could excuse the annexation.

The events in the Crimea and Sevastopol during the period of time from March 1 to March 21 2014 proved the existence of a well-planned military-political operation and successful use of the instability of the Ukrainian domestic political situation. As a result there was a rapid occupation of the Crimea and Sevastopol, blocking of the Ukrainian navy and military units, taking infrastructure under the control and organization of pseudo-referendum by changing its dates several times and as a result by giving little time for the possible expression of the public reaction (initially the date of referendum was set on May 25, then it was postponed to March 30, but the referendum was held on March 16). It is also worth to mention that the referendum was ensured by paramilitary gangs and

soldiers in uniform without recognition signs. This situation created the negative environment for the freedom of expression of will. (Lakimenko 2014)

In March 27 2014 the General Assembly adopted the resolution 68/262, in which Assembly affirmed sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders and called upon all the states, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the referendum and to refrain from any action or dealing that might be interpreted as recognizing any such an altered status. 193 countries participated in adoption of this resolution, 100 of them voted "for", 11 - "against" and 58 refrained. (UN News Centre 2014)

In December 19 2016 the General Assembly adopted the resolution 71/205 about situation of human rights in the Autonomous Republic of the Crimea and the city of Sevastopol (Ukraine), in which the General Assembly condemned the imposition of the legal system of the Russian Federation and the negative impact on the human rights situation in the Crimea.

The Security Council adopted 2 resolutions (UN Documents for Ukraine), concerning the conflict in Ukraine, which are not affected the situation in a clearly positive direction and the parties continue to accuse each other in the Minsk Agreements violations:

- in July 21 2014 the resolution 2166 (2014) was adopted concerning the Malaysia Airlines flight MH17 plane crash in July 17 2014 in Donetsk, in which the Security Council supported the efforts to establish a full, thorough and independent international investigation;
- in February 17 2015 the resolution 2202 (2015) was adopted concerning the Minsk Agreements, which provided certain obligations for the parties to the conflict.

Conclusions

The Article 108 and 109 of the Charter of the United Nations provides the possibility to amend the articles of the Charter, however this procedure is so complicated that it is difficult to foresee a successful result. There were suggestions to refuse from the *veto* right in the Security Council. Another suggestion offered to create a new Security Council, consisting from eight members who are renewable each four years. There are countries which nowadays are recognized as suitable for the permanent member position in the Security council - Germany, India, Japan and Brazil, although other countries are also willing to get in this list. Therefore a consensus on the issue of the structure of the Security Council has not been reached yet. (Shaw 2008)

Although according to the Article 24 of the Charter of the United Nations second in fulfillment of its duties the Security Council has to act in accordance with the purposes and principles of the United Nations, there will always be a risk that decisions will be based on the power and political aspects, revealing different interests, calculations and justifications that are

compatible with internal interests and desire to raise national power, influence and prestige. It can be difficult for the countries to come to agreement about punishment of a certain aggressor because of the respect to the previously established alliances with it and existing national and cultural affinity. The situations when an aggressor is sufficiently well armed and able to defend itself successfully from international forces must not be also excluded. The above mentions examples motivate national and international scholars to seek solutions for situations in which the number of victims of human rights violations excepted by a certain state is so numerous, that there is a need for immediate intervention for protections of civilians, but the Security Council is hesitant with making the appropriate decision. The same question is about appropriate behavior in the situations when the Security Council cannot make a decision but all peaceful dispute resolution methods have been already exhausted and were ineffective, or in situations where there is a conviction that the dispute escalation has reached such a high level that any delay could lead to the termination of the existence of a certain state. Such situations will threaten the authority of the Security Council, and not only focus attention to its passivity or failure to make a decision timely, but also will emphasize the unimportance of the Security Council decisions, because the authorization of the Security Council for the use of force will not be needed anymore.

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NATIONAL AND INTERNATIONAL ASPECTS OF THE RULE OF LAW INTERTEMPORAL APPLICABILITY

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Abstract

National and International Aspects of the Rule of Law Intertemporal Applicability

Key words: *Intertemporal applicability, rule of law power over time, acquired rights.*

Upon coming into effect of a rule of law has a forward, immediate effect or retroactive effect (*ex post facto*) indicating the effect of the rule of law over time. It has a crucial impact in the interpretation and practical application of the rule of law. Therefore it is important to study not only the law doctrine of Latvia and case law in the rule of law applicability process, but also to compare it with the international practice in the area of the law intertemporal applicability, taking into consideration the law doctrines of different countries and the case law of the European Court of Human Rights.

In the law system of Latvia, the rule of law intertemporal applicability is demonstrated within the framework of the private and public law. A rule of law takes an immediate effect in the public law, whereas in the private law it has a forward effect, without affecting the already acquired rights, taking into consideration that a legislator may identify exceptions from the general principle. In this respect, the intertemporal application of the rules of law in the social law area should be underlined, in cases on issuing a favourable administrative act. One of such exceptions refers to making the benefits defined in the social law. In the social law area, the change of the legal situation (amending or exclusion of a rule of law) does not affect the rights that the individual was enjoying at the moment when he/she was applying at a body for getting this benefit.

In the international aspect, different law sources accentuate the backward effect of a rule of law, especially in the area of the criminal law (public law).

Kopsavilkums

Tiesību normu intertemporālās piemērojamības nacionālie un starptautiskie aspekti

Atslēgvārdi: *intertemporālā piemērojamība, tiesību normas spēks laikā, iegūtās tiesības.*

Līdz ar tiesību normas stāšanos spēkā, tai piemīt uz priekšu vērsts spēks, tūlītējs spēks vai retroaktīvs spēks (*ex post facto*), kas norāda uz tiesību normas spēku laikā. Tam ir nozīmīga ietekme tiesību normu interpretācijā, praktiskajā tiesību normu piemērošanā. Tādēļ svarīgi izpētīt ne tikai Latvijas tiesību doktrīnu un judikatūru tiesību normu piemērojamības procesā, bet salīdzināt to ar starptautisko praksi tiesību intertemporālās piemērojamības jomā, ņemot vērā dažādu valstu tiesību doktrīnu un Eiropas Cilvēktiesību tiesas judikatūru.

Latvijas tiesību sistēmā tiesību normu intertemporālā piemērojamība izpaužas privāto un publisko tiesību ietvaros. Publiskajās tiesībās tiesību normai ir tūlītējs spēks, bet privātajās tiesībās tai piemīt turpmāk vērsts spēks, ar jau iegūtu tiesību neietekmēšanu, ņemot vērā, ka likumdevējs var noteikt izņēmumus no vispārējā principa. Šajā ziņā jāakcentē tiesību normu intertemporālā piemērošana sociālo tiesību jomā, lietās par labvēlīga administratīvā akta izdošanu. Viens no šādiem izņēmumiem attiecas uz sociālajās tiesībās noteikto labumu gūšanu. Sociālo tiesību jomā tiesiskās situācijas maiņa (tiesību normas grozīšana vai izslēgšana) neietekmē tiesības, kuras personai bija brīdī, kad viņa vēršas ar iesniegumu par šā labuma saņemšanu vērsās iestādē.

Starptautiskajā aspektā, dažādos tiesību avotos, vairāk tiek akcentēts tiesību normas atpakaļejošais spēks tieši krimināltiesību (publisko tiesību) nozarē.

Introduction

In the aspect of the rule of law interpretation and practical application, the rule of law validity period becomes essentially important. In the law system of Latvia, the rule of law application in terms of time is accentuated within the framework of the private and public law, when a rule of law has an immediate effect in the public law, whereas in the private law it has a forward effect, without affecting the already acquired rights, taking into consideration that a legislator may set exceptions from the general principle. Exceptions that can be especially set by a legislator in the legislation, transitional provisions or those that have already been envisaged in the effective rules of law are very important. These nuances within the framework of the national and international law,

intertemporal applicability process are significant for any law field study, law creation and court practice analysis.

The aim of the study was to examine the national and international aspects of the rule of law intertemporal applicability, by studying within the framework of the study not only the law doctrine of Latvia and case law in the rule of law applicability process, but also by comparing it with the international practice in the area of the law intertemporal applicability.

The following methods were used in the study: analysis – the rule of law application period was analysed from the national and international aspects, providing case law examples; descriptive method – intertemporal applicability of law in the public and private law was described, highlighting the exceptions in the criminal and social law area; comparative method – the rule of law application period was compared over different law areas, counties and legal systems.

Discussion

The rule of law efficiency period or the intertemporal applicability of a rule of law appears at the time of the rule of law validity; it can have a forward, immediate or retrospective effect. (Onževs 2011)

The application of a rule of law in terms of time includes the validity of the rule of law and its efficiency period. The validity period of a rule of law reflects the moment by which it is valid, the efficiency period, on its turn - which legal relationships (already implemented, existing, future) it is applicable to. (Onževs 2016: 25) This aspect is essential for understanding the law intertemporal applicability, whereas both the validity and efficiency mutually interacting create the notion on the rule of law application period.

The procedure stipulated in the Constitution of the Republic of Latvia and the Law On Official Publications and Legal Information stipulates the validity period of the rule of law. Only after the rule of law has become valid preconditions for the rule of law application emerge. It should be noted that in Latvia, after the moment of announcing the rule of law it can be appealed at the Constitutional Court. (Onževs 2016: 26, 30) It should be pointed out that, unlike the rule of law validity period, the rule of law efficiency period is a much wider concept. In order to identify it correctly, the rule of law content analysis should be carried out - which legal relationships it is applicable to - the ones that are already established or to be established. "It is required to establish the rule of law efficiency period in two cases: upon interpreting the rule of law during the application process, as well as upon assessing whether the rule of law should not be considered as anti-constitutional due to its efficiency period," M.Onževs notes. The legislator may set such efficiency period that is designated with a retrospective or immediate validity period. (Onževs 2016: 38, 39, 41)

By separating the rule of law adopted in the public and private law the efficiency period thereof is presumed. If a rule of law is adopted in the private law area, it should be considered as adopted with a forward efficiency - to the legal relationships established in the future. If amendments to the regulatory framework are adopted in the pubic law area, the rule of law should also be attributable to the already established legal relationships. (The Administrative Matter Department of the Senate of the Supreme Court of the Republic of Latvia Judgement of 16 May 2006 in Case No. SKA – 168)

Upon analysing the intertemporal applicability of the rule of law in the competition law (within the framework of the public law), the Supreme Court noted: "If a violation has been started during the validity period of a rule of law and continued and discontinued during the validity period of another rule of law, the wording of the law that was valid when the violation was completed - the most recent rule of law - shall be applied. The most recent rule of law shall be applicable disregarding whether it includes a more disadvantageous sanction than the previous rule of law." (The Administrative Matter Department of the Senate of the Supreme Court of the Republic of Latvia Judgement of 16 May 2006 in Case No. SKA – 168) As regards the rule of law regulating the public law, the principle of applying the rule of law from the moment it becomes valid, should be applied. In the public law, the new rule of law usually is applicable to the circumstances arising before and continuing after the new rule of law has become valid. (Kalniņš 2000)

Within the framework of the public law, a rule of law has an immediate effect, nevertheless influencing already acquired rights can be possible. This way it is possible to influence the already existing rights, i.e., the retrospective effect of the rule of law is present. It should be emphasised, that the retrospective effect of the rule of law only exists under special cases stipulated in the legislation. The Constitutional Court has recognised that a distinction is made between the so called true retrospective effect and the faux retrospective effect in the tax area (public law). The true retrospective effect concerns legal relationship that has already terminated prior the respective rule of law became valid, and the faux - ongoing legal relationship. (The Constitutional Court of the Republic of Latvia Judgement in Case No. 2010-25-01) The Administrative Regional Court Judgement in Case No. A420553910, where an official wanted to appeal against an already passed administrative act regarding granting a leave, is an interesting one. According to the wording of early 2009 of the Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration, a certain number of days of leave was envisaged for the official, yet due to the amendments to the Law made in April 2009, the number of the days of leave has been reduced. The individual expressed his willingness to use his leave in June, i.e., after the new rule of law became valid. The Court pointed out that the application should be rejected, as only the legislator could grant a

retrospective effect to the rule of law. The retrospective effect of a rule of law is an exception both in the private and public law, "following the principle *lex praeteritum non valit* ("the law does not apply to the previous")". The Court rejected the application as ungrounded. (The Administrative Regional Court of the Republic of Latvia Judgement in Case No. A420553910) The Supreme Court agreed to the Regional Court arguments regarding the retrospective effect of the rule of law, yet it revoked the Judgement and forwarded it for re-adjudication, as the Regional Court had not noted what was stated in the transitional provisions: "Upon being retired from service an official who has not used the leave of 40 calendar days that was stipulated until making the respective amendments, the number of the not used days of leave shall be calculated in proportion to the duration of the leave that was stipulated in the law in effect during the respective period. The Senate believes that if the legislator has envisaged such proportional definition of the not used leave duration in the case when an official is being retired, the leave to be granted for the year 2009 should be defined in the same way." (The Administrative Matter Department of the Senate of the Supreme Court of the Republic of Latvia Judgement in Case No. SKA –207/2012) This example illustrates the important role of the systemic interpretation method in the law application. The Supreme Court applied a rule of law that would be applicable to the retired official to the particular individual, who was an official still in service.

An exception from the principle, which is common in the public law, regarding the intertemporal applicability of law is present in the social law. As regards benefiting as provided for in the social law, the existing principle - that when deciding on issuing a favourable administrative act the rule of law in effect should be assessed - does not work completely. It is recognised that in the area of the social law, change of the legal situation (amending or ruling out a rule of law) does not affect the rights the individual was entitled to at the moment when he/she addressed the authority with an application for receiving the benefit (The Administrative Matter Department of the Senate of the Supreme Court of the Republic of Latvia Judgement in Case No. SKA-431/2007, Clause14, the Administrative Matter Department Judgement of 6 November 2009 in Case No. SKA-334/2009, Clause 11). That means that the Court should assess the applicant’s right to the respective benefit according to the rule of law and actual circumstances that were present when the individual initially addressed the authority with the application regarding receiving the requested benefit (status, allowance).

Such an approach follows not only from the rule of law intertemporal application aspects but also from the duty of promoting rights of natural persons – when adjudicating a case on its merits the authority has a duty to choose the legal solution that maximally protects and promotes the rights of the natural person (Briede 2013: 122), legal certainty. Public authorities should be consistent in their activity regarding the legislation passed by them and respect the legal certainty that the

individuals might develop according to a particular rule of law (The Constitutional Court Judgement of 12 June 2013 in Case No. 2012-21-01). At a certain degree, a similarity with the intertemporal law principle existing in the civil law, i.e., "the rights that have already been obtained shall remain intact", as follows from Section 3 of the Civil Law of the Republic of Latvia (Krons 1938:115), is found in the social law. Individuals acquire the right to apply for such social services that are available on the day of receiving the application. Unfortunately, the intertemporal aspects of the social law are not always respected in practice (the Administrative Regional Court Judgement in Case No. A420727310, the Administrative District Court Judgement in Case No. A420300413, the Administrative District Court Judgement in Case No. A420288613).

Authors believe that the intertemporal aspects of the social law are inseparably connected with the legal certainty. Disregarding the fact that certainty is directed towards the expected results in the future, it is based on the information regarding the past experience that is available to the population. Therefore certainty is experienced only in the case there is a ground for it, otherwise it is only a hope. At the same time, certainty has its limits. (Onževs 2016). In the social law, certainty plays an essential role not only as a legal but also as a psychological category. M.Onževs stressed that the legal certainty principle means protection against setting such efficiency period of the rule of law that adversely affects with a retrospective effect (in its widest meaning, also including the rule of law passed with an immediate effect) the rights that have existed in the past of the rule of law addressees or legal relationship of any other type. Nevertheless, the legal certainty scope might not affect the amendments to rule of law that are related with any changes of the existing relationship as regards the future, i.e., in no way affecting any rights that have existed in the past (Onževs 2013: 169).

In the private law, inadmissibility of influencing the acquired rights is emphasised. Upon adjudicating a case regarding the deadline for filing a claim on an insurance premium, in relation to the amendments to the Law on Compulsory Civil Liability Insurance of Owners of Motor Vehicles, the Supreme Court emphasized that shortening a limitation period for filing an indemnity claim statement is not attributable to the already existing civil law relationships that have been established prior to coming into effect of the amendments. (The Civil Matter Department of the Supreme Court of the Republic of Latvia Judgement in Case No. SKA – 141/2015) Also the European Court of Human Rights (hereinafter - the ECHR) recognised the absence of the retrospective effect of the Civil Law rule of law in its Judgement of 12 January 2017 in matter Kirins v. Latvia. Upon evaluation of the moral damage compensation possibility, referring to Section 1635 of the Civil Law that was only applicable from 1 March 2006, and the applicant had not made a reference to it in its claim, “the ECHR indicated that claims based on the grounds of that Section did not have any retrospective effect”. (The ECHR Judgment in matter Kirins v. Latvia).

In the procedural law, Latvia follows the principle that the rule of law that has existed at the moment of carrying out the particular procedural action should be applicable The new rule of law will be applicable to the actions in progress, as well. (Onževs 2016: 60) Transitional law is particularly important in the procedural law area. It fosters sequent transition of the rule of law in time and solves intertemporal conflicts thereof. (Rudevska 2007). Transitional provisions or a separate disclaimer on the rule of law application period in any legislation (both the procedural and material) facilitates application of the new rule of law not only in terms of the validity or efficiency period thereof but also in space and in relation to individuals. The legislator should define which legal relationships the respective rule of law influences, so that everybody in the proceedings would clearly understand the rule of law application in each particular case.

Criminal law should be distinguished as a separate law area in terms of the intertemporal availability. Section 5 of the Republic of Latvia Criminal Law stipulates the validity period of the criminal rule of law, indicating on applying the wording of the law that was in effect at the time of committing the offence, emphasizing the retrospective effect of the Criminal Law rules of law. "It applies to the offences committed prior to coming into effect of the respective law, as well as to the individual serving or having served one's time and retaining the conviction." The legislator has also indicated that "a law which recognises an offence as punishable, increases the punishment, or is otherwise disadvantageous to a person, does not have a retrospective effect", yet it should be emphasized that crimes against humanity, peace, war crimes, and genocide are punishable disregarding the time of committing such crimes. (Section 5 of the Criminal Law) It should be noted that the principles for the criminal rule of law application existing in Latvia are also exercised at the internal level: a criminal offence is qualified according to the law that was in effect at that moment, the more favourable rule of law has a retrospective effect, but the rule of law increasing the punishment does not have a retrospective effect. The international regulation of this principle is provided in the Universal Declaration of Human Rights (Article 11), the International Covenant on Civil and Political Rights (Article 15), and the Convention for the Protection of Human Rights and Fundamental Freedoms (Article 7).

The special regulation of the criminal law is reflected in the law systems of several countries. This especially applies to the Baltic States where a similar viewpoint on the application of the rule of law retrospective effect can be observed (Section 3 of the Lithuanian Criminal Code, Paragraph 5 of the Estonian Criminal Code). (Габдрахманов Ф.В. 2017) The Criminal Code of Lithuania also stipulates that no retrospective effect of a more favourable rule of law exists for genocide, internationally prohibited action against an individual, killing of such individuals or any inhumane actions against the individuals that are protected by the international humanitarian law, forced use of civilians or prisoners of war in the enemy's troops, and prohibited military attack. (Librisum

2017.) In the Judgement of 21 April, 1994, he Constitutional Court of Lithuania has recognised that the retrospective effect of the rule of law is an exception. In general, granting a retrospective effect of a rule of law has a negative effect on the individual's rights. (Елинский А.В. 2012) According to the Criminal Code of Estonia, crimes against humanity and war crimes are punished disregarding of the time they have been committed. (Librisum 2017.) Article 112-1 of the Criminal Code of the French Republic stipulates that the retrospective effect of a rule of law is prohibited, with the only exception of the rule of law being favourable to an individual; the principle is also stipulated at the constitutional level. (Criminal Code of the French Republic) The Criminal Code of Germany stipulates that a rule of law increasing the punishment does not have a retrospective effect, a rule of law mitigating the punishment (including a 'temporary' rule of law) – has a retrospective effect, a 'temporary' rule of law that has been adopted for a particular period of time is applicable to all criminal offences committed during the time it was in effect. (Расторопова О.В., Бараташвили Л.Н. 2016)

As a very interesting example can be provided a Judgement of Leicester Crown Court (1990) later followed by an appeal adjudicated at the House of Lords, reflecting the peculiarities of countries of the Anglo-Saxon legal systems and the crucial role of a leading case. Case R. v. R. within which framework a case law formulated in 1736 "The husband cannot be guilty of rape committed by himself upon his lawful wife" was cancelled. The Judge's rejection to take this principle into consideration was motivated by the fact that it reflected the law spirit of the year 1736 and this viewpoint should be adapted to the new social circumstances. The husband was plead guilty. Later on this case was also been adjudicated at the ECHR which also recognised the correctness of the previously adopted viewpoint complying with the Seventh Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. (Расторопова О.В., Бараташвили Л.Н. 2016) The above referred situation shows that not in all cases a rule of law more favourable for an individual automatically has a retrospective effect, even though it is corroborated in the international legislation.

Conclusions

In general, it can be concluded that the intertemporal applicability of a rule of law is important both for law application and case law, and interpretation of the rule of law. It is important to set exactly the efficiency period of the particular rule of law, as it may differ from the validity period of the rule of law. The rule of law application principles stipulated within the framework of the private and public law can only be exercised if the legislator has not provided for a different procedure. In the area of social law, it should be especially noted that change of the legal situation does not affect the rights the individual was entitled to at the moment when he/she addressed the authority with an application for receiving the benefit, taking into account the legal certainty principle. A separate

understanding on the rule of law application in time is present in the criminal law. International legislation and several national laws emphasize the retrospective effect of a more favourable rule of law and inadmissibility of the retrospective effect of a more disadvantageous rule of law. More extensive studies of the international intertemporal applicability of the law are required; allowing comparing the national and international case law practices, thus improving the law application quality in Latvia.

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CRIMINOLOGICAL CHARACTERISTIC OF AN EASTERN EUROPEAN FOOTBALL FAN PERSONALITY COMMITTING AN ADMINISTRATIVE AND/OR CRIMINAL OFFENSE

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Abstract

Criminological Characteristic of an Eastern European Football Fan Personality Committing an Administrative and/or Criminal Offense

Key words: *Criminology, football fans, ultras, football hooligans, subculture*

During the first days after the start of Euro 2016, the French authorities had been forced to realize that safety in the match cities was poor. As seen from the chronology of the summer events in 2016 (the Championship was from June 10 to July 10, 2016), the confrontation was both on the football field and outside of it, here are just a few examples (Visser 2016):

- Fights between English fans and the local community.
- English fans threw bottles at the bus with Russian fans. Later on, the English fans were attacked by Russian fans, as well as by the fans from other countries.
- A mass brawl between the fans from Poland and North Ireland.
- Offences and fights between fans of France, Turkey and Croatia.
- etc.

The issue of criminal acts of eastern European fans is still relevant even after the championships. For example, BBC showed a film in mid-February 2017 on how the fans from Russia threatened the English fans who were going to visit the Football World Cup in 2018 (Rumsby 2017).

In connection with the above, the author believes that it is necessary to understand the personality and motivation of a potential criminal in order to prevent a criminal act well in advance.

A survey was conducted to characterize the criminological personality of an eastern European football fan committing a crime or administrative offense. All the surveyed characteristics were divided into the following groups: Social and Demographic Data; Social Status; Moral and Psychological Qualities; Criminal and Legal Characteristics.

Anotācija

Austrumeiropas futbola līdzjutēja, kurš ir izdarījies noziedzīgu nodarījumu un/vai administratīvo pārkāpumu, kriminoloģiskais raksturojums

Atslēgvārdi: *Kriminoloģija, futbola fani, ultras, futbola huligāni, subkultūra*

Dažas dienas pēc Euro 2016 futbola sacensību sākuma, franču tiesībsargājošām iestādēm bija lemts apzināties, ka organizētie drošības pasākumi pilsētās, kur norisinās spēles, ir nepietiekami. Analizējot 2016.gada vasaras notikumus secināms, ka sadursmes konstatētas gan futbola spēļu laukumā, gan ārpus tā. Daži piemēri no pirmajām sacensību dienām (Euro 2016 norisinājās no 10.jūnija līdz 10.jūlijam)(Visser 2016):

- Masu nekārtības starp angļu līdzjutējiem un vietējiem iedzīvotājiem.
- Angļu radikālie līdzjutēji apmētāja ar pudelēm Krievijas līdzjutēju autobusu, līdz ar to kā atbildes reakcija sekoja Krievijas un citu līdzjutēju uzbrukumi Anglijas radikāliem līdzjutējiem.
- Īrijas un Polijas līdzjutēji iesaistījās masu kautiņā.
- Tiesību normu pārkāpumi un kautiņi starp Francijas, Turcijas un Horvātijas līdzjutējiem.

Ar Austrumeiropas līdzjutēju dalību izdarīto noziedzīgo nodarījumu un pārkāpumu problemātika nezaudē savu aktualitāti arī pēc sacensību noslēguma. Tā 2017.gada februārī telekanāls BBC parādīja filmu par Krievijas radikāliem līdzjutējiem, kuri apdraud Anglijas futbola līdzjutējus, plānojot apciemot 2018.gada pasaules čempionātu Anglijā (Rumsby 2017).

Ņemot vērā iepriekš minēto, autore uzskata, ka savlaicīgai noziedzīgā nodarījuma novēršanai nepieciešams skaidri izprast potenciālā noziedznieka personību un motivāciju.

Radikālā līdzjutēja, kurš izdarījis noziedzīgo nodarījumu vai administratīvo pārkāpumu, kriminoloģisko raksturīpašību noteikšanai autore veikusi aptauju. Aptaujas parametri sadalīti sekojošās grupās: sociāldemogrāfiskie dati; sociālais status; tikumiski-psiholoģiskās īpašības; kriminālatiesiskie aspekti.

Introduction

Topicality of the research: During the first days after the start of Euro 2016, the French authorities had been forced to realize that safety in the match cities was poor.

As seen from the chronology of the summer events in 2016 (the Championship was from June 10 to July 10, 2016), the confrontation was both on the football field and outside of it, here are just a few examples (Visser 2016):

1. June 10, 2016 – Fights between English fans and the local community.

2. June 11, 2016 – English fans threw bottles at the bus with Russian fans. Later on, the English fans were attacked by Russian fans, as well as by the fans from other countries.

The same day, in Nice, there was a mass brawl between the fans from Poland and North Ireland.

3. June 12, 2016 – There were offences and fights between fans of France, Turkey and Croatia.

In Lille, a few hours before the match between Ukraine and Germany, about 50 fans from Germany attacked the Ukrainian group on one of the squares.

The issue of criminal acts of eastern European fans is still relevant even after the championships. For example, BBC showed a film in mid-February 2017 on how the fans from Russia threatened the English fans who were going to visit the Football World Cup in 2018 (Rumsby 2017).

In connection with the above, the author believes that it is necessary to understand the personality and motivation of a potential criminal in order to prevent a criminal act well in advance.

A criminal's personality is an object of many researches. Scientists analyse a criminal's social and demographic characteristics, their family environment and lifestyle, their interests and needs, legal sense and self-esteem, ways of psychological defence and self-justification, and many other parameters related to their behaviour (Афанасьева, Гончарова 2016).

Within the framework of a sociological approach, criminology investigates the influence of social conditions of a given society on formation and expression of certain negative character traits that could result, together with many other factors, in a deviant or criminal behaviour. At that, it considers social roles and demographic characteristics of a criminal.

The emergence of new types of crime entails the necessity of more researches, a criminal's personality being one of their integral components. The urgency of preventing such crimes as those committed by football fans is also expressed by the fact that personal characteristics of such offenders has never yet been a scientists' gaze; there are just a few national studies abroad.

Aim of the research: To explore a criminological characterization of an Eastern European football fan committing an offense.

Tasks of the research:

- To identify personal qualities of Eastern European football fans who have committed crimes.
- To determine the causes and circumstances that affect the Eastern European football fan's criminal behaviour.

The methodology of the research:

- Method: Online polling survey
- Survey Period: November 2016 to February 2017
- Number of Respondents: 300
- Target Group: football fans who have committed an administrative or criminal offense.

The polled fans were divided into 2 groups depending on where the offense had been committed (Eastern or Western Europe). This paper considers the data for Eastern Europe. Such division makes it possible to conduct a comparative analysis of football fans' criminal characteristics, which can be really useful, as the way of development of the football fan subculture differs in the above regions and preventing crimes of this type in Eastern and Western Europe may require different measures.

Discussion

Scientific documents name a number of parameters of an offender's criminological assessment. In case of football fans, the most acceptable approach is the one classifying offender's qualities by the following groups (Афанасьева, Гончарова 2016):

1. Social and demographic factors (sex, age, education, etc.);
2. Social status;
3. Moral and psychological properties (legal consciousness level);
4. Legal factors.

Of course, it is difficult to say that the results of the study will point directly to any strictly defined tort-oriented patterns or personal characteristics. Still, summarized knowledge on law transgressors allows making more accurate predictions on these specific criminal dynamics and the extent of their influence on other social phenomena and processes; it also provides a scientific basis for crime fighting strategies.

The social and demographic factors of the offenders are: gender, age, education, family status.

Gender: mostly, men commit the crimes under consideration. Only 2.7% of the total respondents are women. Typically, females have committed offenses against the public order (hooliganism).

Here, the low criminal activity of women compared to men is due to biological and physiological factors (inability for group fights or other violent acts), as well as to the factors of

social order where a woman is not supposed to be aggressive; another factor is women's low interest in football and football matches.

Meanwhile, the content analysis of media and Internet communities allows talking about increasing intensity of young women's participation in informal youth organizations and associations in general (Toffoletti 2015).

Age: the character of a criminal largely depends on his/her age, as this are age peculiarities that result from social changes of personality.

When considering offenders' age, it is clear that criminal activity increases as a young person matures. The analysis shows that the most "criminal" age is 25 to 36.

Nevertheless, the results are quite unpredictable. For many years, described above offenses were committed by young group of people (Redhead 2009). For that reason, the author assumes there is a need of a separate discussion within scientific community on a subject: age related changes in this kind of subculture. There might be two types of reasons, why such changes occurred:

1. The young men are no longer interested in subculture of football fanaticism.
2. Only mature men are ready to disclose openly their committed offenses.

Education: characterising offenders' education is of great criminological significance since it is connected to characterising their culture, social status and contact circle, their life plans and ability to implement them (Miller 2009).

The level of education of football fans committing administrative and/or criminal offenses is as follows.

The largest share among those fans, who has committed an administrative or criminal offense are those with higher education and undergraduates (about 88%). This characteristic is directly depends on the previous group - age, as well as associated with the popularization of higher education in society in the 21st century. As for the other types of education levels, 8% of the respondents are with the secondary and junior secondary education and 4% are with the secondary vocational education.

Family status: many researchers confirm family's anti-crime influence on a person. As a social unit, the family is a stabilizing factor for an individual's social status and functions. However, not every family can create a healthy moral and psychological environment.

As the survey results show, most of fan offenders are single men and women (about 60%).

Criminological researches register the peculiarities of **social positions and roles of offenders** of all categories. A position occupied by an individual and its various duties often predetermine its personal qualities and impose a certain mark on them (Долгова 2001). Nearly 45% of the

respondents are hired workers, about 15% are students and other 40% are divided between civil servant, executives, workers or farmers and unemployed (about 10% for each group respectively).

The moral and psychological characteristics of the individual offender. This group of characteristics mainly reflects the attitude of a person with the rules of morality and law, way of life, needs, interests, and value orientation.

The results showed that Ultras or hooligans (about 45%) usually commit administrative or criminal offenses. The motivation of such illegal activity mainly is a trend policy or principles (about 60%). 24% of the respondents replied, they have personal reason for such illegal action and only 7% mentioned alcohol as a motive.

The alcohol (except the beer) or drugs mostly are not used in football fan subculture, as sports in general are an interest of the respondents.

Once the crime is committed, the attitude of a guilty person towards it may vary; the personal assessment of what has been done and the feelings experienced in doing so may indicate a degree of criminal incidence.

The study of personality traits of football fan offenders shows that only about 10% of such offenders feel remorse. Most of the perpetrators would commit the offense again (nearly half of the respondents – 46%).

Legal characteristics. First of all, one shall pay attention to such criminal legal description of the offender as a type of the offences committed. The results show, that about 83% of the respondents committed a criminal offense. Secondly, the criminal records shall be analysed. The reason, why nearly 50% of the respondents do not have remorse and would commit the offense again, is mainly because of the lack of a criminal record. About 86% of the respondents that committed criminal or administrative offence do not have a criminal record for their illegal acts. Moreover, about 83% are aware of the responsibility (punishment) for the offences committed before, after or during a match.

Offences are committed both in the group by prior conspiracy or without and individually. For that reason, the prevention of such crimes should be directed at both the individual and the group of individuals.

Therefore, as the experience has shown, the impunity of a group committing various offenses for a long time results in such a group acquiring more clear traits of organization with every new crime, which may be expressed as a relatively fixed hierarchy of criminal roles.

Conclusions

Based on the above, the conclusions can be as follows. The vast majority of football fans committing an administrative or criminal offense are employed single men in the age of 25 to 36 with higher education and no criminal record. They have habits, inclinations and stable stereotypes

of antisocial behaviour. Few of them commit offenses accidentally. For the rest, the following is typical:

- constant display of disregard for the behaviour standards;
- following negative customs and traditions of fan subculture encouraging hostility between the fan factions;
- provocative acts towards law enforcement bodies;
- potential readiness to commit unlawful acts before, during or after a football match.

The identified peculiarities of football fan offenders allow distinguishing groups that require early and direct preventive actions, as well as special monitoring, because of high risk of crimes being committed by their members. In addition, this, in its turn, allows more accurate identification of the objects of preventive actions and differentiation of the work on offenses prevention.

Open questions:

- A comparative historical analysis of the subculture is required, since it has been considered a youth subculture for a long time.

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THE INTERACTION BETWEEN ROMAN LAW AND CANON LAW

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Abstract
Key words: *Church property; canons; Roman law; Carolingians; Episcopalis Audientia; the established church; Justinian; codification; imperial regulations*
Canon law as the regulatory instrument of the established church, which turned the latter into an institutional body, manifested itself at the same time by becoming a bridge between the state (within the meaning then current) and religious communities (the society within the meaning then current), where the representatives of these two dimensions – both those of the spiritual dimension and those of the secular one, came to have, as if compulsorily, such legal relations between themselves; thus the administrative church became thoroughly comparable to modern state institutions within their material and existential meaning or, in other words, existed in a state of self-reproduction and legal development and within the framework of self-justification.
This aim, according to the political and dogmatic scheme then existing, resulted in the creation of a body of administrative law as the first legal manifestation of this kind known in Western Europe, a body which was at the same time a common denominator or a recipe for ensuring strong management by combining mundane things with spiritual ones without discriminating between them and by replacing intangible, incomprehensible things with Christian values but in particular with a discipline based on strict regulations.
This 'aim' did not consist only of the social and legal status and of the Christian rights, and in particular the cult of the rights of 'the dead', or issues of future rights, which has always been a topical issue in all political systems, and indicative manifestations of religion that followed suit, including among the Christian community and, at the same time, among all the nationals of the Roman Empire of that time. The church had to become a thing that was necessary for practical purposes, accessible and, at the same time, a thing required in order to be able to provide every resident of the Roman Empire with the required and appropriate presentation of rights or reception of canon law and Roman law that would meet their daily needs. The church of rights did not include just places of worship, such as churches, monasteries, hospitals and orphanages, but also secular administrative institutions. The interaction between them and the interaction between Roman law and canon law is set out in this paper below.

Kopsavilkums
Kanonisko tiesību izpausme, kā valsts baznīcas regulējošais instruments, kas to padarīja par institucionālu iestādi, vienlaicīgi kļuva kā tilts starp valsti (tā laika izpratnē) un reliģisko kopienu (sabiedrību tā laika izpratnē), kuras izmantotāji abas šo divu – garīgo un laicīgo dimensiju pārstāvji, nonāca it kā piespiedu kārtā šādās tiesiskās attiecībās, tādā veidā administratīvā baznīca bija salīdzināma caur caurēm ar modernām valsts iestādēm to materiāli eksistenciālā izpratnē jeb, citiem vārdiem sakot, atradās sevis pašas atražošanas un juridiskās pilnveides stāvoklī, kā arī sevis attaisnošanas ietvarā. Mērķis, tā laika politiski dogmatiskā uzstādījumā, radīja administratīvo tiesību iestādi, kā pirmo Rietumeiropā zināmo šādu juridisku izpausmi, iestādi, kas bija vienlaicīgi kopsaucējs vai recepte kā panākt stipru vadību bez izšķirības apvienojot pasaulīgo ar garīgo, netveramo, neizprotamo aizstājot ar kristīgām vērtībām, bet it sevišķi stingru normatīvu disciplīnu. "Mērķis" nesastāvēja tikai no sociāli tiesiskā statusa un kristīgo un it sevišķi "mirušo" tiesību kulta jeb nākotnes tiesību problemātikas, kas vienmēr ir bijis aktuāls visās politiskās iekārtās un tām sekojošām reliģijas indikatīvām izpausmēm, to starp kristīgās kopienas un vienlaikus visu tā laika Romas impērijas pavalstnieku vidū. Baznīcai bija jākļūst par praktiski vajadzīgu, pieejamu un vienlaicīgi arī nepieciešamu, lai spētu nodrošināt katram Romas impērijas iedzīvotājam ikdienas vajadzībām atbilstošu tā vēlmēm nepieciešamu un pienācīgu tiesību izklāstu jeb kanonisko tiesību un Romiešu tiesību recepciju. Pie tiesību baznīcas nepiederēja tikai kulta celtnes, kā: baznīcas, klosteri, slimnīcas, hospitāļi un bāreņu nami, bet arī laicīgās administratīvās iestādes, to mijiedarbība un Romiešu un kanonisko tiesību mijiedarbība būs izklāstīta tālāk rakstā.

Purpose

The work is looking for a summary and distinction that defines the relationship between Roman and canon law. Its main purpose is to provide an insight into a wider range of research questions on issues of the history of law, which would include both new insights and already known and widespread lessons learned from the broader legal circle. The second part of the work

and its task is to raise the issue of canonical rights by their nature, as a separate group of rights, along with already "dead" Roman law. When analyzing Roman law, it is bound to look at their contribution to the rest of the rights of continental Europe over the centuries. However, the work is about the early age of the canonical and Roman law in particular to determine whether there are common features with each other and, if so, how relevant and jurisprudential as a whole it could be. Of course, one must definitely distinguish the most important lessons of Roman and canon law, all of which, among other things, will be in Latin law. Emphasizing the most necessary and important features of the law in the early European law in the first millennium of our era would be highlighted.

Discussion

The author's work analyzes the main peculiarities in the context of the legal method of comparing the normative nature of both the canonical and Roman, and, finally, Justinian law, and its impact on the oldest reflection of the still existing Roman law - canon law. Are they indeterminable and, if they are separable, then to what extent are they the other Roman rights? Are their roots also found in traditions and customs, as well as in cultural modeling? How far does the well-known and described Roman law go, in spite of its cultural-historical peculiarities, the less considered canonical rights. Undoubtedly, from the point of view of national law, it also arises, and it shows the different types of constitutional features of national law in both these groups of rights. This also raises the question of the compatibility and opposition of these rights to each other, as in some sense a completely different place, but at the same time, the place where the rights are created.

Methods and materials

In the work, the research is mostly carried out using the historical method of linking it with other sources and reviewing the available materials. The sources of the methods can include the application of comparative and content diverse and rich legal goals as well as axiological methods. Work also requires that methods be presented in a diverse and diverse way in order to highlight legal issues as much as possible. Thus, the main methodology used in the historical approach also does not miss the fact about the interpretation, value and concept of jurisprudence from a practical point of view, contemporary and current. There is also an overview of various interpolar disciplines with the help of logical schemes for the application of legal methods. It will even carry out a study on how to perceive, test and assess the actual facts of legal methods, reflecting a structured analysis of specific Roman and canonical rights. Therefore, taking into account the available literature, mostly foreign, the work is devoted to the formation of legally significant and insignificant circumstances in both landfills, with a view to the Roman and canonical rights groups here. The work also involves the technical application of sub-methods to bring out the nuances of techniques written for Roman and canonical rights.

Aim

The paper will clearly demonstrate how issues relating to church life were regulated in the light of law, according to the interpretation of the ancient canon law, with references made to Roman law then still in place. It will show how cases of adulterous priests, heretics, troublemakers, sinful nuns were handled. Church officials had to formulate certificates of positions. During the first years of the established church, the issue of what to do with state spies among parishioners, whose names had remained secret up to then but which had become known from acts of the Empire which had become accessible, had to be dealt with. The church increasingly adopted the form of the contemporary rights of the Empire and of the worldly church and remained safe from the permanent threats of splitting apart which could come from unconnected provincial churches, and it is the problematic situations related to these rights that this paper is devoted to.

Introduction

Unlike the regulations laid down by Roman law, the church was entrusted, in accordance with its sermons, with relevant charity tasks, especially with taking care of the sick and the poor. The helpless and those deprived of rights were to find the solution for their problems, according to the instructions given by the church, in the bodies of the church itself rather than within the secular authorities of the worldly power, and these people are then the subjects of the regulations of canon law. These people were widows and orphans, prisoners, persons persecuted for various reasons, minors and the mentally ill, children whose parents threatened to sell them into slavery or to a brothel, the old and those yet unborn. The church therefore took over the relevant public functions, such as price control and consumer protection. The church did not have only the role of a tolerated guardian in these legal issues; the church also had strong rights within the country as well as property at its disposal which was required to perform its tasks, the management of which, in turn, required finding a legal framework within Roman law. The rest of this study will point to such points of contact between canon law and Roman law.

Administrative church and canon law

Taxes and sizeable donations significantly contributed to the economic property of the church. On these grounds, a special emphasis was placed on the rights of citizens to express their last will at the church. Relatives which were not supported by the church were deprived of the right of appeal regarding the last will. On the other hand, the church had to keep accurate accounts of its income:

Upon receipt by a venerable bishop of an amount left by the will of Christ, a protocol had to be drawn up, stating the amount and the time of receipt, which was to be produced to the government of the province as soon as possible... (Cod. I 3.28 §2)

The state managed the property of its church as a whole. Therefore the church was not entitled to dispose of its key capital at its sole discretion. It was already in Roman law that the property of

temples was removed from market circulation according to '*res extra commercium*'(a thing outside commerce in Latin). (Oxford, 2011:75) The Christian Empire and the church itself strictly adhered to this basic law. Any key assets that the church had once obtained were not to be sold anymore: 'S*o it be then determined that whatever belongs to the property of the Holy Church or will be acquired in the future shall be kept … with reverence as untouchable: since the Church is the eternal mother of faith and truth, its property will then be kept inviolable perpetually as well*.' (Cod. I 2.14)

This manifest idea has its dark sides. The needs of the politically influential increased over the hundreds of years alongside the growing wealth of the church. Expropriation of church property is not a rare phenomenon in Western history and particularly in connection with the application of the rules of Roman law. Carolingians benefited from the main assets of the church using them to cover the needs of infertile lieges; citizens in medieval towns fought with monks over the estates of monasteries. Laws were passed, at the level of the Constitution, at the time of Lutheran reform as well as during the French Revolution regarding the expropriation of large monastic properties. (Henrich 1957: 190) The material benefits brought by the political success of the Reformation and the French Revolution and the substantial input, without which the national formations of the modern times and their territorial size cannot be imagined, cannot be explained without taking into account the former prohibition under Roman law to sell the property of the church.

The church would not have become either the established church or the church of rights if it had not sought greater legal autonomy. The most successful state body of the ancient church under Western law was its court of rights or the bishop's court (*episcopalis audientia*). (Hartmann 2016: 201) The established ecclesiastical court too had traditions and the legacy of the imperial court jurisprudence. Roman law was originally managed by priests, clergy and laity, while Roman lawyers took pride in calling themselves 'the priests of justice.' (Witte: 10) Thus, based on theological grounds, the christianization of worldly rights took place concurrently with the recognition of the rule of law within the church. A step was made towards Roman traditions in this connection and the practice of perceiving them through thinking in Biblical terms was started. Apostle Paul had forbidden the members of his community to follow secular laws in disputes within the church. Many bishops of the established church spread the rights of the ecclesiastical court over the entire body of citizens. Since all persons were Christians in terms of rights, they had to obey the bishop's court in line with the church doctrine. (Khiok-khng (K.K.) 2004: 53)

Judges appointed by bishops and the secular court clashed with these claims. The Justinian Code contained an extensive article devoted to *episcopalis audientia*. But it was not yet determined whether and to what length the ecclesiastical court would crowd out the secular one and the extent to which these courts would compete with each other. (Hartmann 2016: 201) Emperor Constantine was still liberal in this field but his followers restricted the bishop's court again. The church was

prohibited from setting lawbreakers free from secular courts. The jurisdiction to which secular citizens were subject was not to be a matter of the church in any way. (Cod. I 1.4). In disputes over civil rights a bishop merely had to act as the conciliator of both parties, too. '*Where the parties had agreed to refer their dispute to a bishop, they were allowed to so... but they could do this only in disputes over civil rights and only in cases where the bishop accepted the position voluntarily and as an arbitrator...*' (Cod. I 4 7)

On the other hand, a bishop as a supervisor of national virtues had the task to take care, because of his position and in respect of the spiritual heritage, of prisoners, minors, widows and other parts of the society that were socially difficult to supervise. The extent to which they were subject to jurisdiction and the judicial form itself had to remain separated from the secular court. This was promoted on condition that the theologically educated ones (bishops) were admitted to ecclesiastical courts as judges. This ordinance (Cod. I, 4.15) could have been favourable for theologians-lawyers of the church. They used the ecclesiastical court to continually confirm theological foundations of their own and at the same time to show themselves as playing on a level field in competition with professional lawyers of the secular court. The Western Roman Empire had long ceased to exist in terms of law when the church created an order of law in its ecclesiastical court which stood above the secular rights.

The freedom from taxes was an important privilege of the church. The church held the monopoly in teaching religious affairs. Another privilege was also the recognition of the special legal status before the Pope and his seat in Rome as well as all other servants of the church. (Honore, 1993: 230) The right to become guardians could not be imposed on them. These and other advantages were used by clerics of the antique world to attract secular officers. The emperor had to speak on the subject of civil servants not being allowed to work or act as clerics: '*We want no public officials to take up the post of a bishop or priest alongside their positions...*' (Cod. I 3.53)

Clerical activities had to be kept separated from secular public service. Although the emperor maintained a relevant system of governance, such prohibitions could not curb the attraction and impact of the servants of the church for long. The worldly addition contributed to the improvement in the quality of the church staff. Professional knowledge that exceeded the care for soul was required in the service of the church as well. (Pharr 1952: 84)

The service of mercy instituted by Jesus Christ in the church was turned into an administrative apparatus with the right of intercession by the church: '*The judge-bishop necessarily had to order that prisoners be brought to him on Sundays, had to hear them personally, question them to make sure that the robust prison staff did not torture the prisoners inhumanely. If the prisoners lacked food, the bishop had to take care of it and additionally give 2 to 3 coins of money, as he thought fit, from the property of the church to every one of them a day to aid the poor in their*

poverty by means of these expenses; in any event, arrangements had to be made so that prisoners could wash themselves, subject to ensuring appropriate supervision' (Cod. I 4.9)

Intercession, mediation by the church was also provided for in the laws concerning church asylums. (RDM 1999: 14) Those persecuted by enemies, especially believers, who managed to escape inside the church were safe. It was an old right which was supervised and further improved by the church. This resulted in difficulties of a practical nature. Once homeless persons who had been rescued threatened to take over the ruling over the church house, they even dared to raise demands to priests and hindered them in the management of the church affairs. Therefore the emperor extended the scope of the shelter to the entire land of the church. The church was capable of freeing itself from the seekers of asylum: '*The temples of the Supreme God must be open for the persecuted, and it is not only the altar and the interior of the church and whatever is enclosed by four walls that must grant them an asylum, but a place for the refugees to escape to must be found, up to the external borders of the plot of land of the church, so that everything that is situated between the church itself and next to its passages – which may be apartments, houses, gardens, washing rooms and aisles between columns – would protect a refugee as if he were inside a room in the church*.' (Cod. I 4.9)

As a state body, the church was supervised by the emperor. This is witnessed in particular in the imperial discipline of its servants. It was not always that they had a good honour or dignity. Moral wretchedness appeared even in the midst of bishops. Thus the emperor himself had to take care of the dignity of the church staff. The country lived on the prayers of priests and, accordingly, in line with their perfect lifestyle. Worldly driving forces and passions of the church servants threatened the Empire. According to the foundations of law, they had to be examples of virtue for the nation, and they were supposed to stay that way for all their lives. The emperor made accusations '*... that some of the highly reputable deacons and priests and also some bishops loved by God do not avoid playing dice between themselves and in this way they indulge in an improper game which is often forbidden for laymen too*..." (Cod. I 4.33). Bans had to be imposed on church servants repeatedly and impressively in respect of attending horse races, going to the theatre and attending animal fights. These provisions resulted in frequent conflicts which were a bad example, especially for young priests.

Officials of lower ranks, secular and church officials had to observe a strict discipline and certain moral flaws could be ignored now and then, whereas those on higher levels within the hierarchy had to comply with even stricter procedures. Care had to be taken to ensure that the post of a bishop did not get in the wrong hands. Here the church experienced strained relationships between the will of the community and the interests of the state and the church hierarchy. The Bible testifies that in electing a bishop, the consensus of the ecclesiastical people served as the evidence

of the impact of the Holy Spirit. In response to this the church had to stress that the church elite and ecclesiastical people should agree on a single nomination for the bishop's post. It was specifically emphasised where it was the case, e.g. in the case of *vita* Adalberon (the Bishop of Würzburg): '*The neighbouring bishops, all the diocesan prelates, rulers and noblemen, district patrons, tribunes and nobility, the clergy and commoners, people of all ages and genders, from the smallest to the tallest, all shouted as one, in a unanimous consent, inspired by the common will, that Adalberon be the most dignified candidate for the bishop's post'* (c.5, MGH SS XII, S. 131). The consensus regarding the election of the bishop was an imitation of a Biblical model turned into law. But there was no consensus every time.

According to the view of the Christian church based on its key norms, the voice of the people was by no means the voice of God. Additional solutions were needed in cases of lack of unanimity. The Holy Spirit needed to enter law after the bishop had exercised worldly power. Although it could as well have happened in the same way as in the case of Saint Martin of Tours (316– 397 A.D.); the nation had a better sense and the College of Bishops was forced to accept not so pleasing a man who was to become a national saint later on. (Barrow 2015: 291-293) But it was not the law. Confronted with the choice between the popular opinion and the experience of the established church, Roman emperors and the church decided against the popular feeling and in favour of the hierarchical experience.

In 535, Emperor Justinian issued a long law concerning the election of bishops and the exercise of the functions of the bishop's post (Nov.6). Care had to be taken already during the process of designation of a candidate. The candidate had to produce a flawless resume (CV). To make sure that no criminal could enter the office, representatives of the people had to be queried about any possible objections prior to the ordination. This involved producing evidence. If those who objected had no evidence of a punishable act on the part of the candidate, then the person who raised objections could be punished.

The candidate could not come from the public service but he was required to have a long record of service in the clergy. He was not allowed to enter the bishop's office as a layman and to make his way through the church hierarchy in too short a period of time. The road to posts in the church was a filter of values. The candidate also had to be unmarried, and if he was a widower, he was allowed to marry only one virgin and not a widow or a divorcee; it was stressed particularly that the candidate was in no case allowed to have a civil wife. Similarly, the candidate was not allowed to have any offspring. The church post was not inheritable. (Barrow 2015: 294-295)

Celibacy was a good protection for the church from the succession of officers despite the unrest of the age. A candidate to the bishop's post was required to have a serious knowledge of the church doctrine and attention was paid to ensure that the candidate did not enter the office through

the use of money or thanks to large gifts. The emperor stressed the obligation of the bishop to act as resident. The bishop had to stay together with his parish and was not allowed to be absent from his place of office for more than a year. He had to report to his patriarch before going to the city. The bishop was not allowed to request an audience with the emperor in the city by himself.

The bishop's post served as a model for all priests. Whatever the emperor requested for this office was binding upon every priest. The church could not consecrate too many priests. The needs of the church, rather than a free market of the position, determined – just like in the worldly public service – appointments, promotions, and basic supplies. In the church, the rights of officials of the antique world survived the centuries of the Middle Ages. The antique rights of officials may be used as an example for the modern state in the new era by comparing them to Roman law.

Discussion

The synod, council was the opposite of individual bishops of the church. It was a place of gathering for bishops for discussions, decision-making and issue of laws at different levels of government of the Empire. The synod was a place where formulas for the future and laws for ecclesiastical provinces and for the worldly church were produced, particularly in times of structural changes. Even Emperor Constantine the Great (who retrained the right of making the final decision or granting approval in all matters) left the dogmatic legal entity of the church at the discretion of the synod. (Schaff, Wallace 2007: 451)

Conclusions

The agreement between the emperor and the Pope as the supreme powers was not enough to solve these tasks. The unity of the church also relied on the unity of its bishops. Although this unity could be achieved by making lots of efforts and compromises, synods remained next to the Pope and the post of bishops as an indispensable basis for the constitution of the church. Therefore, the history of the church shows the repeated shifting of the internal power of the church from the Pope to councils and back to the Holy See again. Differing views and the aims of the church policy were further shaped and developed in such bipartite negotiations for hundreds of years. The dispute could not be settled hastily by what would seem to be the last word of either party. Where the Pope thought that he had definitely made up his mind, proposals of the council were presented in the final instance in return. Where the council thought to have given the final answer, the papal administration could still make practical changes. The first big surge of such councils took place in the 4th century A.D.: the Council of Elvira from 304 to 306, the Synod of Rome in 313, the Synod of Arles in 314, the Synod of Ancyra, the Synod of Neocaesarea and the Empire Council of Nicaea in 325. (Schaff., Wallace 2007: 451) New law-making parliaments of the imperial church and ecclesiastical provinces followed thereafter.

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THEORETICAL AND PRACTICAL ASPECTS OF DACTYLOSCOPIC AND BIOLOGICAL RESEARCH OF PAPILLAE PATTERN PRINTS

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Abstract

Theoretical and Practical Aspects of Dactyloscopic and Biological Research of Papillae Pattern Prints

Key words: *human skin, dactyloscopy, biology, identification, succession*

Depending on the type of traces left on the incident scene it is possible to use dactyloscopic, biological, trasological and odorological research methods for identifying a person. Speaking about papillae pattern prints, the dactyloscopic and biological research methods are the prevailing ones. However, in practice it is not always easy to make a decision on the choice of the method for person identification to be used. That is why the aim of the author's article is to research the possibilities of dactyloscopic and biological research methods used for person identification by simulating different situations. The following objectives were set to achieve the aim: to collect and analyse the experience of foreign scientists and results of a series of experiments of application of dactyloscopic and biological research methods on a human skin; to identify and study advantages of application of these both methods and their risk factors; examine and analyse the succession of application of dactyloscopic and biological research methods. In the result of research the author draws the conclusions and makes proposals about possibilities of application of dactyloscopic and biological research methods on human skin for person identification.

Kopsavilkums

Papillārlīniju rakstu pēdu daktiloskopiskās un bioloģiskās izpētes teorētiskie un praktiskie aspekti

Atslēgvārdi: *cilvēka āda, daktiloskopija, bioloģija, identifikācija, pēctecība*

Atkarībā no notikuma vietā atstāto pēdu veida personas identifikācijai var izmantot daktiloskopiskās, bioloģiskās, trasoloģiskās un odoroloģiskās izpētes metodes. Ja runa ir par papillārlīniju rakstu pēdām, tad dominējošās ir daktiloskopiskās un bioloģiskās izpētes metodes. Tomēr praksē ne vienmēr ir tik vienkārši pieņemt lēmumu par personas identifikācijai pielietojamās metodes izvēli. Tāpēc autores raksta mērķis ir izpētīt personas identifikācijai pielietojamo daktiloskopiskās un bioloģiskās izpētes metodes iespējas, modelējot dažāda veida situācijas. Mērķa sasniegšanai tika izvirzīti sekojoši uzdevumi: apkopot un izanalizēt ārzemju pētnieku pieredzi un eksperimentālo sēriju rezultātus daktiloskopiskās un bioloģiskās izpētes metodes pielietojumā uz cilvēka ādas; apzināt un izpētīt abu izpētes metožu pielietošanas priekšrocības un apzināt to pielietošanas riska faktorus; izpētīt un izanalizēt daktiloskopiskās un bioloģiskās izpētes metožu pielietošanas pēctecību. Pētījuma rezultātā autore izdara secinājumus un sniedz savus priekšlikumus par personas identifikācijai pielietojamo daktiloskopisko un bioloģisko izpētes metožu pielietošanas iespējām uz cilvēka ādas.

Introduction

The identification of persons involved in a criminal offence is one of the most important tasks in the detection of criminal offences.Depending on the type of traces left or seized on the incident scene it is possible to use trasological, odorological, dactyloscopic and biological research methods for identifying a person. Trasological research method is used in the cases when homoscopic (human) traces are left on the incident scene (Šuruhnovs 2008: 52) (Karlovs 2011: 146), for example, traces that are left by human ears, teeth, lips and other parts of the body. Of course, human handprints and footprints also belong to this group, but in the case there is the papillae pattern reflected in the trace left, then dactyloscopic research method is going to be used for identification of a person. Odorological research method is used for person identification in the cases when human scent traces are left or seized on the incident scene. Whereas, biological research method is used for person identification if biological traces, for example, sweat, blood, saliva and other

biological material, are left or seized on the crime scene. Papillae pattern print forming sweat-grease substance and sweat-grease substance left by human body parts are also included in this group, the same as saliva of teeth. However, as it has been mentioned before, there are human traces which can be examined by applying only one research method, for example, human scent traces, but there are traces, for example, papillae pattern prints, which can be examined by many research methods depending on the situation or necessity. In practice, however, it is not so easy to make a decision about the choice of a method for person identification, especially at the initial research stage. That is why the aim of the author's article is to examine the research possibilities used for person identification of papillae pattern prints and their forming sweat-grease substances and the succession of the methods applied. The following objectives were set to achieve the aim of the article: to collect and analyse the experience of foreign scientists and the results of a series of experiments of application of dactyloscopic and biological research methods on a human skin; to identify and study advantages of application of both methods and their risk factors; examine and analyse the succession of application of dactyloscopic and biological research methods.

Methods and materials

Analysis of scientific literature and of the results of former researches. The following theoretical research methods were used in the article: historical method, comparative method, modelling.

Discussion

Papillae pattern prints are very unique because they can be left on different objects and surfaces on the crime scene, for example, on a human skin, and these prints can be examined by different methods with the aim to identify a person who has left them.This is possible because three objects such as print forming object (papillae lines), print receiving object, for example, human skin, and print forming substance (sweat-grease substance), are taking part in the print forming process (Granovskis 1965: 15). The print forming object (papillae lines) and the print forming substance (sweat-grease substance) namely allow to research papillae pattern prints by applying different research methods.

In 2002 in the journal „Archive for Criminology" (Archiv für Kriminologie) researchers Otmar Lenertz (Otmar Lenertz), Silke Schoenborn (Silke Schönborn) and Michael Bonert (Michael Bohnert) described a series of experiments „Dactyloscopic Prints on Human Skin" which was carried out from April 2000 to May 2001.

During the experiment experimental papillae pattern prints were left on 10 male and 10 female corpses. The age of corpses was from three months to 86 years and the post-mortem time varied from six hours to four days. In the case a corpse had been put in the cold storage room before, then before the starting the experiment, it was left on a tray at least for one hour. Papillae

pattern prints were left, as far as possible, on dry, smooth, undamaged skin surfaces. Experimental papillae pattern prints were left by sweat-grease substance presenting on the hands and by additional sweat-grease substance, which was got by rubbing the forehead or the back of the neck with the hands, as well as by putting the hand cream on the hands and waiting until the cream soaked into the skin. The pressure force of leaving the traces was not measured, but was marked as light, middle or strong. The grip was imitated on the extremities; they were partly lifted or pulled. From the placement of the experimental papillae pattern prints to their search corpses were left in the space with the room temperature or in the low-temperature chamber. Taking into consideration that at least more than 12 hours had to be to the moment of the search of prints, prints were put yesterday afternoon and were researched the next day. If corpses were put in the low-temperature chamber, then before the search of the prints one had to wait at least for one hour till condensate water on the body dried (Lenertz, Schönborn, Bohnert 2002: 131).

Visualizing the papillae pattern prints by using the black magnetic powder and magnetic brush, the prints were often reflected as black stains where papillae pattern print was not visible, but by careful cleaning of them by Marabu brush it was possible to get visible papillae pattern prints in the prints already visualized. Transferring the visualized papillae pattern prints to the dactyloscopic foil it was established that in the moment of its transferring the hair-covering of the skin presses into the print and papillae lines get interrupted. Working with dactyloscopic foil it was also stated that the print had to be transferred several times because in such way it was cleaned from excessive powder. Transferring the print to ISOMARK casting material it was noted that preparing and putting of it makes the process difficult, but as the transfer material ISOMARK casting material appeared to be a very good one because it can be used on the skin with hair-covering. It adopts well to unsmooth surfaces, the skin structure reflects very strong, but one should take into consideration that the skin hair-covering will be pulled out because it will remain on the casting material (Lenertz, Schönborn, Bohnert 2002).

Altogether 486 experimental fingerprints were left during the experiment. 150 papillae pattern prints could be visualized from the prints left on 16 corpses. 59 of them were recognized as suitable for person identification. During the experiment it was found out that papillae pattern prints reflected best when they were left several hours after death and on the extremities, not on the body or the neck. It was also acknowledged that it was not possible to visualize papillae pattern prints left by sweat-grease substance present on fingers and palms, but the visualisation of prints was successful if papillae pattern prints were left by sweat-grease substances from other parts of the body, as well as by hand cream. The results of research carried out allowed concluding that fixation of dactyloscopic prints on a corpse is competing with fixation of other prints, for example, DNA (Lenertz, Schönborn, Bohnert 2002: 133).

Further we are going to analyze the results of the final report of the project AGIS JLS/2006/AGIS/042(30-CE-0080807/00-07) "Latent fingerprints and DNA on human skin".

The project „Latent fingerprints and DNA on human skin" was carried out between November 2006 and November 2008. The project partners were Denmark, the United Kingdom, Austria and Germany that was the leading partner of it. From January 2007 until April 2008 trials were carried out at the Department of Forensic Medicine of Faculty of Health Sciences (Denmark), at the Medical Science Teaching Centre of School of Anatomy, Physiology and Genetics of the University of Oxford (the United Kingdom), at the Department for Forensic Medicine at the Medical University of Vienna and the Pathology Department at the State Clinic in St. Polten (Austria), at the Institute of Forensic Medicine at the University of Freiburg (Germany) (AGIS 2009: 8).

In the framework of the project 1000 fingerprints were left on the corpses, 250 fingerprints were left in each of participating country. In order to adjust the body temperature to the ambient temperature, the corpses were removed from the fridge before the fingerprints were placed. It was stated in the protocol that the fingerprints are placed on the dry skin and the body temperature should be between no13°C to 25°C. Fingerprints were placed on the foot, the shank, thigh, forearm and upper arm. When placing the fingerprints, the pressure was firm and lasted for several seconds. Before placing the fingerprint, the donor first wiped his/her finger across his/her forehead and neck in order to make sure that enough sweat-grease substance was on the fingertips. The recovery of fingerprints started in 30 to 60 minutes after placing them. In the framework of the project fingerprints were left on 40 corpses, 18 of them were males and 22 females. The age of the deceased ranged from 15 to 98. The prints were deposited between one and ten days after the time of death. Out of the total of 1000 prints, 495 were visualized by black dactyloscopic powder and 505 by black magnetic powder. 462 visualized fingerprints were transferred to dactyloscopic foil (gelatine), but 538 were cast in Isomark® casting material (AGIS 2009).

Table 1. **Combinations of agents chosen for visualisation and lifting of latent fingerprints placed during the experiment** (AGIS 2009: 15)

Combinations of agents chosen for visualisation and lifting of latent fingerprints	**Number of visualized and lifted latent fingerprints**
Black fingerprint powder and Isomark® casting material	268 prints
Black fingerprint powder and dactyloscopic foil (Gelatine)	227 prints
Magnetic powder and Isomark® casting material	270 prints
Magnetic powder and dactyloscopic foil (Gelatine)	235 prints

Four categories were used for evaluation of fingerprints in the dactyloscopy: identification, elimination, indication of touch; no result.

Elimination – (fr. élimination; lat. eliminare – threshold, exclusion, extraction, disposal, eradication (Svešvārdu vārdnīca 2008: 225).

Table 2. **Summary on evaluation of adhesion agents and lifting agents regarding the fingerprints** (AGIS 2009) (Färber, Seul, Weisser, Bohnert 2010: 1460)

Evaluation group	Adhesion agents		Total	Lifting agents		Total
	Black fingerprint powder	Black magnetic powder		Isomark®	Dactyloscopic foil (gelatine foil)	
Identification	31	60	91	48	17	65
Elimination	36	33	69	29	27	56
Indication of touch	171	167	338	151	133	284
No result	257	245	502	286	259	545
Total	495	505	1000	514	436	950

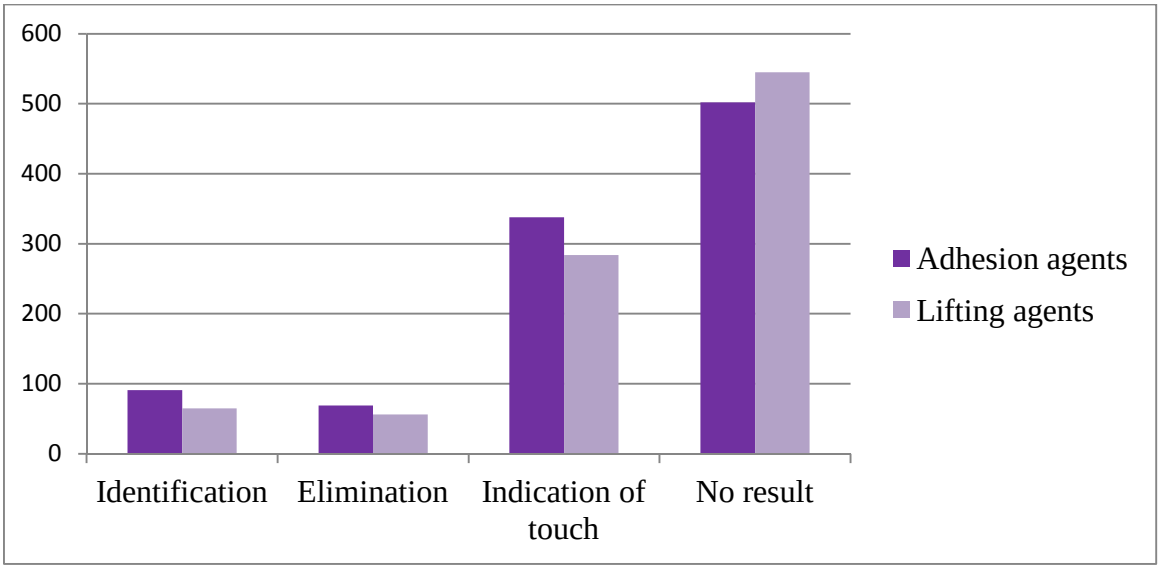

Diagram 1. **Evaluation relation of adhesion agent and lifting agents regarding the fingerprints**

Basing on the results of the project AGIS JLS/2006/AGIS/042(30-CE-0080807/00-07) „Latent fingerprints and DNA on human skin" of evaluation relation of adhesion agents and lifting agents regarding fingerprints, it can be concluded that nearly in all positions the dynamics of the results is descending regarding transfer of fingerprints to lifting agents, but concerning the position „No result" the dynamics is growing.

Table 3. **Dynamics of evaluation results of adhesion agents and lifting agents regarding fingerprints**

Evaluation group	Adhesion agents	Lifting agents	+/-
Identification	91	65	- 26
Elimination	69	56	- 13
Indication of touch	338	284	- 54
No result	502	545	+ 43

The analysis of dynamics of evaluation results of adhesion and lifting agents allows concluding that in the evaluation group "Identification" 91 fingerprints were got by visualising them, and they were suitable for person identification. However, transferring these fingerprints to the lifting agents, 26 fingerprints, which were acknowledged suitable for person identification, were lost.

Taking into consideration the above mentioned, it can be concluded that, firstly, after each processing stage of fingerprints the fingerprints should be fixed by photographing them. Secondly, the fingerprints unsuitable for person identification by applying dactyloscopic method can be used for person identification by applying DNA research method. That is why within the project the research of biological material was also carried out. The DNA traces were analysed according to the following criteria: complete donor DNA profile (E); completely interpretable mixed trace (D); partially interpretable mixed trace (C); complete DNA profile of the corpse (B); no results (A).

Table 4. **Evaluation of DNA traces extracted from the biological material depending on adhesion agent used for fingerprint visualization and lifting agent used for lifting of fingerprints (AGIS 2009) (Färber, Seul, Weisser, Bohnert 2010)**

Evaluation group	Adhesion agents		Total	Lifting agents		Total
	Black fingerprint powder	Black magnetic powder		Isomark®	Dactyloscopic foil (gelatine foil)	
Complete donor DNA profile (E)	6	7	13	12	1	13
Completely interpretable mixed trace (D)	5	2	7	5	2	7
Partially interpretable mixed trace (C)	50	16	66	42	24	66
Complete DNA profile of the corpse (B)	155	114	269	221	48	269
No results (A)	279	366	645	258	387	645
Total	495	505	1000	538	462	1000

Within the experiment the DNA was extracted from the lifting agent that the fingerprint was transferred to. This fingerprint was later visualized by processing it with black dactyloscopic powder and black magnetic powder. The DNA was analysed by the Institute of Forensic Medicine at the University of Freiburg. An organic extraction method was used on the first 193 samples. The remaining 807 samples were processed using NucleoSpin® Tissue XS Kits. In the result of the experiment it was stated that the low results of the DNA analysis were affected, firstly, by the following factors: transferring of the cells from the donor's fingers to the skin of the corpse depends on the contact intensity (pressure of touch, time period) and on the skin individual differences; secondly, the donor cells, which were placed on the skin of the corpse, were transferred to the dactyloscopic foil or to Isomark® casting material; thirdly, cells were transferred to cotton buds to

extract the DNA; fourthly, the DNA extraction method has a great impact on the quality, quantity and type of isolated DNA. The factors mentioned cause the loss of the cells or the DNA. Such loss can mean that there is not going to be the appropriate DNA number in the sample for the analysis (AGIS 2009: 11).

A series of the previous experiments was carried out on the skin of a dead human. The author of the article, however, carried out a series of experiments on the skin of a living human being.

19 persons aged from 21 to 24 participated in a series of experiments. Nine persons of them were donors – six women and three men. In the process of the experiment the papillae pattern prints were placed by natural sweat-grease substance, the same conditions were secured for all the donors. Experimental papillae pattern prints were placed by phalangettes on the inside part and on the top of the forearm (partially experimental traces were placed on the skin without hair-covering, but partially with hair-covering). The experiment was carried out in the room with the temperature from 19º C to 21º C (Zīle 2016).

The following magnetic and nonmagnetic dactyloscopic powders of the company BVDA (the Netherlands) were used for processing of the experimental papillae pattern prints: Fingerprint powder – Special blower silver B-36000; Concentrated blower black B-34500; Special blower black B-35000; Instant white B-401000; Swedish black B-421000; Instant black B-39100; Magnetic jet-black B-45100; Magnetic grey special B-47600; Magnetic grey B-46100. There were also used magnetic brush and squirrel hair brush of the company BVDA (the Netherlands). For lifting of papillae pattern prints processed by powders such dactyloscopic foils of company BVDA (the Netherlands) were used: Instant Lifter black B-23100; Fingerprint lifters black B-11000; Footprint lifters white B-150. Dactyloscopic foil (Fingerprint lifter transparent) of the company FOMA (the Czechs Republic) was also used (Zīle 2016).

The results of the experiment were divided into four groups: papillae pattern prints suitable for person identification; prints where the form of the phalangette and papillae pattern has been reflected, and that are not suitable for person identification; prints where the form of the phalangette has been reflected, but papillae pattern is not visible; prints the form of the phalangette has not been reflected and papillae pattern is not visible. In the time of the experiment 77 papillae pattern prints were placed on the human skin. Four papillae pattern prints were suitable for person identification; papillae pattern has been reflected in 26 prints, but prints were not suitable for person identification because there was not sufficient number of special features in them; finger form has been reflected in 26 prints, but the papillae pattern – not; in 21 cases nor the finger form, nor the papillae pattern has been reflected (Zīle 2016).

In the process of a series of experiments studied and analysed by the author both the DNA research method and dactyloscopic research method were applied for examining of papillae pattern

prints. Although the task of both methods applied is person identification, each research method has its own capabilities.

Table 5. **Comparison of the possibilities of dactyloscopic research method and DNA research method**

Dactyloscopic research method	**DNA research method**
Possibilities	**Possibilities**
Person identification	Person identification
Determination of the print forming mechanism (determination of the placement of the basis of a print)	Not possible to determine
There are 12 special features of papillae pattern to acknowledge a print as suitable for person identification	Small volume of the material with epithelia cells
Risks	**Risks**
During the visualization and lifting they can be damaged or destroyed	They can be damaged or destroyed during examination
Smeared papillae pattern print can be used for the DNA research	
Pollution does not influence	Pollution threatens possibilities of person identification
It is possible to carry out or not to carry out person identification after overlay of papillae pattern prints	It is possible to extract the DNA of both persons, the DNA of one person or no DNA of person (who placed the print)
Not possible to determine	**Not possible to determine**
Age of the print	Age of the print
Succession of placement of the print after division of its overlay	Succession of placement of the print

Conclusions

The author summarized the results of a series of experiments according to the following division. The number of experimentally placed papillae pattern prints was taken as the research material. There were taken fingerprints suitable for person identification, they were processed by using dactyloscopic research. Then there were fingerprints taken that could be used for DNA research. Thus, the following conclusions were drawn:

- In a series of experiments carried out by the researchers Otmar Lenertz (Otmar Lenertz), Silke Schoenborn (Silke Schönborn) and Michael Bonert (Michael Bohnert) the papillae pattern print was visible in 150 (31%) prints from 486 experimentally placed prints. 59 (12 %) prints were acknowledged to be suitable for person identification, 91 (19 %) fingerprints, however, could be processed by DNA research method;
- In the framework of the project AGIS JLS/2006/AGIS/042(30-CE-0080807/00-07) „Latent fingerprints and DNA on human skin" from 1000 experimentally placed fingerprints 91 (9 %) prints were stated as suitable for person identification before lifting them to the lifting agent. After lifting them to the lifting agent, however, 65 fingerprints were acknowledged to be suitable for person identification. 407 (41%) fingerprints before lifting to lifting agent and 340 prints after lifting to lifting agent could be used for DNA research.

– In a series of experiments carried out by the author 4 (5 %) papillae pattern prints from 77 experimentally placed papillae pattern prints were suitable for person identification; papillae pattern has been reflected in 26 (34%) prints, but prints are not suitable for person identification because there was not sufficient number of special features in them; finger form has been reflected in 26 (34 %) prints, but the papillae pattern – not. This means that 52 (68 %) of papillae pattern prints can be researched by using DNA research method.

The comparison of the results of studies carried out allows concluding that from the total number of fingerprints placed 5 - 12% of them are suitable for person identification; 19%-41% of fingerprints can be researched by DNA research method. Despite the relatively high percentage indicator of applying of DNA research method, the author considers that both dactyloscopic research method and DNA research method have their possibilities, risk factors and conditions that are not possible to determine by existing research methods.

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PEDAGOĢIJA / PEDAGOGY

CONTEMPLATION FOR THE DEVELOPMENT OF INDIVIDUAL'S VISION

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Abstract

Contemplation for the development of individual's vision

Key words: *contemplation, individual's development, development of creativity*

The paper is concerned with the phenomenon of contemplation. Within this complex phenomenon the relation of contemplation to the development of students' individuality will be emphasized. The research aim is to define how through contemplation and its techniques the development of individual's creativity can be influenced.
It is possible to find various techniques deepening the individual's perception in order to employ the phenomenon of contemplation in education. In education, these techniques make an impact on individual's development which, in turn, may enhance the development of creativity. The paper offers an insight into specific contemplation techniques, and a general view on formulation of contemplation techniques obtained from the research. This view is based on the information obtained from different sources of literature and experience used in the research.
The experience gained by teaching art subjects has encouraged the author of the paper to address the need of students, artists and pedagogues to understand themselves and interpret the experience of their perception, which is important for the perception of reality. The paper deals with an attempt to interpret these experiences, focusing on manifestations of a contemplation phenomenon and how they affect perception. The impact of a contemplation phenomenon and its use for improving a visual perception are combined with the nature of the idea of creativity, and the interrelations between both complex phenomena are formulated as well as opportunities to use these mutual interrelations in education when acquiring art subjects are pointed out.

Abstrakts

Kontemplācija indivīda radošā redzējuma attīstīšanā

Atslēgas vārdi: *kontemplācija, individa attīstība, radošuma attīstīšana*

Raksts skar kontemplācijas parādību. No šīs kompleksās parādības tiks izcelta tās saistība ar skolēna individualitātes attīstību. Pētījuma mērķis ir noteikt kā caur kontemplāciju un tās paņēmieniem var ietekmēt indivīda radošuma attīstību. Kontemplācijas parādībai tās izmantošanai izglītībā ir iespējams atrast virkni indivīda personīgās uztveres padziļinošu paņēmienu. Izglītībā šiem paņēmieniem ir ietekme uz indivīda attīstību, kura var veicināt radošuma attīstību. Rakstā ir piedāvāts ieskats par konkrētiem kontemplācijas paņēmieniem un pētījumā saskatītu skatījumu par kontemplācijas paņēmienu formulējumu vispārīgā redzējumā. Skatījums ir veidots atsaucoties uz dažādiem literatūras avotiem un pētījumā izmantoto pieredzi.
Mākslas priekšmetu mācīšanas pieredze ir veicinājusi raksta autoru pievērsties skolēnu, mākslinieku, pedagogu vajadzībai sevis saprašanai un savas uztveres pieredzes skaidrošanai, kas ir svarīga realitātes uztverē. Meklēta šo pieredžu skaidrošana, izdalot kontemplācijas parādības izpausmes un to ietekmi uztveres padziļināšanā. Kontemplācijas parādības ietekme un tās izmantošana uztveres saasināšanai ir savienota ar radošuma idejas būtību un formulēta abu komplekso parādību savstarpējā saistība un iespējas izmantot šo saistību izglītībā mākslas priekšmetu apguvē.

Introduction

The problem of contemporary students is that they frequently cannot see a deeper sense or sense in general in their studies and sometimes also in everything that they are doing, they are unable to link things together and focus on what they are doing.

Possibly, this is due to the fragmented perception of life or due to the many unresolved social and psychological problems.

The word "contemplation" is derived from the Latin word "contemplare" and means "to look at", "to see" (Māsa Diāna 2016).

Contemplation means looking into the deepest. It allows to see a set of things and events and relations between this set and the elements involved, nuances these relations. In essence, it is more sensitive, deeper looking into some phenomenon. It is entering in a deeper perception of the phenomenon, which are viewed in depth look at these phenomena or events. It is in a sense, leaving from balance that makes perception more sensitive, nuanced, and the like.

Contemplation technique application will allow students to look into those nuances that are specific to their perception of the world, which thus remain deeper and more sensitive. As a result changing students' world vision becoming sharper. Changing also students' emotional state. Students becomes more open and at the same time more focused and attentive.

Contemplation is an opportunity that can be used in education to reduce emotional instability and turn students to the learning process. (Imbalance position quite a bit shifting make an opportunity for development.) Contemplation is a phenomenon which can be used to go out from stagnating or too sunken in balance condition. Contemplation and its techniques can call a little balance changes and as a result appear sharpest, deepest view when watching life phenomena or observing concrete cases and so on. Then began the development. To occur development in system, it is important that balance wouldn't be absolute, which in essence is not possible. So it must to leave out of balance and need to see system development in open system view. Then development will take place. Therefore contemplation is technique, which, however, shifts balance and shifts it to differently is seen and observed daily scene. Important are relations between daily and in contemplation submerged condition. Contemplation is a way out from usual balance that changes students' view. There is a shallow daily view but contemplation offers a deeper view. With contemplation balance is brought to a deeper insight. It enables students to concentrate on doing work and in good level learn study subjects.

The study ***aims*** to explore application possibilities of contemplation techniques and impact on the individual's creative vision development.

Research objectives are following:

1. Develop a general modern view on teaching methods in which contemplation techniques would be applied to individual creative vision development.
2. Find out how the contemplation techniques can encourage creative thinking.
3. To study how contemplation techniques can be linked with using visualization.
4. Find out students attitude to applying contemplation methods in the art class.

Research methods: analysis of a learning process, relevant literature studies, interviews, questionnaires, experiment.

Opportunities and Influence of Contemplation at Visual Art Classes

Art subjects in a secondary school give or even open the opportunities for cooperation and a creative search. Thus students can focus on what they are doing. This is an open opportunity. It is essential that the participants in the educational process – students and teachers – could creatively cooperate and be open to a creative search and solutions, that students would be ready to work creatively in the profession they have chosen. It is important that they would not feel the need to use well-worn clichés, since in our changeable world this may appear to be quite ineffective.

To use the contemplation techniques is to open the door to what is creative, to a cooperation, and to a new vision. Contemplation techniques must be a natural component of this process. By introducing them in a natural way, we achieve that in the result the perception becomes sharper and deeper. We must create a situation, when during the educational process there are moments when through these naturally introduced techniques the opening of the door occurs, and sharpening of perception takes place. And then the work is done by using this sharpened perception. This is the opportunity provided by art subjects. Such is the difference between a traditional and a contemplation-oriented educational process. A teacher offers contemplation, finds a way how to offer it, and then employs the obtained results, which, in turn, the participants use in doing their work, having already this expanded and deepened perception. Thereby, contemplation is what a teacher offers and what makes students' perception different. This different perception then is used by students in their work, and students produce new, beautiful pictures in visual art. If a student speaks about something, he does it in a different way, too, his speech has become more spiritual and deeper, and also his thinking and consciousness have changed. Consequently, by combining contemplation techniques with artistic activities, it is possible to achieve that a student would benefit from the results yielded by contemplation – would have a new, deeper and more sensitive vision, and due to knowing his individuality better would learn to offer more original solutions to situations; however, these solutions would not be divorced from reality and could be put into practice.

Contemplative practices provide students with experiences that are life affirming and potentially liberating (Keiser, Sakulkoo 2014).

Contemplation experiences and their use contribute to the development of a deeper and more sensitive vision. This is manifested in a vision of life. In art pedagogy, students' individual psychological issues are also addressed. Attempts are made to answer such philosophical questions as "What am I?", "Where do I go to?", "Why am I here?" because during the process of creating their works students devote much attention to them.

As it was mentioned above, contemplation techniques sharpen the vision, and the vision for every person is different; but by obtaining this deeper, sharper and more sensitive vision, students

will develop confidence about what they are doing, and what it is needed and even necessary for it. These students will take a calm look at everything; this is a necessary prerequisite for contemplation, and enables them to concentrate on achieving the desirable goal. In order to develop such a deeper, more sensitive vision, during the process of contemplation everything that is redundant should be abandoned: unnecessary movements and the like. The first thing needed is peace, it is followed by going out of the rest state and balance. In this way, looking into the depths occurs.

Life is an educative experience and there is an organic connection between education and personal experience as the idea of life-long education is considered to be the keystone of the learning society (Kabadayi 2016).

Life consists in learning, and learning takes place in moments when a person is engrossed in observation, in looking into something, but this requires peace and a state of rest.

What actually is it that dominates when a person looks into something? This person gets engrossed into the phenomenon, the person gets engrossed, and becomes part of something. Why does it happen? Possibly, because this person has some questions, needs. Possibly, it is the call of a non-differentiated identity. A question arises how and how deep a person sees and what the ground of this vision is. It is the need to understand oneself in relation to what this person is connected with – with the world. On the level of a non-differentiated identity, this need is a relationship with the world. It is just the contemplation that leads to it. Contemplation allows for engrossing oneself and uniting, experiencing feelings and needs of this non-differentiated identity. When this is gained, one can deliberately focus on motivation. There is already a vision that contributes to developing. This is where the influence of contemplation and everything achieved in it become a base for the development. The inner motivation will be based on the picture obtained during the contemplation. This revives another deeper vision. Further, the highest human vision develops. A human is able to see the sense in what he is doing, and is ready to do hard work. In relation to this Antoine de Saint-Exupery has said:

Freedom exists only for those who strive for something. To set a person free in a desert means to make him thirsty and show the road to a well. Only then will his activities have a sense. A. de Saint-Exupery (Карелин, Машкова 2007).

Thus, by using contemplation students will learn to see things and events in close unity with themselves rather than in isolation. They also will not oppose themselves to the world outside (often a source of young people's depression), and much easier and with greater interest they will wish to become part of it.

As far as sustainability is concerned, students will learn to perceive the nature of events and phenomena and identify the interconnectedness between these events and phenomena.

*Wherever we might be, whatever we might do – while **here and now** exists for us we take part in life, we are involved and full of it. However, as it is well-known, small worries (and not so small) hinder us from looking into its face, from seeing life as happiness and gift. And quite seldom do we manage to do what in Tolkien Gandalf has suggested to Aragorn – to turn from the greenness of the secular world towards the cleanness of mountain peaks, to find there the Tree of Life* (Бережная, 2006).

Speaking about contemplation and the need to help a person, a moral-ethical basis is important for a student in this case. They will need it at taking further decisions, at making a choice and deciding on their priorities. Along the way a person covers during his lifetime, contemplation helps to reveal this moral–ethical basis and renew it from time to time, thus not letting it disappear.

Actually, when working with contemplation techniques, there arises a need to study contemplation within a broader context – what kind of the techniques there are and how they combine in it, or in several methods. These are questions essential for us to answer, and answers will be searched for during a further research on this theme. This is a task set for the next paper. This is the context to be studied to identify the internal relationships.

Characterization of the Use of Combined Contemplation and Visualisation Techniques

If at visual art classes students are given the theme where they will have to face their inner world, at first they will be obliged to have a close look at themselves.

Of course, students may be allowed to choose such a theme themselves, too, but in that case a teacher has to discuss the theme with a student beforehand and hear what a student thinks about it. After the work is ready, it would be desirable to discuss the topic selected by the student again, since it often happens that during the process of drawing students change their mind and their attitude towards the theme they explore significantly changes.

The second option is to give students assignments which make them focus on what they are doing and thus make it possible for them to seemingly escape from the outside world. These, for instance, might be mandalas or some other ornamental or optical drawings. Students, then, can withdraw into themselves, and by the colors they have used, we can judge about their mood and other things. Such type of tasks soothe their minds by letting them withdraw into themselves, and after that students are able to show everything that worries them much more coherently.

Another option is oriented towards students' describing their feelings by expressively showing them on paper trough colors, instead of focusing on what they are doing. In this case, it might happen that students would start their works in very dark colors, but later on in the same work they turn to much lighter color tones.

It is, of course, possible to start immediately with, so to say, creation (portrayal) of the beautiful. This also is a purely color-oriented task involving the use of specific color tones. In this case, a teacher must be fully competent in the respective combinations of colors.

Actually, if students have taken a certain attitude to what they are drawing, they automatically have had to look into themselves in order to see and understand their own attitude. Consequently, by analyzing things they are depicting, students simultaneously analyze themselves.

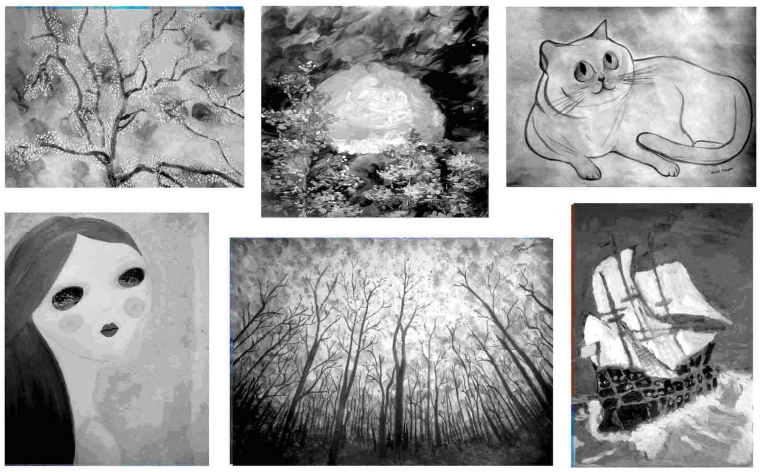
However, it would be advisable for a teacher to use an individual approach to every student at first, since to look into oneself and then to emphasize things they have not been aware of until now might be quite complicated for students psychologically. A teacher must be very patient and tolerant. Students, as well as adults sometimes, feel shy and even are afraid to reveal their inner world not only to other people, but also to themselves. Therefore, a humane attitude is necessary and humane pedagogy-based methods and principles are to be used. Besides, the fact that students are very different and the level of their knowledge is very different has to be taken into consideration, too.

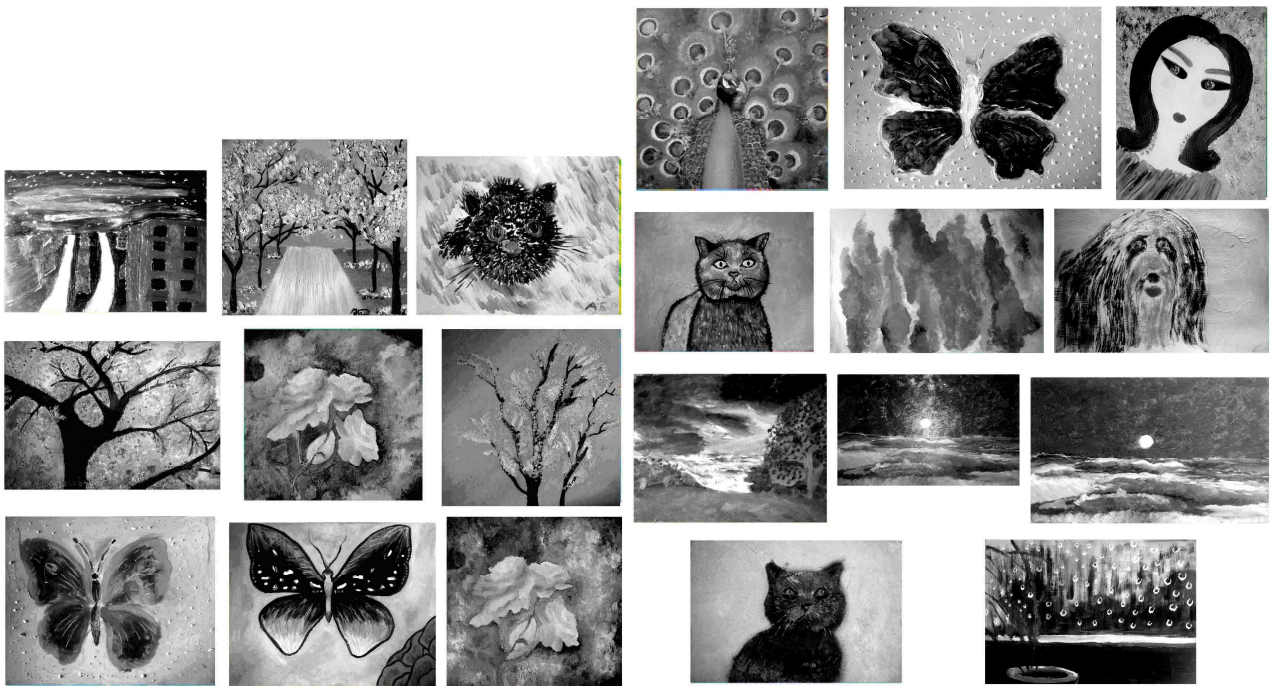
When students are internally ready, the experiments with giving them interactive tasks may begin. Here is the place for contemplation, however, this requires an accurate planning on teacher's part, because students will hardly be able to control the situation on an adequate level, and a teacher has to take this control of the situation upon himself at first. It is also vital to be able to integrate the above mentioned different developmental levels.

It is important that a teacher would not unintentionally impose his own vision upon students, because in the result students must see themselves, see what they have not been aware of or perhaps a collective unawareness. This is why at controlling the situation a teacher must be a detached observer and be very considerate, allowing a student to rely on his/her intuition.

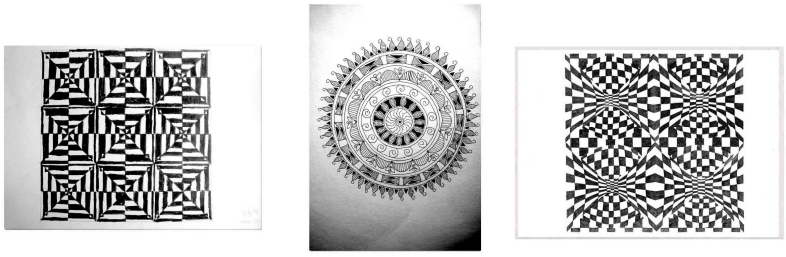
Sometimes students happen to be so talented and gifted that a minimal explanation of what and why should be done is enough for them, and their own intuition is so well-developed that they do everything better than a teacher might have even fancied. Other students happen to have attention disorders, and they require the use of specific techniques of contemplation.

The pictures given below may serve as examples of combining contemplation with visualization:

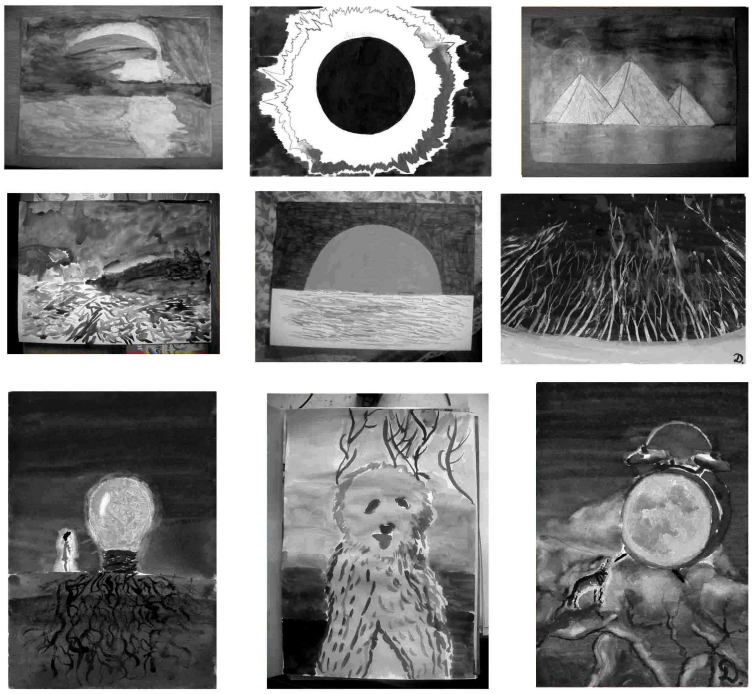




These students' works may be the examples of ornamental-rhythmic and optical drawings.



For comparison, students' creative works produced at about the beginning of educational process.



Contemplation is strongly related to the practices and methods of developing human consciousness and spirituality practiced in the East. Consequently, this experience of the East might contribute to the studies and use of contemplation approach.

We have to mention that in the West, a keen interest in the spiritual heritage of the East has been shown since already the beginning of the second half of the 19th c. Favorable impacts of the East are felt in both writers' and artists' as well as philosophers' and scientists' creative work. The spiritual situation of today is also characterized by openness, information exchange and seeking for a dialogue. It is highly possible that a mutual enrichment between the Western and Eastern cultures might mark an important point of intersection in the development of mankind in the future. (Kūle, Kūlis 1997)

Conclusions

The contemplation techniques deepen, extend, make more sensitive, and sharpen students' vision. Thus the development of a deeper vision occurs. This affects students' creative works.

The assessment of the results obtained by using contemplation techniques at visual art classes allows drawing the conclusion that students thus learn to look into the nature of the object they depict, and their works become deeper, the composition becomes well-considered, important nuances revealing the specific character of the object are more often noticed, textures are used adequately. The dark and light proportions and contrasts get arranged rather than messed up. Students' vision of what they are depicting, as well as of what they in general are doing, changes. Thereby, students fulfil their tasks thinking about the sense rather than doing them because the tasks must simply be done. Their vision of what is depicted in their drawings becomes more sensitive. In this way students' attitude to what they are doing is formed. Students also develop patience, which is quite necessary in many cases (in art, especially in graphic art).

If contemplation techniques have not been applied, students' vision seems to be common, ordinary and less sensitive.

If at the beginning students use dark and sometimes very dark colors, then after the use of contemplation techniques their colors become lighter and brighter.

Contemplation techniques have created different kinds of visualization effects. Two versions of performing the task were compared – the first with contemplation techniques and their affect, and the second – without them. The results were compared as well. Different contemplation phenomenon-based techniques can be used in pedagogy. These techniques fit in art very well. Art naturally creates situations when these techniques may be employed as a frame in the pedagogical process. Thus, contemplation techniques may be used to make art accessible for the phenomenon of contemplation.

The students' comments on the respective visual art classes are as follows:

- Drawing is a necessary subject. First, for the inner harmony. Second, for the sake of oneself, for expressing one's feelings, emotions and thoughts; all of this is reflected in a drawing. A drawing is alive. Through drawing it is possible to depict the world around us both realistically and unrealistically. This is your vision of the world! Your world.
- Drawing sets at rest, and I would like to continue working in this area.
- When I draw, I express my inner world on the paper. I feel much better after that and am more open to the world around me.

As much as it is possible, students deal with their personal problems and learn to see themselves as a part of the world rather than the opposite of it. Such questions as "What am I", "Where do I go to?", "Why am I here?" enhance their further development and form the basis for their future profession. Students' moral-ethical basis is formed, and this basis will serve as a foundation for their future actions and development.

The research testifies to the fact that serious further studies are required in this area, since a question arises – how and to what methods contemplation techniques can be related, and what is actually understood by a contemplation method or methods nowadays. To have a deeper understanding about the few techniques and their impacts explored here, more extensive studies are needed within a wider context of methods of systematizing or structuring the techniques.

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LATVIAN LEGISLATION FOR ENVIRONMENTAL MATTERS: OBJECTIVES AND IMPLEMENTATION

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Abstract

Latvian legislation for environmental matters: objectives and implementation

Key words*: *legislative, sustainability, sustainable resource management, alternative sources of energy, environment

The main goal of any civilized country in the long term is to maintain its viability and ensuring its development and prosperity. This requires certain conditions. One of the main conditions are the natural resources and the health of citizens, which, in the end, use of the state resources for the added value. To achieve and maintain these conditions the state has a legal framework. This article examines its structure and implementation in life.

The purpose of this article: to show aspects and concept of the legal framework of Latvia and to analyze the results, to show the connection of legislation and sustainable development of the state.

Kopsavilkums

Latvijas likumdošana dabas aizsardzības jomā: mērķi un realizācija

Atslēgvārdi:* *likumdošana, ilgtspējība, ilgtspējīga resursu apsaimniekošana, alternatīvas enerģijas avoti, vide

Jebkuras civilizētas valsts galvenais ilgtermiņa mērķis ir savas pastāvēšanas, attīstības un uzplaukuma nodrošināšana. Tam ir nepieciešami noteikti apstākļi. Viens no šādiem apstākļiem ir dabas resursi un iedzīvotāju veselība, kas gala rezultātā, izmanto valsts resursus, lai iegūtu pievienoto vērtību. Lai nodrošinātu un uzturētu šos apstākļus, valstij ir izveidota likumdošanas bāze. Šajā rakstā tiek pētīta likumdošanas bāzes struktūra un realizācija dzīvē.

Raksta mērķis: parādīt Latvijas Republikas likumdosanas bāzes koncepciju un galvenos aspektus, un izanalizēt iegūtos rezultātus, kā arī parādīt saistību starp valsts likumdošanu un tās noturīgu attīstību.

Today, the world's population exceeds 7,000 million people, and annually grows by 1.13%[44]. We live in an era when a sharp increase of the technical progress during the past 200 years has led to an incredible depletion of natural resources. In addition, people's desire for comfort entails the creation of industries that have a very negative impact on the environment, both in the primary (pollution of air, soil, water, ozone depletion), and in the secondary form - waste chemical industry (packaging materials with huge decay period), nuclear waste, etc. At the same time, the energy balance of countries with most developed economics, with a high standard of living and comfort, is negative. For example, in the USA, negative energetical difference only for oil, in terms of a universal energy unit (BTE), is 15.5 trillion a year[45]. And this despite the fact that the extraction and production of energy resources is increasing every year[46]. The shortage of these or other resources, very often is the reason of different conflict, including weapon conflict. The result of such conflicts, as a rule, is humanitarian[47]and environmental disasters[48]. Therefore, the issue of using alternative and renewable energy sources to create energy security of the country is increasingly emerging. The European Union has developed a legislative framework for ecology and environmental protection[49].

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[48] https://www.scienceforum.ru/2015/1127/15758
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Latvian legislation in this issue is largely identical to the pan-European[50], based on pan-European directives and regulations. Of course, each state has its own specifics - the geographical location, the number of inhabitants, the nomenclature and the number of natural resources, and this is a certain difference in the legislation of different states.

Life-determining elements, in the environment, are air, water, land and forests. The Latvian legislation is directed to the sustainable development of these components. These components are determine the health of the nation, and ultimately - as a result of added value and the improvement of the well-being of the inhabitants of the country.

According to WHO (World Health Organization) in 53 European countries, negative environmental factors cause 15-20% of deaths from the total. And by 2050, air pollution is the main cause of mortality of the world's population[51].

Trends and problems related to urbanization (about 70% of the population lives in the cities), demographics, technology changes and the timing of their adoption and legislation to address current problems and ensure sustainable development. The actual goal is to increase the efficiency of renewable energy sources, increase energy security,reduce CO2 emissions in the sphere of enterprises and transport [52]and reduce the burden on the environment through the use of alternative and renewable energy sources. The pan-European strategy until 2020 can be described by the following formula - 20-20-20 (to reduce the emission of gases causing a greenhouse effect by 20%, to increase the share of energy used from alternative sources to 20%, to reduce to 20% the share of energy received from primary sources by improving energy efficiency)[53].

Environment Action Program (EAP) for achievement of the set goals, identifies 9 main aims:

1. protecting, preserving and extending the natural capital;
2. to make the EU economy effective and "green";
3. protect EU citizens' health and well-being of the negative environmental impact and risk
4. maximum use of the advantages offered by the Union's environmental legislation, improving their implementation
5. to improve the knowledge and evidence base for EU environmental policy
6. secure investments in environmental and climate policy and to address issues related to environmental externalities
7. improving environmental integration and policy coherence
8. improve the sustainability of EU towns
9. increase the efficiency of the Union's international environmental and climate challenges[54].

[50] http://www.varam.gov.lv/lat likumdosana
[51] EEA SIGNALS 2015, http://www.eea.europa.eu/publications/signals-2015
[52] http://ec.europa.eu/environment/pubs/pdf/factsheets/7eap/lv.pdf
[53] 9Eiropadome, 2007. gada 8./9. marts
[54] Eiropas Komisija, Brisele, 29.11.2012, COM(2012) 710 final, 2012/0337 (COD), http://www.eea.europa.eu/soer-2015/synthesis/report/1-changingcontext

All these goals are related to the achievement of each of them. For example: investing in energy efficiency of buildings and alternative energy sources entails financial costs for heating and production / purchase of primary energy sources. The result is a reduction in CO2 emissions and a reduction of environmental pollution. This, in turn, leads to the an increase in the incidence of the population and the release of funds that can be redirected to other areas. On a global scale, this leads to stabilization in the issue of climate change, the scale of losses from which already now exceeds 300,000,000 euros annually[55], since the load on the ecosystem of the planet exceeds the permissible limits[56]. The Latvian legislation presupposes reforms during the period 2014-2020 aimed at improving the financing of the Latvian Environment Fund for the possibility of targeted tax refunds for natural resources specifically for solving environmental issues in the country[57]. The Ministry of Regional Development and Environmental Protection attracts Euro-Funds for these purposes. Particular attention is paid to financial instruments of climate change[58].

The country's legislative system on the environment must be flexible and comprehensive in order to provide opportunities for economic development on one hand and protect the ecosystem on the other. For example, for the construction of residential buildings, industrial premises and transport hubs, more than 1,000 m2 of land are annually used[59]. And laws should provide an opportunity for compromise between economic, social and environmental needs.

A thoughtful integrated approach to the problem of recycling, processing, preparation for the recycling of waste can play a huge role in improving the ecosystem of the captivity. World trends show an annual increase in their number[60]. In Latvia this area is regulated by more than 40 regulations, Waste Management Law, the Law on Regulators of Public Utilities, the Law on Local Governments and the Natural Resources Tax Law. The national waste management plan is also complemented by 10 regional plans.

Sustainable development of the state in the field of management and protection of the environment presupposes a comprehensive approach, linking almost all areas of activity (Figure 1). The drafting of the state budget includes financial flows aimed for investing in new technologies, developing scientific activities, including in the field of observing natural phenomena (modeling possible new shipping routes in the Baltic Sea taking into account the melting of polar ice)[61], utilization and recycling of waste, production of renewable and alternative energy sources. Such components as the improvement of the gene pool and the energy independence of the country are

[55] „Perspektīvas vides jomā līdz 2050. gadam" (OECD, 2012)
[56] Ecology and Society, 14. sēj., Nr. 2, 2009
[57] COM(2011) 144, OV C 140, 11.5.2011.
[58] http://varam.gov.lv/lat/darbibas_veidi/KPFI/
[59] COM(2006) 232 (OV C 332, 30.12.2006.) ir priekšlikums direktīvai, ar ko izveido pamatnostādnes augsnes aizsardzībai un groza Direktīvu 2004/35/EK
[60] http://www.eea.europa.eu/data-and-maps/indicators/generation-and-recycling-of-packaging-waste/generation-and-recycling-of-packaging-4
[61] SCOPUS, Earth System Science Data, 6(2), pp.367-374 (http://www.earth-syst-sci-data.net/9/133/2017/)

the result of that. Assessing the energy sector of Latvia, the Committee on Energy Security pointed out that there is a lack of a long-term industry strategy, since in the implementation of policies with laws and regulations, there isn't often enough in-depth monitoring, impact assessment and feedback for policy makers and legislators[62]. And it is the legislative base of the country that should stimulate the legal activity of enterprises and state institutions, regulate all types of relations between state and private structures.

Any legislation is the basis for the strategy of sustainable development of the state and is called upon to ensure its implementation. Latvian strategy of sustainable development till 2030 is defined by the following basic provisions:

1. The main capital of the country is a person, with his knowledge and abilities, nature and environment.
2. Definition of global development trends, assignment of development priorities for Latvia with preservation of cultural and natural heritage.
3. Introduction of progressive for the environment friendly solutions and technologies.
4. To find and protect legislatively the possibilities of efficient use of national resources with a view to transferring them to subsequent generations preserved.[63]

Preventive measures are necessary to minimize the risks associated with environmental protection. One of their components is the education of people in the use and protection of the environment. For this purpose, subjects and courses aimed at understanding the issues of sustainable development and environmental protection are introduced into the curriculum of the colleges, training of the teaching staff is conducted. For example, United Nations Economic Commission for Europe Strategy for Education for Sustainable Development form totality of competences for educators in education[64]. UNESCO create road map of strategies, mechanisms, resources and management for implementing the Global Action Programme on Education for Sustainable Development[65].

However, the survey of students of higher educational institutions on environmental protection and human health in Latvia shows a certain severance of the legislative foundations of the state and their realization in the life from their real perception by the citizens of the country. 50% of respondents believe that the legislation on the protection of the environment in real life does not work, and another 36.5% - that it works poorly. 63.4% believe that the legislative framework for environmental issues should be worked out more seriously. 63% think that the state does not care about the health of citizens, and another 31% - which does not suffice for this, 40% of respondents believe that the cleaner nature of Latvia compared to other countries in Europe is not a merit of the

[62] http://www.president.lv/pk/content/?art_id=24255
[63] http://titania.saeima.lv/LIVS/SaeimaLIVS_LmP.nsf/0/C01B530AB9FDEEA8C2257737004D22BC?OpenDocument
[64] https://www.unece.org/fileadmin/DAM/env/esd/ESD_Publications/Competences_Publication.pdf
[65] http://unesdoc.unesco.org/images/0023/002305/230514e.pdf

state, and More than 36% believe that the state's participation in this is insignificant. At the same time, people understand the importance of preserving nature and the need to switch to the use of alternative energy sources.

Conclusions

The legal framework of Latvia in the issue of environmental protection is consistent with the pan-European concepts, covers a full range of issues and is constantly being improved. But there is a detachment of legislation from real life. The solution may be deeper cooperation and coordination of actions of state legislative structures with the society. This can be facilitated by better coverage of the goals and means of achieving them by the media. To ensure human rights for health and life in a favorable ecological environment, the state budget should be revised to increase spending on health, investing in an efficient and friendly production for environment and technology, developing the market for alternative energy sources. The legislative framework should be the guarantor of the state's actions aimed at preserving human and natural capital for the preservation of the planet (and the territory of Latvia as part of it) for subsequent generations.

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CHALLENGES AND FUTURE PERSPECTIVES OF INTEGRATION OF SUSTAINABILITY IN THE CURRICULUM IN A PROFESSIONAL SCHOOL SETTING

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Abstract

Challenges and future perspectives of integration of sustainability in the curriculum in a professional school setting

***Key words**: ESD, curriculum in the professional school, ESD competencies*

In line with the strategically important documents of Latvia such as Sustainable Development Strategy of Latvia until 2030 (Latvia 2030), Latvian National Development Plan 2014-2020, and international documents such as the European Strategy on ESD, the authors of the article define the need to redesign the curriculum of the vocational school towards the aim of the sustainable development. This also requires development in the strategy of the vocational school designed in line with the local and global strategies by promoting ESD and competencies for ESD. The further developmental agenda of a vocational school as a center of excellency of the region should be build in line with the Sustainability strategy until 2030 of Latvia and need to focus of competency based teaching. The changes need to be implemented on a strategical level as well by introducing sustainable pedagogies and approaches. New teaching methods and approaches need to address the need for a holistic perspective in implementing sustainability in a vocational school. The strategy of a vocation school should focus on a smart development – focused on the change of thinking and behaviour, which can be achieved by investments in education, development of infrastructure, development of a system thinking, creative industries, as well as by developing entrepreneurial thinking. The study focuses on the examination of a current curriculum of a professional school in terms of sustainability and ESD competencies as well as deals with exploring the best practice of integrating sustainability in to the current curriculum.

Kopsavilkums

Izaicinājumi un nākotnes perspektīvas, kas saistītas ar ilgtspējības iekļaušanu mācību programmā profesionālās skolas vidē

***Atslēgvārdi:**ESD, ESD kompetences*

Saskaņā ar Latvijā stratēģiski svarīgajiem dokumentiem tādiem kā, piemēram, Latvijas ilgtspējīgās attīstības stratēģija līdz 2030. gadam (Latvija 2030), Latvijas Nacionālais attīstības plāns 2014-2020 un starptautiskajiem dokumentiem, piemēram, Eiropas IIA stratēģija, šī raksta autori nosaka nepieciešamību pārveidot arodskolu mācību programmu ar mērķi sasniegt ilgtspējīgo attīstību. Tas prasa arī arodskolu stratēģijas attīstību, kas izstrādāta saskaņā ar vietējām un globālajām stratēģijām, veicinot IIA un IIA kompetences.

Tālākā arodskolas attīstības darba kārtība Latvijā, kā reģiona ekselences centrs, būtu jāveido saskaņā ar ilgtspējīgas attīstības stratēģiju līdz 2030. gadam un jāpievēršas uz kompetences balstītajai apmācībai. Izmaiņas ir jāīsteno stratēģiskajā līmenī, kā arī ieviešot ilgtspējīgās pedagoģijas metodes un pieejas. Jaunajām mācību metodēm un pieejām jārisina visaptverošās perspektīvas vajadzības, īstenojot ilgtspēju arodskolā. Arodskolu stratēģijai jākoncentrējas uz gudru attīstību, kas vērsta uz izmaiņām domāšanā un uzvedībā, ko var sasniegt ar ieguldījumiem izglītībā, infrastruktūras attīstībā, izstrādājot sistemātisko domāšanu, radošo industriju, kā arī attīstot uzņēmējdarbības domāšanu. Pētījums balstās uz profesionālās skolas pašreizējās mācību programmas izskatīšanas ilgtspējības un IIA kompetenču ziņā, kā arī pētījuma ietvaros tiek veikta ilgtspējības iekļaušanas pašreizējā mācību programmā labākās prakses izpēte.

Documents for planning and implementing sustainable education in Latvia

The implementation of ESD in Latvia is determined by major institutions which are active in the field of education (UNESCO, UNECE), and national governments who have a duty to develop national ESD Strategies and join the process of implementation of the European Strategy on ESD. Sustainable Development Strategy of Latvia until 2030 (Latvija 2030) is the highest long term development planning document in Latvia (Development Planning System Law) Latvia 2030 that was approved by Saeima the Latvian Parliament in June 10, 2010. Strategy reveals global

tendencies and tendencies in Latvia, future challenges, long-term objectives, action directions and possible solutions. The strategy stresses that the main capital are people: their skills, knowledge and talents, the source of growth are nature, environment, cultural heritage and creativity and the ability to co-operate and to do something jointly. The core of sustainable development of Latvia: improvement of the productivity of human, economic, social and nature (including location and space) capitals, thus responding to the challenges caused by global tendencies. Sustainability in Latvia is implemented by the bottom-up character and many networks of HE institutions can be considered as important drivers in ESD. Within the European Strategy on ESD these networks and associations were recognized as key actors which can contribute to important strategic decisions on the European level. The role of ESD networks is to raise necessary capacities support team building and efficiently work with varied resources and expertise. Networks can also assist mutual support over the network. Sharing of good practices among network members is one of the possibilities to systemize the innovations. In line with the strategic documents on ESD in Latvia and Europe, further developments and the strategy of the vocational school should be designed in line with the local and global documents and strategies of promoting ESD and competencies for ESD. It should be rooted in the educational priorities set by the United Nation's Decade of ESD that was implemented through the Strategy on Education for Sustainable Development with the aim to "encourage UNECE Member States to develop and incorporate ESD into their formal education systems, in all relevant subjects, and in non-formal and informal education" (UNECE, 2005, p. 2) The aim of the strategy was to equip educators with the competences to include sustainable development in their teaching. The further developmental agenda of a vocational school as a center of excellency of the region should be in line also with a national level legislation of ESD, namely, the Sustainability strategy until 2030 of Latvia. New teaching methods and approaches should address the need for a holistic perspective in implementing sustainable development in a vocational school.

Competence Centre of Vocational Education "Daugavpils Technical School":
Historical background, school structure, implemented education programs and activities

Competence Centre of Vocational Education "Daugavpils Technical School" (further in the text – CCVE "Daugavpils Technical School") is an educational establishment founded by the State of Latvia under the Ministry of Education and Science for implementation of vocational educational programs Daugavpils Technical School was established on September 2, 2011 by the State under the Ministry of Education and Science for implementation of the professional educational programs. Based on the education standards and professional standards, the aim of the Technical School is to structure the educational environment, organize and implement education that ensures achievement of the objectives of the vocational education. Since January 1st, 2015, Daugavpils Technical School

has been awarded the title of a Competence Centre of Vocational Education „Daugavpils Technical School" the main priority of which is to develop a conception of vocational education, by learning the best experience from the vocational institutions in EU and implementing innovative teaching methods and forms in the educational practice as well as learning from the examples of a good practice in Europe, for adopting curricula and improving innovative methods not only for the school, but also sharing new experience with other schools. Competence Centre of Vocational Education "DaugavpilsTechnicalSchool" is the second largest professional education institution in the country. In DaugavpilsTechnicalSchool there are 122 teachers and 1694 students and it offers 21 educational programs: fields of railway transport, motor transport, metal-fabricating, information technology, transportation, energetics and electrotechnics, hairdressing and sewing service.

Major part of the currently implemented vocational secondary education programs and specialities at the CCVE "Daugavpils Technical School" historically were and still is linked to the sector of transport and logistics, especially the railway transport, which has an essential role in the economics of Latvia – the actual price of the GDP in the transport and logistics sector in 2014 constituted 8,3 % of the common GDP of Latvia and rail freight transport constituted 47,81 % of the common quantity (Research "Vocational education" *Sector of transport and logistics*, 2015,7). If recently the industry of transport and logistics remained stable, the need for the development of vocational educational programs was evident and programs corresponded to the labour market demand, then in the first part of 2015 the rates of the transport and logistics sector, in comparision with previous year, worsened – in the first quarter of 2015 the amount of provided services declined by 1,6 %, in its turn, in the second quarter – by 4,6 %, when compared with the same period in 2014. The decrease of volume of services was observed in ports, railway, and road freight transport. (Research "Vocational education" *Sector of transport and logistics* 2015: 7). An essential decline of export by railway transportation is observed. In 2015 by rail freight transportation were carried 55,6 million tonnes, which is less by 2,4 % than in 2014, but the inland loads increased by more than 33 % (1,7 million tonnes of freight) because transportation of timber and grain increased. In turn, the amount of international railway transportation freight decreased up to 53,9 million tonnes – by 3,2 % less than in 2014 (The Central Statistical Agency 2016). Although these indicators are not critical, in total, the development of the transport and logistics sector is projected to be slow, predicing that in 2016 the development of this sector will be infuenced by a geopolitical situation in Europe and Russia. The development of transport and logistics sector in the nearest perspective will be affected by the conflict situation. The highest proportion of the demanded jobs in the transport and logistics sector is registered in land transportation – 26,5 thousand work places or 28 % of the employed representatives in the national economy sector. Less represented jobs in the transport and logistics sector are: engineer of the railway electric systems, technician of the railway transport automation,

telemechanics and communication, technician of the locomotive facilities, technician of the transport carriages, assistant of the railway transport engine driver, engine driver of the steam locomotive. As the most rare representatives in the sector of the railway transportation are mentioned – an instructor of the railway transport engine driver, railway transport engine driver, assistant of the railway transport engine driver and rigger of the railroad (Research "Vocational education" *Sector of transport and logistics* 2015: 12; 17). After evaluating sustainability of the educational programmes of the CCVE "Daugavpils Technical School" in the sector of transport and logistics, the demand and offer of the labor market in future should be emphasized. According to the predictions of the Ministry of Economics of the Republic of Latvia in the medium and long term in the labour market of the transport and logistics sector, the demand for workforce will exceed by 2,7 % in 2020 compared to 2014. Evaluating the demand for the workforce in absolute numbers, the demand in the transport and logistics sector in 2014 was 85 thousand, the forecast in 2020 is 87 thousand, but in 2030 – 91 thousand. Demand for the specialists in the railway transport infrastructure and services will remain at the same level as now. (Research "Vocational education" *Sector of transport and logistics* 2015: 31).At present Daugavpils Technical School provides vocational education and secondary vocational education. In total 21 educational programms are offered for students (Motor engineer, Tailor, Programming technician, Computer technician, Railway track technician, Electrician, Technician of holding the locomotive, Commercial employee of the transport operation, Hairdresser, Transport wagons technician, Customer service specialist, Metal working specialist, Carpenter's assistant, The organization of railway transport and traffic safety technician, Data entry operator, Assistant of the sewer). As the survey data of the research ""Vocational education" *Sector of transport and logistics*" testifies, majority of the schools which implement educational programmes in the sector of transport and logistics their material and technical supply base evaluate as "sooner sufficient". 90 % from the surveyed schools have evaluated that their technological equipment and working machines and materials are "sooner sufficient". Survey results testify that all schools that were involved in survey plan to update their material and technical base in next 1-3 years, however, 62 % of these schools plan to realize "little" updates (Research "Vocational education" *Sector of transport and logistics* 2015, 40). At the Competence Centre of Vocational Education "Daugavpils Technical School" study process is organized in 3 buildings (6 Stradnieku Street, 1 Mendelejeva Street, 23 Varsavas Street). The school has the Auto Repair workshop building. There are two student hostels where according to the project of financial instrument of the climate change the implementation of energy efficiency improvement measurements took place in 2011. Both hostels provide accomodation for 400 students. During the period from 2013 to 2015 DaugavpilsTechnicalSchool has implemented a large-scale project of European Regional Development fund to introduce modern devices,

technologies and equipment. In DaugavpilsTechnicalSchool there are 55 classrooms, 10 computer rooms, 17 training workshops and laboratories, 2 sports halls and a library. All school buildings, classrooms and laboratories are completely renovated that makes it possible to raise the level of vocational education and become competitive in the European labour market.

New infrastructure will provide an opportunity for further international cooperation with partner institutions and new possibilities to foster quality education. The school is proud of their new and unique rail training simulator which is the first one in Latvia. The rail training simulator is for the railway transport and railway services educational program which consists of: cabin for the driver, 7D educational class with 24 seats, breaks stand, interactive working places and place for supervisor. A rail training simulator is a computer based simulation of rail transport operations. They are generally large complicated software packages modelling a virtual reality world, with "play mode" software which lets the user interact by stepping inside the virtual world. Traffic safety and quality directly depend on the qualification of railway specialists. Up-to-date technologies allow training conditions to be as realistic as possible, and to train locomotive management methods in both standard and emergency situations. The more realistic simulation training allows for better outcome. In the area of infrastructure development the project of financial instrument on climate change is implemented for the thermal insulation of hotel buildings. Since 2001 school actively implemented the projects of life-long education, e.g., *Leonardo da Vinci* and *Comenius* programs, within the last 15 years 30 projects are implemented. In 2014 projects of ERASMUS+ program were started successfully. In 2012 the school successfully realized the *The Nordplus* Framework Programme project with Lithuania. In the study year 2015/2016 the school participated in four new Erasmus+ Strategic Partnerships for vocational education and training (KA2) projects. The school has a great experience in providing and supervising different projects. CCVE "Daugavpils Technical School" has created a wide network of international partners cooperating with Germany, Austria, Poland, Czech Republic, Lithuania, Finland, Italy and Portugal, Russian Federation, Belarus, Afghanistan. The school is proud of having good partners in Germany: Rotenberg BBS (Berufs Bildende Schulen) and Magdeburg City Council, over 3 years they help to organize the practice places for the students in the companies. The students had the opportunity to acquire the latest technologies and methods in the chosen profession, improve professional knowledge of the German language, improve communication skills and team working ability, broaden their horizons, learn about German history, culture and traditions. The students stay in Germany for one and three months. One of the projects for students practice in 2015 got the State Education Development Agency prize "Spārni 2015" which can be received once in 3 years. Educational institution's operating SWOT analysis.

Strength	Weakness
• PIKC „Daugavpils vocational school" is Latvia's State founded education establishment under the Ministry of Education and Science that implement professional educational programs during the last 90 years for training professionals in transport specialties. • The vocational establishment has acquired the status of the Centre of Competence thus ensuring state financing in implementing educational programs. • The second biggest professional establishment in Latvia (15 educational programs, 21 specialities, 1694 students, 122 teachers, 79 of whom have master degree, 4 – doctoral degree). • All staff members, teachers and methodists and students are involved in the evaluation of the quality of teaching in the educational process. • Teachers use various methods of teaching and strategies, use white boards, and other technologies. Teachers produce new teaching aids, work in a MOODLE platform. • School provide psychological and socio pedagogical support for the students and guarantee securability of students in the educational establishment. • School offers various activities for the development of the personality of students in out of school activities.	• Sustainability concepts, sustainability theory and practice have not been integrated in the educational programs. • Raising teachers' professional qualification for quite a small number of staff members who were awarded the 4th qualification degree that indicates that the capacity of excellence has not reached the highest level. • The level of the English knowledge of staff members is not high that does not allow to take a part in the international projects. • Involvement of guest teachers and professionals from abroad is not intense. • Part of students need to undertake a higher responsibility about educational results and missing classes. • Students' examination results in state examinations in the English language are average, the results are better in the Latvian language and in mathematics in the 12th grade.

Conclusion

Further development plan of the CCVE "Daugavpils Technical School" includes quantitative and qualitative advancements towards arrangements for preservation of the status of the competence centre, stabilization of the student number, offering of the professional educational programs according to the demands of the state and labour market in the region, improvement of the professional quality of educators, supporting activities for the youth from low-income families and social risk groups, professionally oriented activities for applicants and adaptation arrangements for the first-year students, sustaining of career education support, participation in the EU projects, cooperation with such companies as „Lokomotīvju serviss", „Ditton" (driving chain factory), „Ziegler mašīnbūve", VAS „Lokomotīve", beauty saloons, AS „Sadales tīkli" in order to provide the education process based on real work environment, but the most significant intentions are linked to contribution of implementing sustainable education. In future this Competence Centre will have a strategic role in a sustainable development of the region. Considering the EU priorities and funds related to the development of the infrastructure for the vocational schools and quality education, this Competence Centre will play a significant role in a sustainable development of the city and vocational education. In the process of designing the strategy of further development of this Centre,

it is essentially important to integrate sustainability perspective for the development of a vocational school.

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EVOLUTION OF VIEWS ON HUMAN DEVELOPMENT IN THE WORKS OF BYZANTINE PHILOSOPHERS – THEOLOGIANS

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Abstract

Evolution of views on Human Development in the Works of Byzantine Philosophers – Theologians

Ke ywords: *Ancient Greece, Byzantium, person, soul, human development*

Ancient Greek philosophers created theories of an ideal person. Perfection of person in these theories was related to the concept of the soul. In Byzantium (excluding the initial period of the empire's existence), philosophy developed within the framework of theology. Nevertheless, the problem of the soul remained the central theme in the works of thinkers. Analyzing the work of this time, one can say that the person was endowed with ever greater subjectivity. But this subjectivity was strictly determined. The method of research is analysis of the texts.

Kopsavilkums

Bizantijas filozofu – teologu uzskatu uz cilvēka attīstību evolūcija

Atslēga vārdi: *Senā Griekija, Bizantija, Personība, dvēsele, Personības attīķstība Ancient Greece, Byzantium, person, soul, human development*

Seno grieķu filozofi veidoja teorijas par ideālu cilvēku. Šīs teorijās personas pilnveidošana bija saistīta ar cilvēka dvēseles funkcionēšanu. Bizantījā filozofija attīstījas teoloģijas ietvaros (izņemot sākotnējo periodu no impērijas pastāvēšanas). Analizējot šo laiku darbus, var teikt, ka šajās teorijās cilvēks ir apveltīts ar aizvien lielāku subjektivitāti. Bet šī subjektivitāte bija strikti norobežota. Pētījuma metode ir bizantijas filozofisko tekstu analīze.

Introduction

One of the central themes of modern psychology is the study of the process of personality development. Other problems are closely connected with this problem: the development of society and world civilization, the sustainability of this development and it's prospects. Researchers pay particular attention to the problem of identity of personality formation. Regarding this, there is an interest about the views on the personality and it's development in the history of humanity. We have already an appeal to this problem in our work (Makarevičs 2012). In this article we reflect how this problem was solved by Byzantine thinkers.

In the beginning this is necessary to find answers on two very important methodological questions. The first question concerns the fact that analysable in text of the article works, as a rule, are written by thinkers – theologians. Is it possible to consider these works in a philosophical way? Answering this question, the Russian researcher S. Averintsev wrote that people of that epoch were eager to think philosophically and therefore often passed the framework of theology (Аверинцев 1984). The similar point of view are held by Z. Nesmelov, A. Martynov, R. Shchipin and others (Белевич, Бирюков, Шифрин 2011; Несмелов1887; Мартынов, 1886; Щипина 2013). The confirmation of these words we find also in Bizantine's thinkers works. Living on the border of V and VI centuries David Anhaght in his works emphasizes that philosophy is likening to God. Wisdom is the function of mind, the most important component of the divine soul (Анахт 1975).

The second question concerns the terminology. The purpose of our work is to study the history of the teachings about the development of personality. The central point of development is the formation of identity. Identity is a psychosocial phenomenon. It's formation depends both on innate prerequisites and social conditions of life, and on the personal efforts of a person.

For the philosophical science of the first millennium of our era, the central moment in the study of human is the soul - the non-material essence that determines the activity of a man. Development of personality is associated with the development of the soul. At the same time, a person can change the content of the soul to some extent both in a positive and negative way.

Concerning the legitimacy of the use of the concept of personality in relation to the works of Byzantine thinkers, dedicated to human development. The answer to this question we find in V.Mironov's works. He wrote that the concept of personality is first formulated in the Renaissance. But the concept of personality as the ability of the human soul to distinguish between good and evil and to be responsible for one's actions is implicit in the works of Byzantine thinkers (Миронов 2005).

After these comments we can formulate the question of our study:

Comparing works of the Bizantine philosophers (IV – XV cent.) about development of a person (about the soul), it is possible to establish a fact, that in these works a person is increasingly provided with a subjectivity.

By subjectivity we mean independence in decision-making by a person, which is accompanied by the development of the personality's individuality.

The method of research is the analysis both of texts of thinkers from Byzantine and texts of contemporary researchers studying the works of Byzantine philosophers-theologians.

Results of the study: Plato

For the Byzantine thinkers who developed their concepts of an ideal person, the work of the Greek philosopher Plato was a model of such a concept. According to Plato, person's activity is a function of his/her soul. The soul is an immaterial substance that infuses into the human body at birth and animates it. The soul is immortal. At the same time, it gradually infuses and coexists with many generations of people (Платон 1993).

According to Plato, the content of a person's soul depends on his actions. The content is determined by the continuum "good - evil". Every person, in whose body the soul enters, can change it's content in one or the other direction by his actions. Thus, each person is responsible for the fate of future generations. But at the same time he needs to have special innate qualities, which Plato calls a sophrosyne. These qualities provide a decent behavior of a person, which changes the content of the immortal soul in a positive side.

In the concept of the human soul by Plato are not only explicit, but also hidden ideas. The essence of one such idea is that each elite Greek family had as it's beginning a certain deity. Since the pantheon of the ancient Greek gods was vast, it provided the elitist status of the rulers of the multitude of city-states that make up the mega-state called Ancient Greece.

The selectivity of origin implicitly presupposes the result of the procedure for choosing the appropriate body by the soul. The most perfect souls prefer bodies with a good genealogy. In the event of an error, a mechanism called Sofrosyne enters into force.

Results of the study: Origen

Origen was born in 185 and died in 254. The end of the 2nd and the beginning of the 3rd century AD is the time when young Christianity has just begun to conquer the minds of mankind. Characterizing this era, Russian researcher A. Dvorkin wrote that Christianity did not appear in an empty world. In the public consciousness of the inhabitants of ancient Rome there were already established concepts of the universe, religion, sin, punishment, redemption and reward. Christian philosophers had to take all this into account and answer to these questions from the point of view of the new religion. At the same time, ancient Greek philosophy seemed to have already provided exhaustive answers to these questions (Дворыкин 2005).

What did this mean for the Christian philosopher? This meant that for the basis of their work it was necessary to accept the teachings of the ancient Greek philosophers who were most popular at that time. At that time, Plato's views on the essence of human life were considered to be of high priority. According to Plato, some souls that determine human life were associated with the pantheon of the gods. In the era of monotheism, these views were unacceptable. Origen had to resolve this contradiction without changing the essence of the Platonic doctrine.

In his conception of a person, Origen saves the Plato idea of the pre-existence of souls. The material world is created so that souls, getting into the bodies of people, could improve themselves. Self-improvement depends on the actions of a person, which he himself, according to his decision, carries out. Decent behaviour of person's earthly life is rewarded: the soul at the Last Judgment appears before God as an angel. Other souls take the form of either a man or a demon. After this, God creates a new material world, where souls are given the opportunity to atone for their guilt before the Most High and become more perfect (Ориген 1993).

Interpretation of works by Origen is complicated by the complexity of understanding his picture of the world. Therefore, to summarize, we turn to the texts of the Russian researcher of his works, A. V. Seregin. Commenting on the idea of Origen that every intelligent being (including Satan) can change and be saved, since no one is deprived of this possibility, the scientist concludes that "by affirming the freedom of will, he thereby removes from God responsibility for the evil and entirely imposes it on the most reasonable individual" (Серегин 2005: 28).

Thus, at this stage in the development of Christian philosophical thought, the idea of the responsibility of man himself for his life appears. However, to correct mistakes made in this life, the soul needs to settle in the body of another being (angel, human or demon) already in other worlds created by God.

Results of the study: Gregory of Nyssa

Origen in his works has realized the need for maximum preservation of Plato's ideas of understanding the essence and vital functions of the human soul, allows a significant error. From his point of view, God is capable of repeatedly destroying the old and creating new worlds. This contradicted the official Christian doctrine, which began to take a dogmatic character. His teaching is ostracized. At the same time, there is a need for new knowledge. It was necessary to unite the doctrine of the soul of Plato, who owned the minds of the ancient Roman elite, with the growing influence of Christian ideas: they could no longer be ignored.

Most successfully this contradiction was resolved by Gregory of Nyssa (335-394). In his works he focuses an attention on the fact that there is no reincarnation, i.e. separate existence of souls and bodies, in which the soul can repeatedly settle into the bodies of different people. Each person has his own individual soul, and the content of this soul depends on the actions of the person himself (Нисский 1995). In his works Gregory of Nyssa emphasizes the importance of person's own activity, which is aimed at his self-improvement. Therefore, we can designate his philosophical and religious creativity as the second stage in the development of the teachings about the perfect man. The stage that proposed and subsequently defined more precisely Christian concept about ways to achieve a person's perfection, limiting this process to the individual's lifetime. At the same time, the priority, if it is possible to say so, the driving force behind development in the concept Gregory of Nyssa remains his own activity of man.

Results of the study: After Gregory of Nyssa

By the beginning of the fifth century AD, the foundations of the Christian faith had already been developed in Byzantium. And, although in the field of theology and philosophy, the development of concepts of the essence and cognizance / unknowability of God, the organization and functioning of the world, the conception of the perfect man of thinkers of that epoch began to acquire a systematic character. The beginnings of this system character are seen in the works of Proclus Diadochus(412-485 AD). In his numerous works he offered his original ideas in solving problems of theology and philosophy. Ethical questions concerning his ideas about the perfect man are represented in his works as a hierarchy of the virtues of man. True, as noted by A. Losev, his concept of virtues is presented in the author's works extremely concisely (Лосев 1988). A more detailed exposition of the hierarchical conception of the virtues of Proclus can be found in the work of his biographer Marinus of Neapolis «Proclus, or on Happiness”. Natural virtues are

distinguished: health, moral, social. But there is a higher level of virtue, which includes cleansing, speculative and God's creative virtues (Марин 1979). The purpose of human life is to comprehend the abilities of one's soul to realize the highest level of virtue.

The ideas of Proclus Diadochus are ambiguously accepted among modern Christian theologians and secular philosophers. But his main merit in creating ethical concepts of the ideal person was very exactly formulated by the Russian researcherS. Kulikov, who noted that in his works "the ideals of beauty rise above the sphere of the corporeal" (Куликов 2014: 133).

The system concept of self-education of the perfect man was proposed in the VI century AD by John Climacus (525-595). He developed and described 30 steps to perfection and approach to God, which unite the virtues and those actions of the person that contribute to this. John Climacus adheres to the point of view of Gregory of Nyssa, according to which the person who chose this path must continuously work on himself (Лествичник 2008).

The work of another author of this period, John Philoponus (490 - 570), deals with the problem of human identity. At the same time, identity in his works is understood in the futurological context: how much a person after resurrection, having found an imperishable body, will be identical to himself at a time when his soul was in a perishable body. But, as noted by V. Lurie, Philoponus poses, but does not solve the problem of futurological identity (Лурье 2012).

Results of the study: Sunset of the Byzantine Empire

In the last centuries of the Byzantine Empire in the philosophical works of the authors of that time, the humanistic views on man, which formed the basis of the world outlook of the creative personalities of the Renaissance, were developed and, moreover, determined the content of one of the modern psychological schools: humanistic psychology. Here, first of all, it is necessary to name the Georgian philosopher Ioane Petritsi. He lived at the turn of the 11th-12th centuries. In his works he raises the question of the dignity of a person and the fact that a particular person should be valued not by descent but by education. Because life (of an individual - VM) is a blessing (Панцхава 1982). Humanism in philosophy and psychology is associated with attracting the attention of the community to the development of individuality (subjectivity) of man.

Analyzing the connection between the humanistic ideas of late Byzantium and the Renaissance, I.Medvedev, referring to Remerl, notes that the development of the Byzantine humanistic teaching includes at least four stages. The first relates to the IX century and owes it’s appearance to the works of such philosophers as Photios, Leo the Mathematician and Arethas of Caesarea. The second stage (XI century) is represented by Psellos and John Italus.The third stage covers the period from the XIIth to the XIVth centuries, which are represented by Planudes, Triclinius and Chortasmenos. The fourth stage coincides with the last years of the Byzantine Empire. His representative is Pletho (Медведев 1973).

From this list we are interested in two authors: Psellos and Pletho. In our opinion, these are two authors who made a significant contribution to the development of the idea of human subjectivity.Pletho in his works expresses the idea that the path to the improvement of a person does not necessarily have to be connected with strict Christian prescriptions. Every person needs to experience happy moments in this life. But each person has his own way to happiness. Experiencing happy moments, a person becomes more perfect, and, therefore, closer to the supreme deity (Горфункель 2009; Медведев 1973).

During this period, the foundations of an individual (subjective) approach to learning were laid in the Byzantine Empire.The founder of the approach is Michael Psellos (1018 - 1078).In 1060 he published a textbook entitled "Review of the laws."This textbook was intended for the son of Emperor Constantine X Duki Michael and, as N. Sokurova notes, was a genuine breakthrough in Byzantine pedagogical thought, as the author gave extensive recommendations on mastering the studied material and introduced the methods of it's development (Сокурова 2014).

Summing up his research, N. Sokurova states that "Michael Psellos put the learner at the centre of his attention, care and respect, considering him a significant, unique person, unlike the others... His system of individual education and upbringing was not designed to suppress the personality, But on it's development, improvement... Thus, the educator comprehensively and consciously created favorable conditions for the productive perfection of the person and in every possible way protected his aspirations, interests, motives, rendering him intellectually support and assistance, unconstrainedly involving him in the complex world of the educational process" (Сокурова 2014: 29).

Thus, in the philosophical thought of the late Byzantine, the humanistic foundations of learning and personal development were laid, taking into account the individual characteristics of the subject and the features of his own activity in the acts of teaching and upbringing (subjectivity).

Conclusions

By subjectivity in this study we mean independence in making decisions by the subject of activity, which is accompanied by the development of his individuality.

The views of the philosophers - theologians of Byzantium on the development of a person and his/her subjectivity over the course of the millennium of the existence of the empire - are evolving. In this evolutionary process, there are three stages.

At the first stage, which lasts until the beginning of the fifth century, there is a revision of the pagan views of ancient Greece and the establishment of a Christian understanding of the essence of man and his role in the universe.The perfection and quality of the future existence of the soul depends on the degree of perfection and deeds of a person whose body is connected with an immaterial soul. The theories of the perfect person that appear at this stage involve manifestations

of a person's subjectivity. But these manifestations are limited. A man chooses his own way of life. But if he chooses a righteous path, the achievement of perfection requires from him a strictly regulated way of life.

The second stage. From the 5th century to the first millennium AD. Characterized by a detailed study of the requirements for the perfect person and the way to achieve excellence. Theories of the perfect person begin to acquire a systematic character. The most outstanding representative is John Climacus. Manifestations of human subjectivity at this stage are also limited.

The third stage. The last three centuries of the Byzantine Empire. There are concepts of a perfect person, whose perfection is not connected with the approach to God through purposeful work with one's own soul.Attention is concentrated on the development of the personality and consideration of the individual and age characteristics of the person. The foundations of an individual approach to teaching are laid. Subjectivity as the role of one's own activity in the making of vital decisions for him and the state, is of paramount importance in the theories of teaching and educating a perfect person.

Thus, in the late Byzantine humanistic theories of man were created, which were developed in the Renaissance and are used today in humanistic psychology and pedagogy.

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PRE-SERVICE TEACHERS' TRANSFORMATIONAL LEADERSHIP: A COMPARATIVE STUDY OF LATVIA AND LITHUANIA

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Abstract

Pre-Service Teachers' Transformational Leadership: A Comparative Study of Latvia And Lithuania

Key words: *transformational leadership, pre-service teacher, initial teacher education*

The purpose of this pilot study is to identify pre-service teachers' compliance to Full Range Leadership Model, paying particular attention to transformational leadership, in Latvia and Lithuania. The reason for selecting Latvia and Lithuania was their national strategic orientation into education, particularly to qualified teachers, their professional development, and initial teacher education. A total of 158 pre-service teachers were surveyed using Multifactor Leadership Questionnaire (MLQ). The results showed that there exist differences between transactional, passive/avoidant leadership of pre-service teachers in Latvia and Lithuania. This pilot study provides for further research.

Kopsavilkums

Topošo skolotāju transformatīvā līderība: Latvijas un Lietuvas salīdzināmā analīze

Atslēgas vārdi: *transformatīvā līderība, topošie skolotāji, sākotnējā skolotāju sagatavošana*

Rakstā apskatīts ar Latvijas un Lietuvas studentiem (topošajiem skolotājiem) veiktais pilotpētījums. Pilotpētījuma mērķis atklāt topošo skolotāju atbilstību Visaptverošajam līderības modelim (angl. Full Range Leadership Model), sevišķu uzmanību piešķirot transformatīvajai līderībai. Pētījumam izvēlētas divas Baltijas valstis to nacionālās stratēģijas, kurā liela uzmanība piešķirta izglītībai, īpaši skolotāju kvalifikācijai, profesionālajai pilnveidei un skolotāju sagatavošanai, dēļ. Pilotpētījumā piedalījās 158 topošie skolotāji, kas studē bakalaura programmās paralēlā veidā. Empīrisko datu vākšanai talkā ņemta daudzfaktoru līderības aptauja (angl. Multifactor Leadership Questionnaire). Pilotpētījuma rezultāti atklāja, ka pastāv atšķirības starp Latvijā un Lietuvā studējošajiem topošajiem skolotājiem transaktīvās un pasīvās līderības aspektā. Rakstā apskatītā pētījuma dati un to analīze atklāj, ka nepieciešami papildu pētījumi ar mērķi noskaidrot šo atšķirību raksturu.

Introduction

The rapidly changing modern world imposes new challenges on the system of education, the school, teachers and society. As Darling-Hammond and Lieberman (2012) noted, the quality of teaching is a critical element for the 21st century learning. Researchers (Aitken 2008; Bond 2011; Niemi 2012; Bond, Sterrett 2014) emphasise that changes emerging in all spheres of life primarily rest on the school and the teacher. Placing emphasis on the significance of teachers' leadership (Martinez 2004; Leithwood, Jantzi 2006) as a prerequisite for students' higher achievements (Leithwood, Day, Sammons, Harris, Hopkins 2006; Marzano, Waters, McNulty 2005; Leithwood, Jantzi 2008), there emerges an enhanced necessity to consider development of pre-service teachers' leadership skills (Murphy 2007; Aitken 2008; Bond, Sterrett 2014) in higher education institutions.

The *purpose* of this study is to identify pre-service teachers' compliance to Full Range Leadership Model, paying a particular attention to transformational leadership, in Latvia and Lithuania. The main reason, despite their socio-historical background, for selecting Latvia and Lithuania in this study were their national strategic (Sustainable Development Strategy of Latvia until 2030 (2010); National Development Plan of Latvia for 2014-2020 (2012); The Guidelines for

Education Development Strategy 2014-2020 (2014); The National Progress Strategy 'Lithuania 2030' (2012); The National Educational Strategy for the Years 2013-2022 of the Republic of Lithuania (2013)) orientation into education, particularly to qualified teachers, their professional development, and initial teacher education. In this study the main research questions are:

RQ1: What is difference between Latvian and Lithuanian pre-service teachers' engagement to transformational, transactional, passive / avoidant leadership behaviour and leadership outcomes;

RQ2: What is relationship between teaching experience, year of studies, gender and transformational, transactional, passive/avoidant leadership of pre-service teachers' behaviour and leadership outcomes in Latvia and Lithuania;

RQ3: What is compliance of pre-service teachers' leadership behaviour within the Full Range Leadership Model in Latvia and Lithuania.

Theoretical Framework of Transformational Leadership

Over the last few decades the idea of new leadership, which has been raised in the research area, has been associated with *The Transformational Leadership Theory* (Leithwood, Poplin 1992; Bass, Avolio 1994; Bennett, Anderson 2003; Dubrin 2004; Bass, Bass 2008; Yukl 2013). Scientific studies contain a shift from the research on transformational leadership of heads (Marks, Printy 2003; Balyer 2012) to that of teachers (Anderson 2008), which also embrace impact of transformational leadership under formation of teacher communities (Ross, Gray 2006), as well as to activities of an educator, as a transformational leader, within the classroom (Pounder 2006; 2014; Leithwood, Jantzi 2006) as well as to influence on learners' achievements (Leithwood, Jantzi 2008; Sun, Leithwood 2012).

In 1985, Bass presented leadership continuum in which are integrated transformational, transactional and passive avoidant leadership. This continuum was called Full Range Leadership Model (Figure 1). As B. M. Bass and B. J. Avolio (1994) noted, fundamental to the full-range leadership training effort is that every leader displays each style to some degree. Most importantly, that in this model authors indicated the frequency dimension, which represent how often person displays a particular style of leadership. The active dimension helps clarify the style, and the effectiveness dimension broadly represents the impact of the leadership style on performance (Burns 1998).

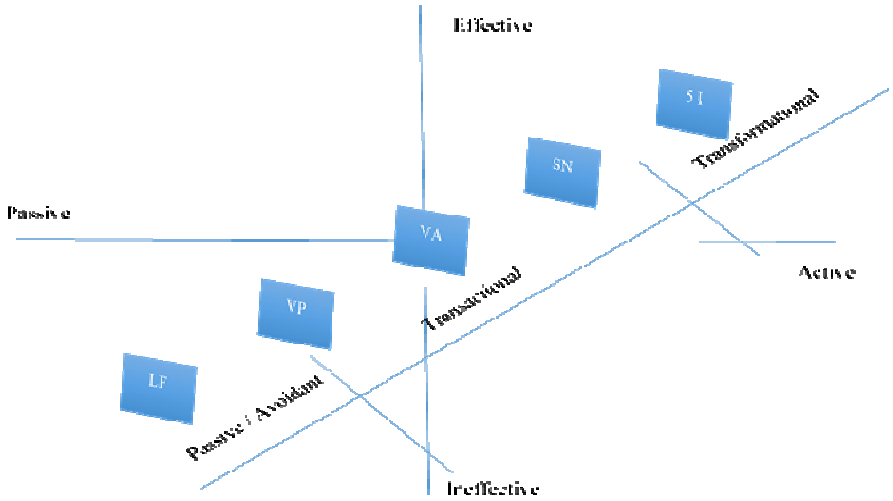

Figure 1. **Full Range Leadership Model** (Bass and Avolio (1994)

Transformational leadership consist of **Idealized Influence** (Acting as strong role models; High standards of moral and ethical conduct; Making others want to follow the leader's vision), **Inspirational Motivation** (Communicating high expectations; Inspiring followers to commitment and engagement in shared vision; Using symbols & emotional appeals to focus group members to achieve more than self-interest), **Intellectual Stimulation (**Stimulating followers to be creative and innovative; Challenging their own beliefs and valuing those of leader and organization; Supporting followers to try new approaches and develop innovative ways of dealing with organization issues), **Individualized Consideration** (Listening carefully to the needs of followers; Acting as coaches to assist followers in becoming fully actualized; Helping followers grow through personal challenges). Transformational leaders are change agents who are example for followers, with a clear vision, ability to empower followers to meet higher standards, are attentive to the needs and motives of followers and tries to help followers reach their fullest potential (Northouse, Lee 2016).

Exhibiting transactional leadership, as B. M. Bass, B. J. Avolio, D. I. Jung and Y. Berson (2003) reported, it means that followers agreed with, accepted, or complied with the leader in exchange for praise, rewards, and resources or the avoidance of disciplinary action. The components of transactional leadership are **Contingent Reward (**The exchange process between leaders and followers in which effort by followers is exchanged for specified rewards), Passive and Active forms of **Management by Exception (**Leadership that involves corrective criticism, negative feedback, and negative reinforcement).

Passive / Avoidant leadership (**Laissez-faire**) shows that there is no leadership because the person follows the policy of non-interference. Such a person renounces the responsibility, is late solving problems, does not provide a feedback and does not try to satisfy the needs of other people. There is no exchange between them and the followers and there are no efforts trying to help them to improve.

As B. M. Bass and B. J. Avolio (1994) investigations have shown that developing transformational leadership with training in can enhance effectiveness and satisfaction as leader.

Research Methodology

This paper aim is to present a pilot study of the biggest international research. For this pilot study,a quantitative methodology was used. In this study, Multifactor Leadership Questionnaire Self-Leader Form (MLQ 5x Short) by B. M. Bass and B. J. Avolio (1990), was used in order to identify pre-service teachers'transformational leadership. This questionnaire is designed to identify nine different leadership factors and three leadership outcomes. The nine leadership factors include five transformational leadership factors, three transactional leadership factors, and one non-leadership factor and three leadership outcomes (extra effort, efficiency, satisfaction). It allows individuals to measure how they perceive themselves with regard to specific leadership behaviour. Statistical data (using, through 45 Likert-scaled 45 items (Likert-scaled, from strongly disagree (1) to strongly agree (5)) questionnaire that items, from strongly disagree (1) to strongly agree (5)) were collected in 2016-2017 academic year from Lithuania (Lithuanian University of Educational Sciences) and Latvia (Daugavpils University, Riga Teacher Training and Management Academy). The obtained data were analysed by SPSS Statistics 19 software, employing descriptive statistics, calculating Student's t-criterion, ANOVA (Analysis of Variance) and others. The Cronbach's alpha coefficient of the MLQ was 0.839.

The pilot study was based on a convenience sample. According to J. W. Creswell (2005), a convenience sample provides data that is readily available, providing information for answering research questions and hypotheses. A convenience sample is a group of individuals the researcher selects because "they are willing and able to be studied" (Creswell, 2005, p. 149). In this pilot study 158 pre-service teachers at Bachelor level from Latvia and Lithuania took part. A detailed profile of research sample summarized in Table 1.

Table 1. **Respondents' profiles**

Variables	Categories	Number		Percentage	
		LT	LV	LT	LV
Gender	Male	10	4	71	29
	Female	62	73	46	54
Age	Under 20	14	5	20	7
	20-25	54	50	76	65
	26-30	3	13	4	17
	31-40	0	5	0	6
	41-50	0	3	0	4
	Over 51	0	1	0	1
Year of studies	I year	15	29	21	37
	II year	34	16	47	21
	III year	23	29	32	38
	IV year	0	3	0	4

Variables	Categories	Number		Percentage	
		LT	LV	LT	LV
Years of teaching experience	No experience	70	36	97	47
	Less than 1 year	2	23	3	30
	1-2 years	0	13	0	17
	2-5 years	0	4	0	5
	More than 5 years	0	1	0	1

Table 1 shows that 52 % of the participants were from the Latvia and 48 % from Lithuania higher education institutions. The sample included 91 % females and 9 % males of pre-service teachers. Most respondents in Lithuania were on second year of studies (47 %), meanwhile in Latvia – first (37 %) and third (38%) year of studies. In Latvian sample 53 % of the respondents have teaching experience which varied: 30 % had less than 1 years'experience; 17 % had between 1 and 2 years' experience; 5 % had between 2 and 5 years' experience; 1 % had 5 years' experience or more. 97 % of Lithuanian pre-service teachers have no teaching experience.

Research Results

The present study indicated that pre-service teachers' transformational leadership attributed idealized influence factor and transactional, passive/avoidant leadership are significantly different between Latvia and Lithuania pre-service teacher (Table 2).

Table 2. **Descriptive statistics for MLQ of pre-service teachers in Latvia and Lithuania**

	Nationality	N	Mean	SD	Min.	Max.	ANOVA	
							f	*p*
TRANSFORMATIONAL LEADERSHIP	LT	72	3,5494	,48331	2,05	4,75	2,740	,100
	LV	77	3,6682	,39007	2,51	4,56		
idealized influence (attributed)	LT	72	2,8785	,69454	1,50	4,75	42,328	**,0001**
	LV	77	3,5195	,49797	2,25	4,75		
idealized influence (behaviour)	LT	72	3,7125	,65755	1,50	5,00	0,007	,934
	LV	77	3,7208	,55756	2,30	5,00		
inspirational motivation	LT	72	3,7257	,69221	2,00	5,00	0,094	,760
	LV	77	3,7565	,52874	2,75	4,75		
intellectual stimulation	LT	72	3,6620	,68574	1,75	5,00	2,703	,102
	LV	77	3,4903	,58848	2,00	4,75		
individualized consideration	LT	72	3,7685	,53792	2,25	5,00	0,827	,365
	LV	77	3,8539	,60338	2,50	5,00		
TRANSACTIONAL LEADERSHIP	LT	72	3,2372	,47135	2,17	4,42	14,065	**,0001**
	LV	77	3,5142	,42997	2,67	4,50		
contingent reward	LT	72	3,6354	,63902	2,25	5,00	4,037	**,046**
	LV	77	3,8312	,54928	2,25	5,00		
management by exception (active)	LT	72	3,2500	,67135	1,50	5,00	13,301	**,0001**
	LV	77	3,6234	,57729	2,00	5,00		
management by exception (passive)	LT	72	2,8264	,74545	1,50	5,00	4,585	**,034**
	LV	77	3,0877	,74313	1,50	4,50		
PASSIVE/AVOIDANT LEADERSHIP	LT	72	2,6493	,77784	1,00	4,50	10,157	**,002**
	LV	77	3,0065	,58204	1,25	4,25		

* $p \leq 0.05$

The results presented in Table 2 of pilot study shows that pre-service teachers in Latvia have higher idealized influence for other people (M=3.52) and exhibit more as an active manager (M=3.62) than pre-service teachers in Lithuania (accordingly M=2.88; M=3.25). Moreover, Latvian pre-service teachers exhibiting more as transactional leaders than Lithuanian pre-service teachers. These differences are statistically highly significant ($p < 0.001$). Besides, pre-service teachers in Latvia more often than Lithuanian pre-service teachers choose an approach 'let-things-ride'; it is passive/avoidant leadership ($M_{LT}=2.65$; $M_{LV}=3.00$; $p=0.002$).

Based on statistical analysis Latvian pre-service teachers achieve better leadership results, than Lithuanian pre-service teachers (t= -3.218, df=128.909, p= 0.002). To examine the differences in demographic variables (gender, age, year of studies, teaching experience) and the pre-service teachers' leadership style and leadership outcomes in both countries, T-test and ANOVA were used. T-test analysis shows that there is no statistically significant relationship between Latvian pre-service teachers' gender and transformational (t= -0.271, df=3.528, p= 0.823), transactional (t= 2.584, df=4.794, p= 0.051), passive/avoidant (t= 0.386, df=3.331, p= 0.723) leadership style and leadership outcomes (t= 1.402, df=3.938, p= 0.235). One-way ANOVA analyses showed that in Latvian students' sample there is no statistically significant relationship between year of studies and transformational (p=0.997), transactional (p=0.075) and passive/avoidant (p=0.205) leadership behaviour, and leadership outcomes (p=0.382). One-way ANOVA analyses showed that there is no statistically significant relationship between teaching experience and transformational (p=0.191), transactional (p=0.286) and passive/avoidant (p=0.197) leadership, but there is a statistically significant relationship between teaching experience and leadership outcomes (p=0.050) (Table 3).

Table 3. **Latvian pre-service teachers' leadership outcomes and teaching experience** (Bonferroni)

	Experience	**N**	**Mean**	**SD**	**t**	**df**	**Sig. (2-tailed)**
leadership results	no teaching experience	36	3,5836	,49696	-2,365	26,756	**,026**
	1-2 years	13	3,9077	,39356			
	less than 1 year	23	3,4652	,56113	-2,765	32,218	**,009**
	1-2 years	13	3,9077	,39356			

Table 3 shows that pre-service teacher having 1-2 year of teaching experience has higher leadership outcomes than those who do not have or have less than one year of teaching experience.

Meanwhile, in Lithuanian pre-service teachers' sample teaching experience has no impact for their transformational (p=0.760), transactional (p=0.362) and passive/avoidant (p=0.122) leadership behaviour or leadership outcomes (p=0.912).

Moreover, in Lithuania males' behaviour (M=3.53) are more as transactional leaders, than females (M=3.18). Another difference in demographic variable in Lithuanian context is year of studies (Table 4.).

Table 4. **Lithuanian pre-service teachers' leadership outcomes and year of studies**

	Year of studies	N	Mean	SD	Min.	Max.	Tukey HSD	
							f	*p*
leadership results	1	15	2,8540	,51113	1,64	3,56	6.661	**,020**
	2	34	3,2326	,73056	1,69	4,75		
	3	23	**3,6674**	,70839	2,36	5,00		

As Table 4 shows, pre-service teachers in the third grade achieve better leadership results, than first or second grade. It means, that studies develop pre-service teachers' transformational leadership, because this leadership is directly connected with leadership outcomes.

In order to answer to the last research question about the pre-service teachers' compliance to the optimal leader behaviour, percentiles were used. According to B. M. Bass and B. J. Avolio (2004), transformational leaders need to score in the 90th percentile in the subscales idealized influence (attributed and behaviour), inspirational motivation (IM), intellectual stimulation (IS), and individual consideration (IC). Scores should range accordingly: IIA > 4.5, IIB > 4.75, IS > 4.75, IM > 4.75, IC > 4.75. In addition, leaders also need to score in the 50th percentile on the following transactional subscales: contingent reward (CR) < 4.0, management-by-exception (active) (MBEA) < 2.50, management-by-exception (passive) (MBEP) < 2.00, and laissez-faire (LF) < 1.50 (Tables 5).

Table 5. **Percentiles for pre-service teachers scores**

	Scores by Avolio, Bass	Nationality	Percentiles						
			5	10	25	50	75	90	95
idealized influence (attributed)	IIA > 4.5	LT	1,75	2,00	2,31	2,75	3,44	3,75	4,09
		LV	2,73	2,75	3,25	3,50	3,88	4,25	4,25
idealized influence (behaviour)	IIB > 4.75	LT	2,43	3,00	3,30	3,80	4,23	4,50	4,80
		LV	2,80	3,00	3,30	3,80	4,15	4,34	4,53
inspirational motivation	IS > 4.75	LT	2,25	2,75	3,25	3,75	4,25	4,50	4,68
		LV	2,75	3,00	3,38	3,75	4,00	4,50	4,75
intellectual stimulation	IM > 4.75	LT	2,41	2,58	3,25	3,75	4,00	4,50	5,00
		LV	2,25	2,75	3,00	3,50	4,00	4,25	4,50
individualized consideration	IC > 4.75	LT	2,50	3,08	3,50	3,75	4,00	4,25	4,59
		LV	2,75	3,00	3,50	4,00	4,25	4,75	4,75
contingent reward	CR < 4.0	LT	2,41	2,75	3,25	3,75	4,00	4,50	5,00
		LV	3,00	3,20	3,50	3,75	4,25	4,50	4,75
management by exception (active)	MBEA < 2.50	LT	2,00	2,50	2,75	3,25	3,75	4,00	4,25
		LV	2,50	2,75	3,25	3,75	4,00	4,25	4,53
management by exception (passive)	MBEP < 2.00	LT	1,75	2,00	2,25	2,75	3,50	3,75	4,09
		LV	1,50	2,00	2,50	3,25	3,75	4,00	4,50
laissez faire	LF < 1.50	LT	1,16	1,75	2,25	2,50	3,25	3,75	3,84
		LV	2,00	2,25	2,63	3,00	3,50	3,75	4,00

As this can be seen in Table 5, pre-service teachers from Latvia and Lithuania are exhibiting transformational leadership varied: 5 % of all Lithuanian respondents idealized influence (behaviour) and intellectual stimulation factors correspond and other factors scores aren't corresponding scores by B. M. Bass and B. J. Avolio (2004). The results of the study point out that Latvian pre-service teachers' transactional leadership scores are better than Lithuanian pre-service teachers. Finally, descriptive statistics shows that there are no one pre-service teacher nor in Latvia, nor in Lithuania whose leadership behaviour correspond / compliance to the Full Range Leadership Model.

Conclusions

- The results of pilot study showed that there are differences between Latvian pre-service teachers' and Lithuanian pre-service teachers' behaviour related with transactional leadership, and leadership outcomes. Meanwhile, there do not exist differences between both countries of pre-service teachers' transformational, passive/avoidant leadership.
- Statistical data analysis revealed that age has no influence of pre-service teachers transformational, transactional, passive/avoidant leadership and leadership outcomes in both countries. Gender in Latvia isn't a factor too. Meanwhile in Lithuania males are more transactional leaders than females. The findings of this paper illustrate that pre-service teachers achieve leadership outcomes of different factors: in Latvian context teaching experience has a highest impact; in Lithuania – year of studies. The results of the study point out that no one pre-service teacher exhibit as optimal leader in compliance to the Full Range Leadership Model.
- The results of pilot study cause the necessity of a deeper study to identifying more factors which could influence pre-service teachers' behaviour as transformational leader, or what course pre-service teachers' behaviour related with transformational, transactional leadership.

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RECOGNITION OF PREVIOUS EDUCATION AND PROFESSIONAL EXPERIENCE RESULTS IN UNIVERSITY

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Abstract
Key words: *previous education, professional experience, recognition of studying results, university*
In today's persistently changing socio-economic situation when new technologies are more and more introduced, people have to renew constantly their knowledge and skills to improve their competence. Since 2012 Latvia has established a normative base, a framework for the way in which higher education institutions are organized based on previous education and professional experience of learning outcomes achieved recognition.
Thereby, the importance of the previously gained knowledge and skills assessment has become actualized in society, which has become a priority issue in Latvian and European educational policy context, in European Union strategic documents as well as in strategic guidelines of the EU education development.
The significance of knowledge and skills assessment gained from the previous education now is being called as one of the major educational reform strategic issues in order to make lifelong education a reality of daily life in Europe.
It means that all the achievements of knowledge and skills that are gained in the field of recognition have to be evaluated directly and transparently, regardless of their origin.
Informal and everyday education assessment and recognition has become an important aspect of lifelong learning education policy in order to convincingly prove how lifelong learning inevitably becomes a process which is run by those people, who participate in learning and self-education process.
The article analyses the theoretical and legislative context of the previous education and the study results recognition of the professional experience as well as experience which is gathered and gained in the process in order to ensure the Latvian higher education institutions, including Daugavpils University.

Kopsavilkums
Iepriekšējā izglītībā un profesionālajā pieredzē sasniegto studiju rezultātu atzīšana augstskolā
Atslēgas vārdi: *iepriekšējā izglītība, profesionālā pieredze, studiju rezultātu atzīšana, augstskola*
Mūsdienu nemitīgi mainīgajā sociāli-ekonomiskajā situācijā, kad tiek ieviestas arvien jaunākas tehnoloģijas, cilvēkiem ir nepieciešams pastāvīgi atjaunot zināšanas un prasmes, pilnveidot kompetences. Latvijā kopš 2012. gadā ir izveidota normatīvā bāze, kas paredz kārtību, kādā veidā augstākajās izglītības iestādēs tiek organizēta iepriekšējā izglītībā un profesionālajā pieredzē sasniegto studiju rezultātu atzīšana. Līdz ar to sabiedrībā tiek aktualizēts iepriekš iegūto zināšanu un prasmju novērtēšanas nozīmīgums, kas ir kļuvis par prioritāru jautājumu arī Latvijas valsts un Eiropas izglītības politikas kontekstā, Eiropas Savienības stratēģiskajos dokumentos un ES valstu izglītības attīstības stratēģiskajās vadlīnijās. Iepriekšējā izglītībā apgūto zināšanu un prasmju novērtēšanas nozīmīgums šobrīd tiek dēvēts par vienu no galvenajiem izglītības reformas stratēģiskajiem jautājumiem, lai padarītu mūžizglītību par realitāti un ikdienu visā Eiropā. Tas nozīmē, ka visi sasniegumi iegūto zināšanu un prasmju atzīšanas jomā jāizvērtē tieši un caurskatāmi, neatkarīgi no to izcelsmes. Neformālās un ikdienas izglītības novērtēšana un atzīšana ir kļuvusi par būtisku mūžizglītības politikas aspektu, lai pārliecinoši pierādītu to, kā mūžizglītība nenovēršami kļūst par procesu, ko vada paši cilvēki, kuri piedalās mācīšanās un pašizglītošanās procesā.
Rakstā tiek analizēts teorētiskais un normatīvais konteksts iepriekšējā izglītībā un profesionālajā pieredzē sasniegto studiju rezultātu atzīšanai un apkopota līdz šim uzkrātā pieredze šī procesa nodrošināšanai Latvijas augstākās izglītības iestādēs, tai skaitā Daugavpils Universitātē.

Introduction

Evaluation of previous knowledge and skills is related to the idea of lifelong learning, learning environment, training process development and internationalisation of education systems. The learning is no longer limited to the time, place and content. Students have a very different experience in the previous education and work but they all need support and assistance both in further education and their professional field.

Currently, in Europe the significance of evaluation of knowledge and skills obtained during the previous experience has increased and become a matter of priority in the context of national and

European educational policy. Since the labour and workforce market experiences changes, we are going to face shortages of professional staff in many areas in the nearest future. To make lifelong learning a reality all over Europe, evaluating of previously obtained knowledge and skills is put to the forefront in the strategic documents of the European Union and the education strategic guidelines of several countries. It leads to conclusion that the achievements gained in the field of knowledge and skills should be evaluated directly and transparently.

Analysis of European legal acts

Analysis of the Joint declaration of European Ministers of Education adopted in Bologna on 19 June 1999 and the Communique of the Ministers responsible for the higher education clearly shows that the knowledge is put forward as one of the priorities in Europe; and, the knowledge has been recognised as an irreplaceable factor of growth and as an indispensable component to consolidate and enrich the European citizenship, capable of giving its citizens the necessary competences to face the challenges of the new millennium (European Higher Education Area 1999); and, the contribution of higher education in lifelong learning has been emphasized. Ministers underline that action in lifelong learning must be an integral part of higher education activity; and, the opportunities for all citizens, in accordance with their aspirations and abilities, to follow the lifelong learning paths into and within higher education must be improved. (European Higher Education Area 2003)

Currently the European Higher Education Area (the EHEA) is facing very tough challenges: a lasting economic and social crisis, a high level of unemployment, the increasing marginalisation of youth, the demographic changes, a new types of migration and conflicts both inside countries and among them as well as extremism and radicalization. On the other hand, the increasing mobility of students and teachers promotes mutual understanding but the rapid development of knowledge and technology, which affects society and the economy, becomes more and more important in the process of transformation of higher education and science. Making higher education systems inclusive is a vital objective of the EHEA since the diversity of population groups increases and immigration and demographic changes carry on. Ministers committed to extend their participation in higher education and to support universities which provide training measures in an appropriate context and in a way that is suitable for different types of learners including lifelong learning. (European Higher Education Area 2015)

The concept of sustainability has gained a lot of importance in higher education institutions. Nowadays there are many opportunities to continue somebody’s education. You can study wherever you want. A lot of educational institutions can help you to do your best in this way. You may choose any institution you want and any profession you like. There are a lot of responsibilities which include any competencies and skills.

Last time the international activities of universities expanded in scope, in volume. There are study-abroad programs, studying which students learn about other culture. It is important now to prepare students as wholly developed citizens in order to live and work successfully in the future. This fact was outlined in European level. As Altbach and Knight (2010) pointed out, international activities of universities dramatically expanded in volume, scope, and complexity during the past two decades. These activities range from study-abroad programs, allowing students to learn about other cultures, providing access to higher education in countries where local institutions cannot meet the demand. (Soylu, Yelken, Külekci 2016)

In 21st century, to train individuals in various domains, it is significant to prepare them as wholly-developed citizens for future societies. In Europe some outstanding reforms have resulted from the Bologna Process that has been going on over a decade. The process can be seen as an educational restructuring process that is outlined at European level to be implemented in the nations of Europe and the other nation's part of the process (Fejes 2006: 203).

Situation in Latvia

From the moment of drawing up and adopting of amendments to the Law on Institutions of Higher Education, which was supplemented with Section 59^2 (1995, the amendments entered into force on 1 August 2011), and from the day of approval of the "Regulations Regarding Recognizing of the Study Results Achieved in Previous Education or Professional Experience" by the Cabinet of Ministers on 10 January 2012 pursuant to Section 59^2 of this Law, institutions of higher education got the opportunity to offer evaluating of previous education. Pursuant to Section 59^2 of the Law on Institutions of Higher Education, institutions of higher education may evaluate education and experience of a person and if they comply with the requirements of the relevant study programme, recognise them by granting the relevant credit points.

In Latvia, credit points that are being equalled to credit points of the *European Credit Transfer and Accumulation System* (ECTS) are applied in higher education. One credit point (CP) in Latvia corresponds to one week of full time study work. When calculating to the ECTA, the number of credit points must be multiplied by 1.5. During one year of studies, a full-time student must acquire 40 credit points (60 ECTS). (Academic Information Centre 2015)

Whereas the socio-economic situation is very variable and there is a need to restore the knowledge and development always, the education also adapts to the necessities of people and allows to save time. Regulations Regarding Recognizing of the Study Results Achieved in Previous Education or Professional Experience were drawn up with intention to provide that a person will not have to learn the training courses repeatedly if he or she has already learned them before. This enables the student to be enrolled in the highest study year and to complete the specific study program and get a diploma sooner.

If a person continued to work in a profession for a long time and has not acquired higher education, he or she has the right to apply to any university or college in Latvia with application and to ask to evaluate and recognize his or her knowledge, experience and competence in a specific study program.

About the Cabinet Regulations

Regulations Regarding Recognition of the Study Results Achieved in Previous Education or Professional Experience approved by the Cabinet of Ministers stipulate that a decision to recognise the study results achieved in previous education or professional experience shall be taken by a commission set up by the institution of higher education or the college.

A person wishing to have his or her study results achieved in previous education or professional experience recognised shall submit an application to the institution of higher education or the college regarding recognition of the study results achieved; the application shall have enclosed documents confirming the results achieved in previous education or professional experience.

The study results achieved in professional experience may only be recognised in that part of the respective study programme which is based on practice, and such study results must be achieved in the area of professional activity which corresponds to the thematic area of the study programme. The study results achieved in previous education may be recognised if they conform to the higher education level and have been achieved:

- in a vocational further education programme the acquisition of which allows obtaining the fourth or fifth professional qualification level;
- in a separate course of the study programme or study module which has been acquired by the person as a listener;
- in a part of the study programme;
- in other ways acquired outside formal education, except the study programmes conforming to regulated professions.

A person who is not a student of the respective study programme may be matriculated in the respective study stage of such study programme after recognition of the study results, determining individually the extent of additional study courses or study modules to be acquired and the relevant examinations. (The Cabinet of Ministers Regulations No 36, 2012)

Each institution of higher education draws up a more specific methodology regarding recognizing of study and practice results. A university draws up its own Statute to specify the procedure provided for in the Cabinet of Ministers Regulations.

The Statute on recognition/evaluation and recognition of the study results achieved in previous education or professional experience of *Daugavpils University*, *University of Latvia*, *Liepaja University*, *Rīga Stradiņš University*, and *Riga Technical University* were studied.

The Statute determines the procedure regarding evaluation of the study results achieved in previous education or professional experience and provisions of the recognition procedure as well as determines the provisions regarding establishing of study results recognition committee, its rights and obligations.

Each university establishes one or several commissions on recognition of the study results achieved in previous education or professional experience (further referred to as the Commission) which decides on results achieved in previous education or professional experience. The recognition procedure is initiated on the basis of a person's application on a special blank.

Guidelines of lifelong learning in Latvia

Education is important for each person, the family, society and the State as a whole. It is the path to the quality of a human's individual life, to establishing of the knowledge society and to the economic growth and prosperity of the country. Investment in education and lifelong learning is an essential precondition for economic development and improvement of the State competitiveness as well as for reaching of a higher level of welfare.

In 21st century, education is lifelong; and, it is an integral part of our everyday: a conscious choice and satisfaction; to know and to be able for more, faster, more accurate; to learn and to study with understanding and love, to learn from each other regardless of social, economic or health status; to learn in an environment suitable for individual requirements using modern teaching tools.

The guidelines are drawn up pursuant to Section 14(18) of the *Education Law* which provides for that “the Cabinet of Ministers shall determine a single State policy and strategy in education and submit the basic guidelines for educational development for the following seven years to the *Saeima* for approval”.

In the guidelines, the highest objective of the education development policy is a qualitative and inclusive education for development of the personality, human welfare and sustainable growth of the country.

During the next few years, the Latvian educational system expects a serious demographic shock. During the period until 2020, a significant reduction of pupils and students is expected in secondary and higher education.

It is expected that in comparison with 2012, the number of learners’ in general secondary education will reduce for 11.6 thousand while in higher education – for 27.6 thousand in 2020. The formal education is relatively slow in adapting to the changing conditions of the labour market. A

more efficient way to reduce the disproportion of the labour market in short term is a proper organising of adult education system including continuing education.

One of the key principles of Latvia education policy is a human-oriented education focused on personal growth, self-improvement in every stage of life, in each area of the life throughout the life thus creating preconditions for development of initiative and adapting abilities of each resident and achieving social inclusion, employment and active civic participation.

Education policy activities focus on benefits of people rather than the ones of institutions. A safe educational environment, an inclusive education and an individualized approach to development of each resident's knowledge, abilities and talents has an important role in the implementation of the principle.

In order to achieve the aim defined in the "Europe 2020" Strategy – to ensure that 15 % of the population (aged 25–64 years) would be continuously involved in the learning process by 2020, the NRP contains four key policy directions for implementation of the lifelong learning principle: 1) developing national qualifications framework and adjusting its level to the European qualifications framework; 2) ensuring assessment of knowledge, skills and professional competences obtained outside formal education; 3) second chance education as a compensating mechanism to reduce the number of early school leavers; 4) supporting improvement of employee qualification according to employers' requirements with respect to employee training within sectors (*Progress Report on the Implementation of the National reform Programme of Latvia within the "Europe 2020" Strategy 2013).*

In scope of this process, the opportunities of adult education must be extended including promotion of strengthening of the capacity of institutions of professional education in adult education. In the next reporting period, the most important development indicators shall be as follow:

1) number of persons involved in education (aged 25–64 years);
2) number of adults involved in continuing education or returning to formal education in proportion to the total number;
3) number of persons in respect of which the *aligning of professional competencies* achieved outside the formal education system has been carried out.

The offer of continuing education for regional universities must be extended according to the needs of the regional development and the labour market demand. The improvement of the procedure of delegation for providing of evaluation of professional competence achieved outside the formal education system must be proceeded with; in addition, educational institutions and the public must be informed about the possibilities to evaluate professional competences achieved outside the formal education system.

Social partners indicate that during the reporting period, unemployed persons had the most opportunity to receive the State aid for training while the aid for training of employed persons was insufficient. (The Parliament, 2014)

Conclusion

Despite the ever rising proportion of adults in institutions of higher education, the status of adult learners is often ignored when evaluating the learning progress of such students. Often, institutions of higher education must learn to evaluate the knowledge they have not provided and to create a new system for evaluation and accreditation of students' expertise (Michelson 2002).

Adults learn, so they can engage in solving of specific personal professional or other social problems actively, and their education is highly context-oriented. During the evaluation, one may wonder how to handle this aspect of the specific context. The uniqueness of experience, the unpredictability of its interpreting and the individuality of the meaning creation causes striking differences among adult learners as well as problems to the evaluators. Therefore, institutions of higher education must have a very individual approach to the evaluation process.

Evaluation of knowledge and skills gained in previous experience is a complex process with specific stages and participants which may vary in different traditions and cultures. Thus, modelling of the process of evaluation of knowledge and skills gained in previous experience and fundamental principles of evaluation also arise from the awareness and treatment of evaluating of knowledge and skills gained in previous experience. Having analysed the previous information and words of Irina Maslo, the Professor of the University of Latvia, currently, Latvia has the Cabinet of Ministers regulations; however, the procedure does not have clear criteria and the University has relatively little experience in this procedure but there are many unclear issues and situations where subjective solutions or the impact of human factor may appear.

When recognizing the education and experience, it is necessary to understand initially, what a competence-oriented education is; how objective results can be obtained when testing; what the alignment (validation) criteria are; how to evaluate the process and the evaluator, and the pedagogical qualification of educators in the continuing education and adult educators.

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THE OPPORTUNITIES OF EXTRACURRICULAR MUSICAL CLASSES FOR SUSTAINABLE DEVELOPMENT IN EDUCATION

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Abstract

The opportunities of extracurricular musical classes for sustainable development in education

Key words: *emotional intelligence, ESD, human values, youth choir, sustainability*

Sustainability is determined by attitude. It is based on a system of values that can be developed by improving emotional intelligence. The precondition for the development of sustainability is a change in personal, corporate and global way of thinking. Therefore, the dominant role should be given to the kind of education, where the axiological aspect together with emotional intelligence development constitutes the basis for sustainable thinking. Sustainable Development Education as a part of developmental/global education is meant for obtaining knowledge about the interdependence of social, economic and environmental spheres, however, it may prove to be insufficient in the absence of a corresponding human resource for the implementation of real ideas. Sustainability and social responsibility are related concepts that include responsible behavior in relation to any personal manifestation. The paper discusses the possibilities of youths' emotional intelligence and the perfection of value system in high school extracurricular musical activities, focusing on evaluating such properties and capabilities as: social responsibility, empathy, cooperation skills, self-actualization, positivism, etc. The author has made this research of these characteristics in the youth choir and is ready to present the obtained results.

Kopsavilkums

Muzikālo ārpusklases nodarbību iespējas ilgtspējas attīstības izglītībā (ESD)

Atslēgvārdi: *emocionālā inteliģence, ESC, ilgtspēja, jauniešu koris, vispārcilvēciskās vērtības*

Ilgtspēju nosaka attieksme. Tās pamatā ir vērtību sistēma, kas var tikt attīsta, pilnveidojot emocionālo inteliģencei. Ilgtspējas attīstīšanas priekšnoteikums ir pārmaiņu ieviešana gan personiskajā, gan korporatīvajā, gan globālajā domāšanā, tādēļ dominējošā loma jāparedz tieši tādai izglītībai, kuras aksioloģiskais aspekts vienotībā ar emocionālās inteliģences pilnveidi veido ilgtspējīgas domāšanas pamatu. Ilgtspējas attīstības izglītība (EDS) kā attīstošās/globālās izglītības (GE) sastāvdaļa paredz apgūt zināšanas par sociālās, ekonomiskās un vides sfēras savstarpējo saistību, tomēr tas var izrādīties nepietiekoši, ja nav pieejams arī atbilstošs humānais resurss reālu ideju īstenošanai. Ilgtspēja un sociālā atbildība ir saistīti jēdzieni, kas sevī ietver atbildīgu rīcību attiecībā uz jebkurām subjekta izpausmēm. Rakstā tiek apskatītas jauniešu iespējas emocionālās inteliģences un vērtību sistēmas pilnveidei vidusskolas ārpusklases muzikālajās nodarbībās, īpaši izvērtējot tādas attīstāmās īpašības un spējas kā: sociālā atbildība, empātija, sadarbības prasmes, pašaktualizācija, pozitīvisms u.c. Saistīta pētījuma ietvaros autors veic šo pazīmju monitoringu vidusskolas koru grupās un ir gatavs iepazīstināt ar gūtajiem rezultātiem.

Introduction

Sustainable development. Part of the society views term *green thinking* as a synonym to sustainable development, but already in 1941 a German philosopher Max Horkheimer (1895-1974) claimed that sustainable development is not just simply *green thinking*. He emphasizes the fact that sustainable development is systemic, thus corrective actions must be taken throughout the system, including the main driver – human and his values (Horkheimer 1941). Each and every person is continously faced with alternative decisions. Changes in society start with changes on individual level. It is very important to have the right level of education, the knowledge of geopolitical, economic and environmental processes. However, these do not guarantee that an individual will be interested to be part of the unprofitable business of ensuring sustainable development, if there is no

basis at the level of his consciousness and values. Industry modernization anticipates for introduction of high-tech, optimal waste management, introduction of energy efficiency as well as the use of renewable resources. However, during times when increasing production capacities still dominate over environmental concerns, a decision must be made between commercial goals and what is best for the environment and the society. American lawyer James Speth, who for many years have focussed on issues around environmental security, achknowledges that modern day business values frequently come in conflict with community values (Speth 2009). It could be true that only when interacting with intelligence and values obtained, individual's intellect is the main factor for setting and obtaining real sustainable development goals. In this context also Guidelines for the Development of Education 2014-2020 foresee *opportunities for each individual to acquire knowledge, values and skills that are necessary for taking part in decision making, where decisions affect individual or collective actions on a local or global scale, in order to improve the current quality of life without compromising future generations*. Values and socially responsible mindset is basis for sustainable decision-making. Very soon current pupils and students will affect community and environment with their decisions and actions regardless of which industry they will work in and what kind of profession they will occupy. Offer of school programs for improving emotional intelligence and sense of value is very limited. Thus, it must be evaluated what kind of improvements extracurricular activities can bring.

Aim – determine what kind of features and values are desirable for a real participant of the sustainable development, what are the educational opportunities for developing and nurtuting them in extracurricular musical classes.

Methodology. Theoretical method – theory analysis of psychology, pedagogy and music pedagogy. Empirical method – pedagogical reflection of the author, Bar-On emotional intelligence test, thematic survey of the choir members for establishing priority values.

Discussion

Human values. Knowledge, skills and abilities are important components of pedagogical competence, however the most crucial one is attitude (Шчуркова 2005). When thinking and researching about the main values in the society, the author came across data about *How Countries Perceive their Current Society?* by Barret Balues Centre. Figure 1 represents percentange of the so-called potentially limiting values and behaviours in each country surveyed. Surprisingly, Latvia is among the countries, where this indicator exceeds 50%.

Research abstract does not include detailed list of negative values for each country, however it does describe such limiting values and their manifestations as: egoism (L), corruption (L), greed (L), short-term focus (L), violence (L), envy (L), competitiveness (L), elitism (L), lack of empathy (L).

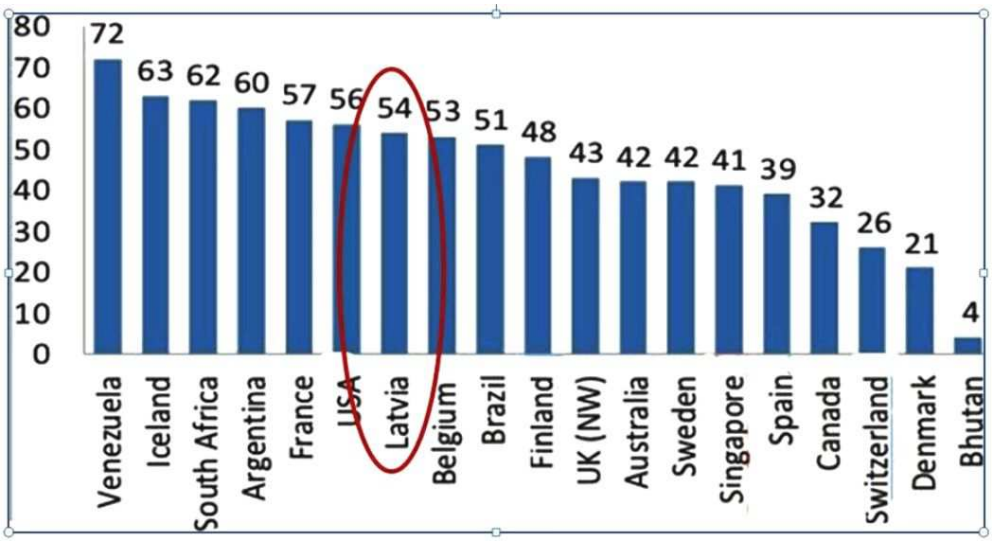

Figure 1. **Percentage of Potentially Limiting Values and Behaviors by countries**

Source: Clothier 2012, Barrett Values Centre

Historically there has been a practice to classify and prioritize values, to seach for their common tendencies. Polish philosopher and teacher Jozef Tischner (1931-2000) marks biological values as the first level in his system of values. It is responsible for maintaining individual's life and lifestyle. The second level then includes emotions, communication, recognition, denial, feelings (Тишнер 2005). Philosopher, cultural expert and specialist in value theory Moisei Kagan (1921-2006) believed that if the development of individual's sense of value is evaluated seperately from his level of political and cultural awareness and intelligence, then broad conclusions about tendencies can be drawn both on an individual and on a global level. M. Kagan created an axiosphere model, where such values as the sacred ones, aesthetical, interpersonal, individually-collective, legal and political ones (Каган 1997) are seperated from the primitive ones. Shalom Schwartz has found the following common features for values: persistance (values as points of view); values affect the desired outcome; values control preferences; values can be classified according their importance. Ian Woodward and Samahs Shaffakat claim that some value theories have some elements in common, for instance that values must be understoond as standards and basic principles, that they remain stable for a relatively long period of time, that values have their own hierarchy and that they control the decision-making process of an indivudal (Shaffakat 2014). In general, values are interpreted as viewpoints, standards, principles. Different authors have common views that values play an important role in developing attitudes and behaviours and that their hierarchy is very important. Values can vary over time. Social psychologist Milton Rokeach (1918-1988) created a model of human values (see Table 1), which is formed on the basis of 18

terminal values (goals that an individual would like to obtain) and 18 instrumental values (individual's characteristics as tools for obtaining terminal values). Based on this model,

M. Rokeach formed an universal value survey, which is widely used as a tool for researching values in psychology, sociology and marketing.

Table 1. **Human values by Milton Rokeach**

Terminal values	
Social values (focus on others)	***Personal values (self-focus)***
World at peace; World of beauty; Equality; Family safety; Freedom; Mature love; National security; Social recognition; True friendship	Comfortable life; Exciting life; Sense of perfection; Happiness, satisfaction; Inner harmony; Optimism, pleasure; Salvation; Self-respect; Wisdom
Instrumental values	
Moral values (moral and relations)	***Competence values***
Helpfilness; Forgiveness; Broad-Mindedness; Honesty; Love; Cheerfulness; Obedience; Politeness; Responsibility	Ambition; Capability; Cleanliness; Courage; Imagination; Independence; Intelligence; Logic; Self-Control

Source: Rokeach 1973

Terminal values represent goals that an individual has set to achieve during his lifetime. Instrumental values are the values desired by individual, in order to achieve the terminal value goals. Terminal values can be either *self-focused* or *focused on others*. Instrumenal values are divided in moral values and competence values. Moral values are the ones that create a feeling about wrong-doing when the boundaries of these values are overstepped. Competence values are more focused on self-actualization and competence demonstration. Value expert Richard Barrett has defined **seven levels of development of human consciousness** on an individual, business and social level. The model describes values and emotional intelligence features as precondition for reaching new levels of thinking, attitudes and activities. For instance, the highest, 7th level of an individual consciousness means devoting life to self-less service; selflesness (sympathy, forgiveness, taking care of humanity and planet), but the 7th level of society consciousness means obtaining such goals as: global sustainable development, human rights, long-term focus, environmental sustainability, peace, focus on future generations and their rights (Barrett 2012). By comparing these levels of consciousness to the model of human values by M. Rokeach, it becomes clear that an evolutionary expansion takes place from self-focus values to values that are focused on others. R. Barrett views development of consciousness as harmonic, if the values are evenly distributed along each of the previously mentioned seven levels for both individuals and society. The level in the middle, the 4th one, is called the transformation stage, where the consciousness overcomes the self-serving boundary. Devaluation of each individual's values affect the society as a whole. Value hiearchy is also important. The higher the value scores on individual's own value

scale, the lesser the risk that it can subject to influence or the risk of devaluation. Larger level of satisfication is reached when obtaining priority value goals.

Vales during teenage and young adult age. Value orientation becomes increasingly signification during teenage and young adult age, when revaluation period takes place. Georg Kerschensteiner (1854-1932) has emphasized the pedagogical significance of value orientation in his axiological education theory, where value theory and value philosophy are proclaimed as methodological basis of educational theory. In his opinion, the methodological subject is the individuality, means for education individual – knowledge, culture and values, goal – morally autonomous (free) personality (Kerschensteiner 1931). During the revaluation period one adopts new values, grows confidence in his peers, grows desire to influence others and it becomes important to him to resist frustration. Depending on the individual's level of emotional intelligence and external influences, the outcome of the revaluation period can vary. If positive, the values are strengthened, motivation for self-development is created. A very negative outcome creates a conflict situation: imbalance of legal and moral links, inadequate self-esteem, lack of interpersonal qualities, egocentrism, low self-control, anti-social behaviour, social exclusion. During the revaluation period it is important for educators to use axiological methods. In this context extracurricular activies play an important role. When students leave school, it will be in public's interest that they are not only successful members of the society but also resposinbly manage its development processes.

Emotional intelligence. The widely known Russian educator-reformer Oleg Gazman (1936-1996) found that the attitude based on value originates is subjective experience and as any other attitude, it is based on emotions (Газман 1995: 83). Whereas Dominique Rychen and professor Alejandro Tiana broadens the context of competence and includes motivation of attitude, emotions, values and ethics (Rychen, Tiana 2004). Stephanie Olsen says: "Values are never just abstract ideas, but are expressed and experienced through emotions. And they are not ideologically neutral. To stress the education of British values is to put a form of emotional education on the agenda"(Olsen 2014).How big of a role emotional intelligence plays when it comes to developing attitudes and acquiring knowledge? When assessing student knowledge the highest results according to the data of *The Programme for International Student Assessment* (PISA) are achieved by students in Singapore (587 points on average in three disciplines) (PISA 2015). It is worth to look into the school curriculum created by they Singapore Ministry of Education: "Social and Emotional Learning is an umbrella term that refers to students' acquisition of skills to recognise and manage emotions, develop care and concern for others, make responsible decisions, establish positive relationships, and handle challenging situations effectively. Briefly it refers to skills to manageself, relate to others positively and make responsible decisions. Key domains of Social and emotional

skills: There are five interrelated sets of cognitive, affective and behavioural competencies and they are clustered as five key domains of social and emotional skills" (MES 2017). When summarizing characteristics and abilities that are listed in detail in the source and development of which are included in the curriculum of Singapore's schools, it can be concluded that the conceptual Reuven Bar-On Model of Emotional Intelligence has been used (see Table 2) (Bar-On 1999).

Table 2. **The BarOn Model Emotional Intelligence**

Group	Factor	Description
Intrapersonal	Self-Regard Emotional Awareness Assertiveness Emotional Expression Self-Actualization Independence	Self-awareness and self-expression: To accurately perceive, understand and accept oneself; To be aware of and understand one's emotions; To effectively and constructively express one's emotions and oneself; To be self-reliant and free of emotional dependency on others; To strive to achieve personal goals and actualize one's potential.
Interpersonal	Emphaty Social Responsibility Interpersonal Relationship	Social awareness and interpersonal relationship: To be aware of and understand how others fee; To identify with one's social group and cooperate with others;To establish mutually satisfying relationships and relate well with others.
Stress Management	Stress Tolerance Impulse Control	Emotional management and regulation: To effectively and constructively manage emotions;To effectively and constructively control emotions.
Adaptability	Reality-Testing Flexibility Problem-Solving	Change management:To objectively validate one's feelings and thinking with external reality; To adapt and adjust one's feelings and thinking to new situations;To solve effectively problems of a personal and interpersonal nature.
General Mood	Optimism Happiness (ability to experience happiness)	Self-motivation:To be positive and look at the brighter side of life; To feel content with oneself, others and life in general.

Source: based on Bar-On 1999

Emotional intelligence specialist Joshua Freedman holds a view that the whole point of intelligence is to look ahead and solve problems - mathematical intelligence helps us solve numerical problems but emotional intelligence helps us solve human problems. Emotional components drive behavior: "If we can become more clear about the emotions that drive us individually towards our decisions and actions, and if we can become more effective at creating emotions enrol that will help others in making better decisions, we can be more powerful as advocates problems" (Freedman 2012).

Decision-making. An individual can make more responsible and more relevant decisions to the public, if he has emotional management and interpersonal skills and has developed empathy and social responsibility. Values as second component of developing attitude are especially important it they have reached a certain personal meaning. Combined with knowledge, experience and values, the emotional intelligence promotes responsible and optimal decision-making process that results in a meaningful action (see Figure 2).

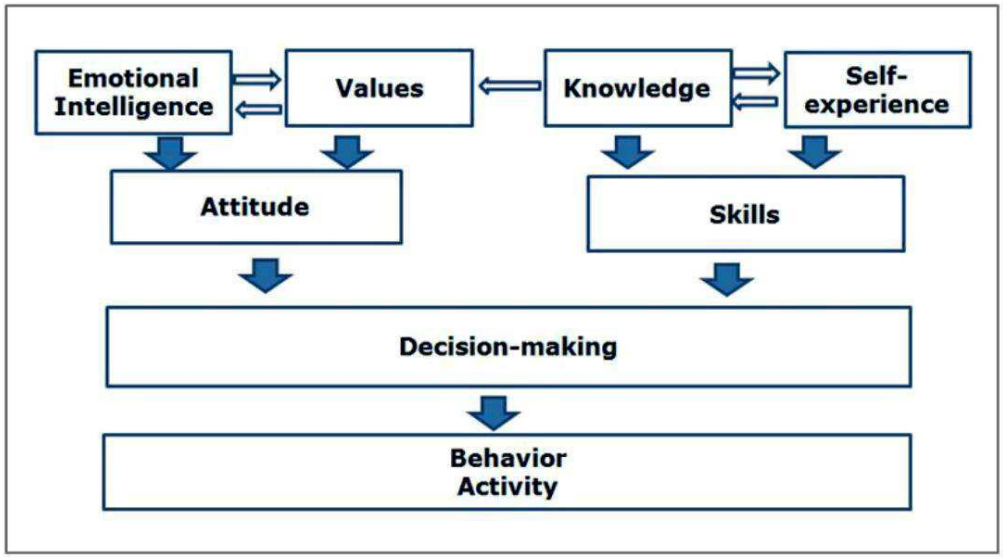

Figure 2. **Components affecting decion-making and behaviours**

Source: created by author, based on literature review

Emotional intelligence indicators in the context of obtaining positive results of sustainable development are not unambiguous. For instance, overly independent personalities often face difficulties when it comes to collaborating with other in the name of reaching common goals. Individualism is contrary to the idea of sustainable development. Hedonism and individualism represent those values, which threaten the public interest when reach the dominant position. James Speth has acknowledged that when individualism becomes dominant, one's own and other's values are threatened as well as any kind of collaboration (Speth 2009). However, the feature of *self-actualization* is considered means for achieving the highest level. *Self-actualization* gives energy and motivates to continue what is started. It is *self-actualization* which creates the emotional energy and has positive impact on others. Optimism is the belief in positive result and optimists are more resilient. In the context of sustainable development, empathy can positively affect business and environment related decisions and actions. An individual who has an adequate level of *self-regard* accepts proposals and supports such decisions that correspond to his values and cannot make delibarate damage. Since sustainable development is a process that cannot be ensured by a single individual, it is very important to acknowledge the interpersonal skills. Social responsibility is a crucial characteristic that can be cultivated and improved. Table 3 summarizes the desired values, features and their expressions of a sustainable development participant, which altogether represent the potentially fruitful participant of sustainable development process by bearing into mind that the environmental sustainability is more a social, moral, intelligence and value issue, which must be solved with the respective knowledge and skills.

Table 3.**The Desired Values, Features and Their Expressions of a Sustainable Development Participant**

Social Responsibility	Sense of beloging
Empathy	Common vision and values
Interpersonal Relationships	Social acitivity
Tolerance	National pride
Optimism	Personal meaning
Self-regard	Knowledge
Selt-actualization	Skills
Self-motivation	Experience
Flexibility	Creativity
Stress tolerance	Critical thinking

Source: created by author

Extra curricular musical classes. In the context of attitude development, a group of extracurricular musical classes will be analyzes, to be precise – a choir, which is considered to be the most available type of musical class.

Choir as a group can be characterised by:

- Voluntary participation
- Common goal
- Regular activities
- Without internal competition
- Broad range of collaboration partners and possibility of meeting different ages
- Accepting environment
- Activities focused on mutual cooperation and support
- Repetoire has an axiological aspect
- Unifying effect of the emotional response to music

The author has performed the Bar-On **emotional intelligence** test, in which participated: Choir PARTICIPANTS (n= 65), (28 boys and 37 girls) and a CONTROLGROUP(n=57), (26 boys and 31 girl). Test results can be viewed in Figure 3.

Test results show clear advantages on such levels as *Self-actualization, Emphaty, Interpersonal relationship, Social responsibility, Happiness un Optimism*.

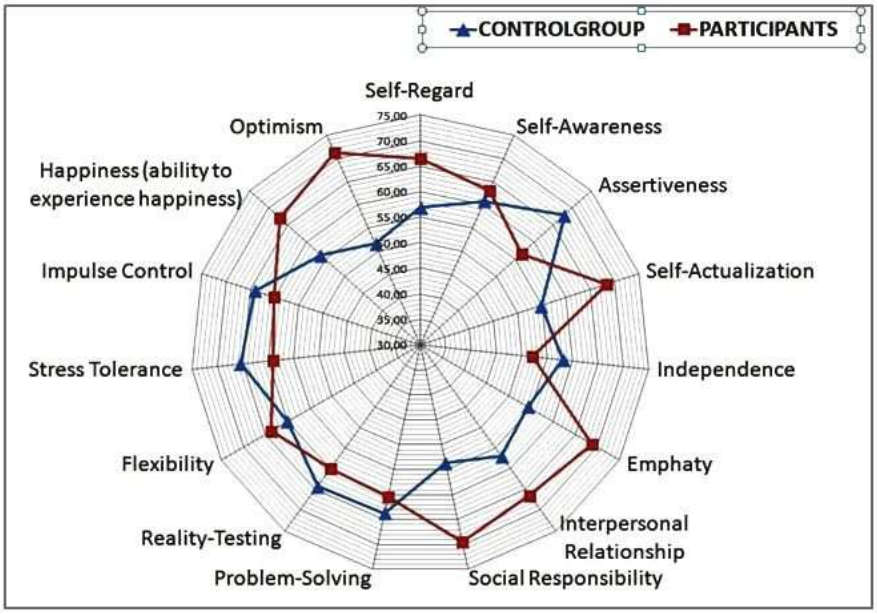

Figure 3. **Emotional Intelligence Test Results Among High-school Choir Singers**

Source: created by author, based ontest result of Bar-ON EQ-i 1997, adapt. by Janis Roze ((Roze 2013), Kruskal-Wallis M_Rangs values

Regarding levels of *Assertiveness* and *Independence,* one can notice a slight negative pattern, which can be explained with a more clear collective consciousness of choir singers.

Choir singers and values. Singers of several Riga choirs were given a task to choose 10 compositions from the current repertoire and to give recommendations about which lyrics of these compositios seemed to them the closest and the most meaningful. Data are analyzed by using the contextually-qualitative method – values embraced in lyrics were determined and compared to the value table of M.Rokeach. The data obtained were compared to the joint offer of values found in the compositions. Figure 4 represents value system category chosen by students against the joint offer.

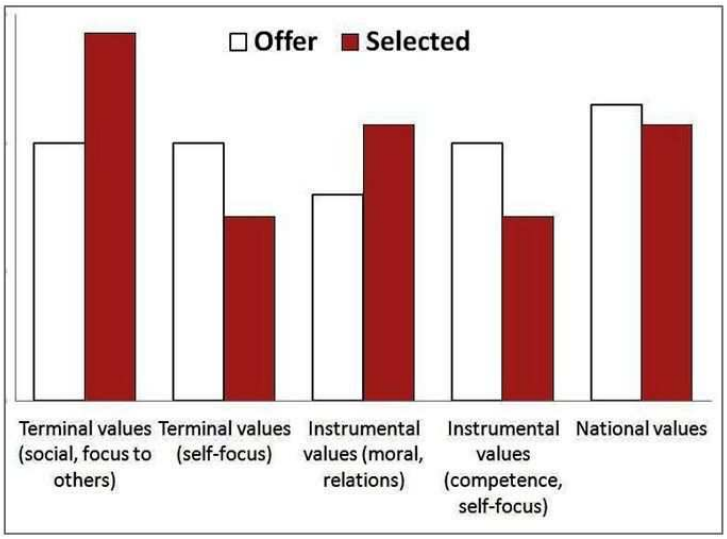

Figure 4. **Values chosen by choir singers**

Source: created by author, based on date of survey

Consequently, it can be seen that choir singers prefer terminal, *focus to others* values and intrumental-moral values. Values that were mentioned as personally meaningful were sense of responsibility, freedom, empathy, helpfulness, purposefulness, ability to love, sincerity, national security, optimism, real friendship and susceptibility. Among national values there were chosen such values as respect towards national history, nature as a source of being Latvian and patriotism.

Conclusions

1. In order to ensure sustainable development, there has to be an emotionally intelligent human resource, which has developed a personal view on human values and has acquired knowledge on such level that allows for responsible decision-making in the interests of society and environment.
2. Article provides for thedesired values, features and their expressions of a sustainable development participant, which are the following: **s**ocial responsibility, emphaty, interpersonal relationships, tolerance, optimism, self-actualization, self-motivation, flexibility, stress tolerance, sense of belonging, social activity, national pride, personal meaning, creativity.
3. Within the context of sustainable development, extracurricular musical classes can establish for students the appropriate attitude if the activities are organized in a collective, which has these characteristics: 1) voluntary participation, 2) common goals, 3) regular acitivities, 4) no internal competitiveness, 5) broad range og collaboration partners and possibility of meeting different ages, 6) accepting environment, 7), activities focused on mutual cooperation and support, 8) repertoire has an axiological aspect.

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PSIHOLOĢIJA / PSYCHOLOGY

DIFFERENTIATION – THE SELF AND THE OTHER IN THE PROCESS OF CONSTRUCTING IDENTITY

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Abstract

Differentiation – the Self and the Other in the process of constructing identity

Key words: *identity, differentiation, discourse, the Self, the Other*

The aim of this paper is to give a theoretical outlook on the construction process of identity through differentiation, based on a postmodern poststructuralist approach.

Identity as an approach in examining policy and international relations works on multiple levels. It not only gives the characterisation of states domestic and foreign policy issues and strategies, but also puts into a different perspective the complicated bilateral relations of these states. With many ideas, beliefs and meanings at the backbone of the elements from which the identity consists, the concept is bound to be ambiguous, unstable and impossible to reduce to a one certain point of emergence, also mostly due to the ever-changing nature of language and the discourse in which the identity is being expressed. However, one way to get to the roots of identity construction is following the assumption that identity discourses are being constructed in differentiation to other subjects or objects identities. By describing the identity of the Other the identity of the Self is being formed in the process. Although more often the ideas and values that are being associated with the Other will be placed in opposition to the ones that determine the identity of the Self, nevertheless, one cannot exist without the other as they are in a mutually constitutive albeit sometimes antagonistic relations.

The way that there are various identity discourses of the Self, there are multiple ways and levels as to how to perceive the Other. It can be viewed only as a part of the outside world, or it can be described in the identity discourse as something that is beginning to be a part of the inside society. Alternative identity discourses can be perceived in opposition or as alike, with elements and ideas that are similar or even the same. Or the identity of the Other can be constructed as an absolute threat, making it a security objective to eliminate the ideas and values that are inherent to it, from the discursive sphere of the Self.

Kopsavilkums

Diferenciācija – Es un Cits identitātes konstrukcijas procesā

Atslēgvārdi: *identitāte, diferenciācija, diskurss, Es, Cits*

Šī pētījuma mērķis ir sniegt teorētisku izklāstu par identitātes konstrukcijas procesu, kas notiek diferencējot Savu un Cita identitāti, tai veidojoties opozīcijā pret otru.

Identitāte kā koncepts ar kura palīdzību var skaidrot rīcības politiku un starptautisko attiecību norisi, var tikt apskatīts vairākos līmeņos. Identitāte ne tikai raksturo valsts iekšpolitiku un ārpolitisko rīcību, bet arī liek savādāk skatīties uz objektu un subjektu savstarpējām attiecībām. Identitātes sastāv no daudziem elementiem kurus nosaka idejas, uzskati un nozīmes. Dēļ daudziem iesaistītajiem mainīgajiem un valodas nestabilās dabas, identitātes koncepts ir vienmēr mainīgs, nestabils un neviennozīmīgs, turklāt identitātes diskursam nevar noteikt konkrētu izcelsmes punktu vai fiksētu stāvokli. Viens no veidiem kādā tiek skaidrots identitātes konstrukcijas process ir pieņemot, ka identitātes diskurss veidojas pretstatā citu subjektu vai objektu identitātes diskursiem. Piedēvējot īpašības Citam, tiek konstruēta Es identitāte. Lai arī visbiežāk Citam piedēvētās idejas un vērtības, būs pretējas tām, kuras tiek izmantotas Es identitātes konstrukcijā, tomēr Es un Cits nevar pastāvēt viens bez otra opozīcijā, jo atrodas savstarpējā mijiedarbības procesā, neskatoties uz to, ka Cita identitāte var tikt iekļauta draudu un drošības diskursā.

Tieši tāpat kā Es identitātes diskursam, pastāv vairāki veidi kādos var uztvert Cita identitāti. Cits var tik uzskatīts par daļu no ārējās pasaules vai arī tas var tikt aprakstīts kā drauds, kas sāk iesakņoties iekšējā Es sabiedrības apziņā, un draud ieņemt dominējošā vai hegemonā diskursa centrālo vietu. Alternatīvie identitātes diskursi var tikt skatīti no opozīcijas vai arī kā līdzīgi, ja ne līdzvērtīgi. Galējā robeža nosaka Cita identitātes uztveršanu kā draudu Es drošībai.

Introduction

Traditionally identity has not been considered as something that can be analysed in order to explain or as a prism through which to look at a countries policy. However, during the last fifty

years or so, basing their arguments on the works of such French thinkers as Jacques Derrida and Michael Foucault, and many others, a postmodern outlook on policy and international relations started to emerge. These approaches expressed untraditional standards, which were based on a logical empirical conclusion that the world was not that simple or realist, as, well, realists[66], wanted it to be.

Changes in the empirical approach to studying international relations and politics, could not have happened without a significant shift in the theoretical field. Although the Cold war era saw to the emergence and absolute dominance of the realist theory, rogue theories such as poststructuralism and constructivism began to offer alternative postmodern explanations to the political happenings in the international and domestic political systems. The main difference between the school of realism and postmodern theories was their world view – postmodern theories did not take the world in terms of *realpolitik* or balance of powers. The main shift in focus was to the concepts whose roles in creating and/or affecting policy was not that obvious or easily explained, for example, identity, culture and language.

As an element that is able to determine and explain a country in question, identity has undoubtedly become one of the more popular aspects of postmodern research. In contrast identity, itself has no definite explanation, rather a set of explanations, that describe its different aspects. It is viewed as a way by which a country differentiates or associates itself in regard to other players in the international arena. It is also a domestic way of realising and embracing particular values in its internal society. Identity is determined by culture and tradition, history and its interpretation. It is also not immune to the political tradition and present model of governance that a country has adopted. All of the above can be derived into two dimensions in terms of how a country sees itself – the outer or foreign policy dimension and the inner or domestic dimension. These two "worlds" should be complementing each other and not give into explicit contradictions, although that may occur.

The aim of this research paper is to give a theoretical outlook on how identity construction can take place from a point of distinction or difference. By applying a poststructuralist approach to explaining identity and its construction, during the course of this paper I will aim to explain and analyse how identity is viewed and constructed by the "method" of differentiation and the levels that this differentiation can reach in the discourse of identity.

A poststructuralist approach to the anatomy of identity

The postmodern researcher, especially the one that is interested in researching aspects of identity in politics, typically has to decide between two theoretical approaches – constructivism and

[66] Realism was the leading theory in explaining Cold War politics in the other half of the last century.

poststructuralism. Although the relationship between the two is, again, indeterminate[67], the basic premises of both are very alike, despite that some significant differences prevail.

The main difference in terms of identity research is in the way that its emergence is being argued. The most prominent social constructivist Alexander Wendt believes that identity doesn't have to be constructed in opposition to anything. Instead he proposes two sets of identity that a state can acquire – pre-social or corporate and social identity.[68] Although poststructuralists do not deny the possibility of a pre-given identity, they argue that identity nevertheless is constructed in the process of differentiation (Hansen 2006: 22) and socialization. In a state the basics of identity are being created in its society, language, historical memory and culture. Identifying with a particular set of concepts is not something we are born into – it is given in the process of socialization, with the option of accepting or declining it.

For the most part, research in the field of poststructuralism regarding identity construction has been concerned with the productive dynamic of the constitutive relationship between the Self (for example, the identity of the country that is being researched) and the Other (the identity of the subject or object in opposition to which the latter's identity is being constructed). Although there is no denying that the Self more often than not uses differences as a way of constructing identity, however, poststructuralists argue that antagonism is not the key source of meaning (Waever 2002: 24), rather an unwanted escalation of the relationship between the inside and the world outside of the state, that happens only in extreme situations, because the understanding of identity requires a complex and multidimensional system.

The discourse of politics depends on the particular way in which the differences between the Self and the Other are being constructed in discourse (Hansen 2006: 15). Identity discourses in the confounds of one state, are viewed as results of the discourse of threat or danger, that more often use the strategy of otherness. However, the simple contrast or opposition of two or multiple elements doesn't always have to be exaggerated to the level of danger from the point of view of the Self, although, the logics of identity demand differentiation, therefore the potential of transforming differences into otherness[69] is always present. (Campbell 1992: 56-78)

[67] Some scholars believe that they are two separate theoretical approaches, others on the other hand argue that poststructuralism is a subfield in the constructivist theory.

[68] For a more explicit discussion on the construction of identity from a social constructivist point of view please see: Alexander Wendt, *Anarchy is what states make of it*, 1999.

[69] Author W. E. Connolly believes that the urge to construct identity as radical otherness has two reasons. Firstly, it comes from peoples' exposure to injustice and life sufferings and the unavoidability of death, which creates the need to have a structure in place through which to punish the guilty ones. The other reason is found in the need to puts the responsibility on the Other, thinking that the Other, that exposes the weak spots of the identity of the Self, as irrational and evil. (Connolly 1989)

Research-wise explicit opposition is not as valuable in information, as differentiated systems (Waever 2002: 24). Explicit arguments and opposing concepts, although are very straightforward but more often are a very simplistic mirror of reality due to the lack of details. If you argue that X is not Y, because its X, there is nothing more to discover or research – it's obvious. The process of differentiation on the contrary determines a more complex relationship between the identities of the Self and the Other, the meanings of concepts of which provide a more beneficial and productive field for analysis.

The differences in the various approaches to the question of identity is primarily based on the outlook on language and its role in the process of constructing identity. (Waever 2002: 24) Poststructuralists believe that identity can only be discovered and constructed if it is articulated – it only exists in discourse. Since one of the key aspects of discourse is language and its performative and constitutive role, therefore, poststructuralists believe that language is a system of meanings[70], (Waever 2002: 24) a way in which reality is being represented.

Identity is capable of being ontologically "deep", when it is constructed as common truth or common knowledge, otherwise also considered as a regime of truth or dominating or hegemonic discourse. At the same time, no identity can be considered as he only existing truth, because any identity is specific and contestable (Connolly 1989: 331), and because of the ambiguous structure of language, (Phillips un Jørgensen 2002: 10) means that identity and the concepts that are a part of it, as it is expressed through language, are susceptible to change. The fact that language is constantly changing also means that identity and the accompanying concepts change with it.

Identity is made up of multiple dimensions; it is a condition, which cannot be traced to a one particular point of emergence, however it is possible to "catch" its first beginnings and elements, although they cannot be reduced to a one particular source of space or time. (Campbell 1992: 86) The most efficient way to trace identities points of emergence is by identifying key concepts that have become historically important as means of identity production. (Waever 2002: 24)

Despite the fact that no object can exist without an identity – be it either a state, ministry or organization, identity not only describes material objects, but also can be viewed as a relationship concept – it is constructed and also constructs oppositions between the Self and the Other (Waever 2002: 24). When creating the identity of the Self, oppositions or an alternative identity is also being constructed. The concepts that are used to form the discourse of identity do not aim to explicitly explain identity, rather to give a basic characterisation of it – what kind of system of signs or concept models are making up this particular identity and hence which constitutive signs should be examined. However, talking about certain qualities that are inherent to other states does not

[70] Structuralist Ferdinand de Saussure determined that signs acquire meaning by the differences they have from other signs. This argument is the basis for the modern differentiation model or construction of the Self and the Other.

necessary mean the adoption of a completely opposite stance. The level of difference applied can vary as it will be discussed below.

The uncertainty about what is the character of a given society, breeds suspicion un doubt about everything, that is not related or known to it. When analysing the security policy of the United States of America, author David Campbell came to the conclusion, that if the state is not formed by a "natural" national society, rather a group of immigrants or if the society consists of many different groups, the only way that an identity can be created or stabilized is by identifying everything, that doesn't fall in line with the ideals, that this particular society possesses. (Campbell 1992: 105) However, this argument doesn't explain the cases when identity is formed by a native society or when the makeup of the society is not divided into different ethnical, cultural or racial groups. That is why that the construction of identity as a process can have two different approaches – differentiation and linking. At the level of discourse to differentiate means that the identity discourse comes into its own as an opposite to the identity already in place. Contrary by linking the discourses that express identity encompasses shared beliefs and elements of already established discourses, that way creating a new identity construction. At the state level the differentiation takes place by opposing identity that the state ascribes to itself against the outside world, emphasizing the differences that separate the state and the world outside of it. Also at the outer sphere the linking process is possible when the state in question can try to emulate the outer unit.

The strategy of differentiation is in some ways easier to carry out by simply establishing the beliefs that belong to the Other and the concepts that are not acceptable to the Self and are inherent in the Other. However, the process of differentiation is not always as one-tracked as it may seem.

Differentiating the Self from the Other

As was mentioned before in the paper, the role of language in the process of constructing identity and in discourse is one of paramount proportions. That is why language has a key role in distinguishing the identities of the Self and the Other and the qualities, concepts and ideas that they encompass. The main purpose that language serves in the process of differentiation is to make what is relatable and known, internal, (Klein 1989: 100-104) at the same time to push outside of the discursive field concepts and values that do not correspond within the main idea about the identity of the state and to inscribe them to the outside world and the actions of the actors there. For example, the strategy of language can be designed in such a way that does not explicitly characterize or point out to the actions of the actors, instead describing in detail the actions of the forces outside of the state and emphasizing the need to oppose them. In this way by characterizing the outside world or the Other, the domestic identity is being defined. Although the Self is being defined in oppositions to the Other, the qualities that are being ascribed to the Other are actually the

same ones that the Self possesses. This means that the state identity can be viewed from a perspective of a result of mutually exclusive actions, in which opposing elements, that define the identity internally, are being linked via foreign policy.

Foreign policy as a political course of action, creates borders between events and actors that do not belong to the states domestic area, at the same time determining who and what does. In terms of foreign policy, domestic and international presence of a country is viewed as independent elements, that interact – it creates discourse of threat which is then used as an instrument in the creation of meaning domestically. However, the homogeneity of the society in terms of the logic of thinking, can never be achieved, as it always contains parts of the outside world and will never be more than just the consequences of the actions, in terms of which the absolute threat is being determined. (Campbell 1992: 69) Foreign policy is all those actions that differentiate and exclude, making the object of these actions "foreign" in a threatening way. Foreign policy is considered as states identity's final showcasing, in terms the confrontations between the Self and the Other that take place on different levels, like, ideological, political, ethnical and others.

Specific impressions and characterizations that are being associated with the identity of the Other, are being viewed as stand-alone and discrete variables, which do not create or determine, rather cause or are the cause of actions. (Laffey un Weldes 1997: 208) Creating identity in the process of differentiation makes the identity discourse linked to these specific differences, which means that it is impossible to reshape the attitudes towards differences, and not destroy the previous experience of identity (Connolly 1989: 329) and the foreign and domestic policies that were shaped by it. Such actions therefore would have both domestic and foreign policy implications.

Firstly, by assuming that the state has constructed its identity in opposition to the identity of the Other and based on these differences has created its foreign policy, means that if the need or want would come to change states foreign policy stance, it would require a possible reconstruction of the domestic identity, that is already accepted and with which the domestic society has already identified with. This in turn can have consequences on the domestic terrain, up to the destabilization and the questioning of the legitimacy of the ruling elite. On the other hand, if the change occurs in the positions of the dominant discourse in that it no longer constructs itself in opposition based upon previous ideas of difference, then a shift in the foreign policy is possible depending upon the new discursive hegemony. A second option is that the new dominant discourse can overtake the qualities if the now alternative discourse, in this way securing the continuity of the domestic and foreign policies.

The direct contrast between the Self and the Other has an energizing and separating impact, but because of it circular nature (the Other is the opposite of the Self; the Self is the opposite of the Other), the Self usually contains different types of differentiations. Despite that, in most cases, the

Other is depicted as radically different and a potential threat, (Waever 2002: 24) that is not the *a priori* way in which the Other can be seen.

Differentiation can take place on multiple levels, not just against the outer Other (Connolly 1989: 326) or by creating the national Self and the radical threatening Other; other forms of differences and levels of otherness emerge, starting with significant differences between the Self and the Other, to constructions where differences are not as radical (Hansen 2006: 6; 33) and identities actually overlap, still as something different than the Self and the Other, but alike at the same time or made up of similar (Waever 2002: 24) or the same concepts and ideas. The Self can be constructed by merging identity discourses, even opposing and negative ones or by using identity that has been constructed as superior to the identity of the Self (although that is rather uncommon) (Hansen 2006: 35).

On many instances the discourse in question is being opposed to the internal Other or an alternative identity discourse, characterised by the ideas from the outside world. The definitions of the outer and the inner Other complement each other, each of them merging with the definition used to describe the Other in its inner Self. (Connolly 1989: 326) That, however doesn't mean that the qualities of the identity of the Other become a part of the Self. Quite the opposite - it often provokes a completely different reaction – the more the Other becomes a part of society, the greater the efforts to establish a line that would separate it, for example, by putting in place regulations. This kind of response was exactly what happened with the establishment of slavery in colonial America. (Campbell 1992: 130)

Different identity discourses create imagined society patterns, with differences that are not fixed nor final. Each of these patterns has similarities to others and they all can exist simultaneously. Although there are differences among them, that doesn't mean that the identities that each of them construct are completely different. At the same time, in cases when the differences between the Self and the Other are not that stark, the smallest differences or deviations from the norms of identity are being exaggerated. The fact that the Other is being made up more different than it really is serves as an indicator for the fragility, feeling of being threatened and the lack of confidence in the identity of the Self. Another reason for this type of separation can be the Self's experience in dealing with different types of identity discourses in itself. The wider is the spectrum of differences, the greater the chance that the other side will be considered in terms of otherness (Campbell 1992: 120-124), to the extent that it is considered that the ideas of the Other cannot ever become alike or compatible with the ideas of the Self. By constructing the discourse of threat in the outer or inner Other, society is being consolidated for the fight against it and the threat that the Other represents.

Danger and threats are irreplaceable "ingredients" of an identity – these are a part of the relationship that a certain state or other objects has with the world outside of its sphere. (Campbell 1992: 92) The identity of the Other is a threat if by definition its own perspective on its identity demands that it defines the identity of the Self as inherently evil or if its cultural priorities demand the start of using resources that are necessary for taking care of the identity of the Self in its non-hegemonic environment. (Connolly 1989: 333)But for the most part the discourses on the threats that identity poses to the Self are the products of subjective interpretations of the identity of the Other.

The existence of threats and danger can be perceived in a positive way as a stimulus for progress or change, or in a negative way. Danger that is represented as the Others identity can be described in terms of different metaphors – illness, dirt, pollution. However, the results of these metaphors can be quite different – if illness makes the body grow weak and disturbs its routine, cleansing of the Self can be beneficial. (Campbell 1992: 92-93) Author David Campbell notes the socio-medical logics of discourse as one that performs in the discourse of identity when the differentiations of the Self from the Other takes place. The beliefs and ideas of the Other are being compared to diseases, that come from the outside of the sovereign state and can cripple the social ingredient of the it. Although this belief is common that is not always the case - the disease or marginal groups can exist within the society. Regarding the socio-medical discourse and its functioning two conclusions can be drawn regarding its historical actions. First of all, it is capable of being effective without any empirical evidence or even in direct controversy to them. Secondly, the different levels of differentiation in which these groups are being categorized as socially dangerous uses metaphors to give meaning to these differences and the ones that carry them out, thereby determining the way we feel about a certain representation. (Campbell 1992: 98-99) The best example for this nowadays is when this kind of thinking along the lines of stigmas is especially enabled around the world regarding Muslims, in Russia against West and vice versa, globally against China and the quality of its mass production, etc.

The strategy of otherness and the discourse of security are subjective therefore, always open to one's interpretation and with a high risk of over exaggeration. The stark contrasts between different levels of otherness that the discourse can express only acknowledges the ambiguity of identity discourses and also reveals the dangers that lie within its capabilities to cause foreign policy consequences that are based upon representations of the Other in the identity discourse of the Self.

Conclusions

"Even the thought of a possibility can shatter and reshape us; it can be achieved not only by feelings or certain expectations! Remember how effective was the possibility of an eternal damnation!" (Nietzsche 1984)

The discourse of security and the level of urgency that can be ascribed to the threat that the identity of the Other poses to the Self is undoubtedly subjectively formed. However, that is the nature of identity in terms of looking at it from a perspective of differentiation. It only takes the expression of language, the mere utterance of ideas to plant meanings and symbols into the logics of people so to influence the way they think and how they perceive the world.

Identity is a multidimensional concept that can be viewed both as a result and cause of domestic policies and states efforts to create its representations in the world outside of the inner realm. The way identity can be constructed is also optional. Although the most common practice is to differentiate the identity of the Self from the identity of the Other, the discourse of identity can be built upon the basis of other alternative discourses, by merging or reproducing them. The Other in the construction of identity is not always an object or subject that is outside of the inner circle of the Self. Alternative and opposing discourses exist both in the inner and the outer realms of society and state.

Ideas, concepts, meaning, beliefs and values make up certain elements of identity, for example, history, culture, language, religion and others, defining the key characteristics of a particular identity discourse. These elements are not pre-given, but rather are acquired, - identity is socially constructed. The key to the social construction of identity is the use of language. It is language that determines the nature of identity and it is through language that discourse can be articulated, and only because identity can be “found” in discourse, the unstable nature of language determines that a particular identity can never be fixed. It implies, that both the Self and the Other are always in the process of creating and recreating their identities.

Because of the nature of language and discourse in terms of which identity exists and is being formed we already know and understand that identity is a “floating” pattern of ideas, beliefs and values all combined in different identity discourses. However, that doesn’t mean that identity cannot have its “fixed points”. On the contrary – because it is ever changeable it never does completely change – the constant change is superficial, leaving the core meaning intact. Change can occur in the way a certain element is being described so that the one thing that is exposed to change and ambiguity becomes stable. On the other hand, even theses superficial changes can have an impact on state policy. When identity is determined by the characterization of the Other that is subject to change, it can bring about both implications to domestic realm and foreign policy with regard to the Other.

Exposure to change means that there are multiple identity discourses existing simultaneously. This implies that there are multiple ideas about the Other or there exist various levels of otherness that are ascribed to the Other. Otherness can vary – from discourses that are alike and even have “grey zones” where they overlap, to the securitization of the discourse of the identity of the Other.

Although antagonisms are not the only sources of meaning for identity construction, they are more often used than not. By creating oppositions, the representation of the Other is also being created, therefore defining the threats that it represents to the identity of the Self – knowing who we are is necessary to identify what we are afraid of.

The indeterminate nature of identity, discourse and language, make the construction of identity open to interpretation, which can bring about a lot of doubt in terms of arguments and empirical points. The fact that it is possible to determine one more point of reference - the Other – for the construction of the identity of the Self, gives more objective credibility to explanations of particular identity constructions.

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MENEDŽMENTS / MANAGEMENT

PERSONAL AND ORGANIZATIONAL VALUES IN CREATING A TEAM

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Abstract

Personal and organizational values in creating a team

Key words: *personal values, organizational values, value-driven organization, creation of team*

The conclusions of various scientists on the meaning of values in a team building process, achieving objectives and the role of values in creation of value-driven organization are analyzed in this article. Value-driven organizations are able to withstand competitive pressure and to adapt to changes better. In creation of value-driven team it is important that values of team members and values of the team are harmonized. Reviewing organizational values is one of the steps to the full range of levels of consciousness or creation of value-driven organization.

The research of organizational values in this study is based on R. Barrett's "*Seven Levels of Consciousness*"(Barrett 2008) model, which gives an opportunity to use values as an assessment tool of the organization. The greater is conformity between organizational values and personal values of employees, the stronger is the organization, and the opposite - the lower is conformity of values, the weaker is the organization.

In this study there was the survey carried out in order to explore personal and organizational values of employees in public administration organizations. Within the research 116 employees of public administration organizations were surveyed.

The result of research, the correlations, conformities and differences of personal and organizational values are reflected, and on the basis of this analysis level of employees' support in achieving goals of organization and support to plan changes in organization were evaluated. In this article authors provide the analysis on how important are the goals of organization to be achieved by the respondents, as well as to provide comparison between employees' personal values and organizational values in public administration organization that reflects the attitude to work and a creation the team in a workplace.

Kopsavilkums

Personiskās un organizācijas vērtības komandas veidošanā

Atslēgas vārdi: *personiskās vērtības, organizācijas vērtības, vērtīborinēta organizācija, komandas veidošana*

Rakstā tiek analizētas dažādu zinātnieku piedāvātās atziņas par vērtību nozīmi komandas veidošanā, mērķu sasniegšanā un to lomu vērtīborientētas organizācijas izveidē. Vērtīborientētas organizācijas spēj labāk izturēt konkurences spiedienu un pielāgoties pārmaiņām. Vērtīborientētas komandas izveidē ir svarīgi, lai komandas biedru un komandas vērtības būtu saskaņotas. Organizācijas vērtību pārskatīšana ir viens no soļiem, lai pārietu uz pilna spektra apziņas līmeņi, jeb vērtīborientētas organizācijas izveidi.

Organizācijas vērtību izpēte šajā pētījumā balstās uz R.Bareta *Septiņu apziņas līmeņu modeli*, kas sniedz iespēju izmantot vērtības kā organizācijas novērtēšanas instrumentu. Jo lielāka ir organizācijas vērtību un darbinieku vērtību atbilstība, jo stiprāka ir organizācija, savukārt, jo mazāka ir vērtību atbilstība, jo vājāka ir organizācija.

Pētījumā tika izmantota aptauja, kuras mērķis bija izpētīt valsts pārvaldes darbinieku personiskās un organizācijas vērtības. Pētījumā piedalījās 116 valsts pārvaldes darbinieki.

Pētījuma rezultātā analizētas personisko vērtību un organizācijas vērtību savstarpējās sakarības, atbilstības un atšķirības, uz kuru pamata tika novērtēts darbinieku atbalsts organizācijas mērķa sasniegšanā un plānotajām pārmaiņām organizācijā. Rakstā ir analizēts - cik lielā mērā aptaujātajiem ir svarīgi organizācijas mērķi, to sasniegšana, kā arī salīdzinātas darbinieku personīgās vērtības ar valsts pārvaldes organizāciju vērtībām, atspoguļojot attieksmi pret darbu un komandas izveidi darba vietā.

Introduction

Today, the public administration has an urgent issue – how to find a balance between the interests of the individual on one hand and common interests of society and collective on the other

hand. While creating team managers often are facing a question, how to involve the right persons in achieving the common goals, how to develop and increase the potential of employees, but meanwile reducing an amount of energy wasted in internal conflicts and competition.

For a teamwork to be effective and fruitful, a manager has to understand, what happens in his/her team, he/she must have clear understanding about human behaviour, about conscious and unconscious aspects of relationship. Manager has to be able to analyse what can happen among people working in groups, making decisions and sharing results (Gorbaceviča 2009). In order to understand what contributes and what prevents employees from becoming a cohesive and result-oriented team, personal and organizational values have to be studied. Value-oriented team insures the integrity of the organization, reduces the level of collective uncertainty and based on the values that reflect the perspective of organization's development. Harmonisation between personal and organizational values forms an overall system of concepts, which becomes a basis for effective communication and a successful teamwork.

Serious and strategically important goals are not reachable without cohesive and motivated team. Therefore, the article describes a research about personal and organizational values in team building.

Aim of the study: To analyse and study the importance of organizational and personal values in building of team.

Research Methods:

- The analysis of theoretical literature.
- The survey.
- Statistical data processing.

Research Question: How does the harmonization of organizational and personal values impact building of a team?

The question raised is topical nowadays and it is determined by the fact, that there has not been made any assessment of values in public administration so far, as well as research on team building.

It is clarified how employees understand organization, and how important are organization's goals to employees.

Although individualism dominates, still serious, strategically important goals in operation of any organization are not reachable without united, cohesive and motivated team. Word "team" is very topical in current situation, because managers often are trying to point out that their employees work in a team, one of the most important required skills in job advertisements is a skill "to work in team". As indicated by Guzzi (Guzzo 1996), the term "team" is a substitute for word "Collective" used in Soviet times, and in such case team is any group regardless of its tasks, size, cohesion level

and work efficiency. However, today it is typical to separate terms „workgroup" and „work team", where the main difference is that team has common goal, which is not characteristic to work groups (Tannenbaum, Beard & Salas 1992).

All over the world work in teams is seen as solution to many problems of organization. Eighty-two percent of companies with 100 and more employees in USA use a work in teams (Gordon 1992).

Organization and its managers should have unitary and clear aims, so the cooperation with employees develops dynamic, organic and harmonious. Respecting the fact that each employee at work wants to feel good, to be noticed and appreciated (Congress European Association for People Management 2013).

An organization, that is unable to cope with difficulties, is condemned to provide only the simplest products and services.

As noted by Chaudhry-Lawton, more sophisticated planning methods could help here, but usually nothing can replace involvement of the right people – team (Chaudhry - Lawton 1993). The team is more than just a group of people working together, J. Moriss and P. Montfort (Moriss & Mountfort 1997) emphasize the importance of building a team and teamwork, indicating that management and teambuilding are those areas, which will require particular attention in 21st century when talking about organization's development, and clearly – development of both of them have to take place in a continuous process. Team is a group of people, which creates an environment based on trust, respect and cooperation. These people have common understanding about the vision and values of organization and shared devotion to the provision of services (Scholtes, Joiner & Streibel 2003). Katzenbach and Smith define the team as a small number of people, who possess the necessary skills to pursue a common purpose, objectives and common approach, for which everyone takes responsibility (Katzenbach & Smith 1993).

Nowadays, team more and more goes outside the office boundaries, because it's members are not only working in different cities, but even in different countries. The team is being inspired and united by common goal and values. Team cannot be imagined without individuals, but, however each of them comes with its own value system, attitude, motivation and abilities. One of the most important roles of the team leader is to notice and use each employee's talents and to promote the use of their potential. Leaders must be able to manage the variety of individuals, promoting mutual understanding and trust.

Although there is no compelling research, which proves the superiority of the team over other forms of work organization (Sinclair 1992), however, according to Millward (Millward 2005), connection between work in team and efficiency mainly reflects in those researches, which are based on team members' self-assessment.

Effective teamwork most often is associated with strong organizational culture, where employees have common interests, they care about the organization's future development plans and they have a common vision about this plan, it is not only easier to work in such conditions, but also their strict unified conviction and the downstream behaviour contributes to formation of strong team (Dāvidsone 2008).

Susan Heathfield (Susan Heathfield 2012) stresses that it is important, that team members understand that their work in context is appropriate to the aims, principles, vision and values of organization.

People with common values react similarly to external environment, so it is possible to coordinate activities more effectively, but in interpersonal relationships confusion and conflicts reduce.

Of course, this cannot be denied, that value-oriented team is based on managers' understanding of human capital as the value of the company, the meaning of value based management in sustainable development of organization (Choi & Gray 2011).

However, the personnel are the main activity bringing active, unpredictable factor, characterized by different, hard to manage "qualities" (Forands 2007).

As by Dombrovska (Dombrovska 2009) human resources are the most difficult steered resources of the company. Manager has to be a strategical business partner (Ešenvalde 2007).

Because people from different cultures, with different personalities and emotional characteristics as well as different individual values work in teams. The complexity and diversity requires more resources and effort in creating an effective communication and ability to achieve the trust. Therefore, the objective of personnel management is to realize potential energy of people, while making progress (Voronču ka 2009).

In this study there is no search for confirmation of the effectiveness of the team, but the study indicates how the harmonization between individual personal values and collective common values affects building of the team. This study checks, whether there is connection between harmonization of values and teamwork.

The level of compliance of values (matches in personal values of individuals) and harmonization of values is affected by teamwork attributes, such as common goals, trust, open communication, duties and responsibilities.

V. Renge indicates that the relationship between the team members' needs – *common goals, safety, support, responsibility, mutual trust.* If the climate is characterized by a high level of control, low initiative, no concern for employees well-being and reduced learning ability, it does not contribute the work in a team (Renge 2007).

If managers are intended to take into account employees' values, it is possible to achieve a successful development of organization. However, in order to succeed at the beginning, it should be assessed, where the team is now, as Barrett discusses, that if you want to take the staff to where it wants to get, the work should start at the place where the staff is at present (Barret 2013).

Research Methods and Participants

Scientists such as Barrett and Hofstede (Barrett 1998; Hofstede 2005) have acknowledged that a successful organization builds its development based on values. The greater is a consistency between organizational values and employees' values, the stronger is the organization. There is a connection between harmonization of values and predictable behaviour, as behaviour and action of individual that are determined by accepted values, and it allows to predict how other individuals with similar values are going to act.

Research on organizational values in this study is based on R. Barrett's (Barrett 2008) "*Seven Levels of Consciousness model"* that allows to use values as an assessment tool of organization. This method can be used for organization as well as for a group, therefore it was selected to show that this model can be applied to team building, harmonization of values of team members and group, as well as to identify the group's level of entropy. Research method is tested and used in various researches in the past, and today there are more than 1000 studies worldwide (Barrett 2013). Thus, this is a method, which is accepted by professionals and it provides the reliability of the study.

Barrett's (Barrett 2008) *Seven Levels of Consciousnessmodel* is based on the concept that any value (behavioural styles) could be extended to one of the seven levels of consciousness, which are divided as follows: the first three (lower) levels of consciousness refer to basic needs, physical survival, physical and emotional safety, as well as emotional self-esteem. The fifth, sixth and seventh levels refer to "supreme" needs and are related to finding the meaning of human life, transformation of the world and service to society. The fourth level is significant with transformation from Self-interest to Common Wealth. Each level of consciousness corresponds to certain values. Furthermore, all values are divided in two categories - positive (P) and potentially limiting (potentially limiting).

In this study the authors used the survey, the aim of which was to investigate personal and organization values of employees in public administration. One hundred sixteen respondents participated in the survey, including 19 managers and alternates and 94 employees, 3 questionnaires were invalidated.

Demographic and geographical characteristics were as follows: 93 women; 20 men.

Age: from 22-30 years – 15 respondents, from 31-40 years – 25, from 41-50 years – 41, from 51-60 years – 27 and from 61-70 years – 5 respondents.

Respondents' place of residence: Riga – 39, Vidzeme – 23, Latgale – 21, Zemgale – 13, Kurzeme – 16, unspecified – 1.

Respondents' level of education: doctor's degree – 3, master's degree – 62, second level higher education – 38, first level higher education – 9, secondary education – 1.

Results of the Research

The results of survey are presented in accordance to R. Barrett's methodology by systematising values according to their classification and structuring them into Seven Levels of Consciousness in value diagrams. **Seven Levels of Consciousness:** the first – Survival, the second – Relationship, the third – Self-esteem, the fourth – Transformation, the fifth – Internal Cohesion, the sixth – Making Difference, the seventh – Service level.

It should be noted, that in ideal case the values should cover all levels, i.e., should be spread over all seven levels of consciousness. However, only a few organizations operate in full spectrum of levels of consciousness (Barrett 2008).

The value diagram (Figure 1) depicts: Personal values, which shows ten personal values of employees; Organizational values, which shows ten values corresponding to current organizational culture.

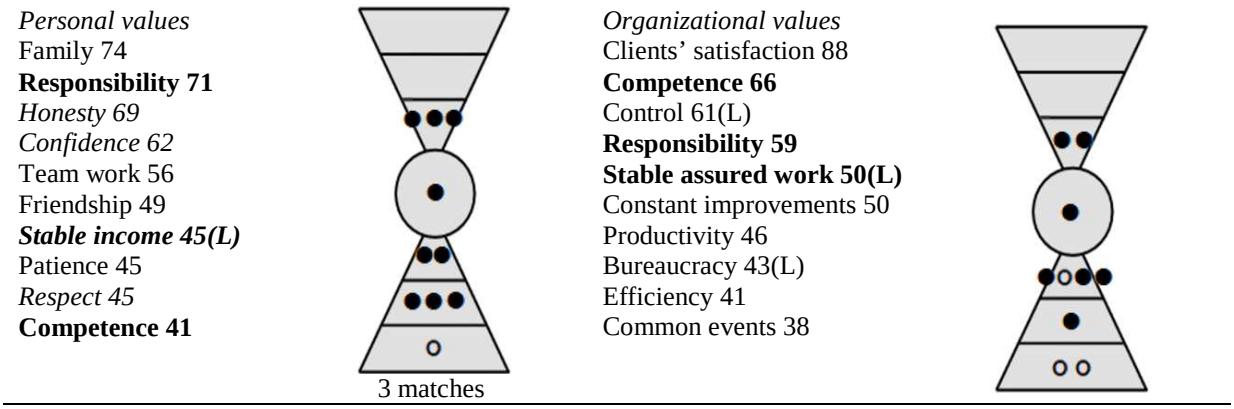

Figure 1. **Breakdown of employees' values**

Source: authors' calculations based on managers' survey data

Ten most often mentioned values are shown in figure one and displayed according to Barret's *Seven Levels of Consciousness model*. The most highly rated employees' personal values are distributed into five levels of consciousness, where nine values are positive and one is potentially limiting. Employees have indicated the value – team work – as one of the most important values. Among the listed values there are also such as a team building important values as Responsibility, Confidence, Honesty, Respect, Friendship. At the same time attention should be paid to the fact, that employees have marked the value "Stable income", which is a potentially limiting value. It is

noteworthy, that the value "Stable assured work" is also marked in *Organizational values* diagram, that points to the fact that employees need a sense of security.

By analysing the results, it can be concluded that there is a slight relevance between personal values and organizational values, namely, there are three matches in values – Responsibility, Competence and potentially limiting value – Stable assured work. The bigger is relevance between personal values and current organizational values, the stronger is organizational culture and more united is a team.

Among those ten values, which are marked by employees as current organizational values, seven values are positive: Clients' satisfaction, Competence, Responsibility, Constant improvements, Productivity, Efficiency, Common events, but three values are potentially limiting. Values are divided into five levels of consciousness: one value is in the second level of consciousness (Relationship level) and one in the fourth (Transformation) level, two values are in the fifth (Internal Cohesion) and the first (Survival) level, besides both of them – "Stable ensured work" and "Control" - are potentially limiting. There are four values in the third (Self-esteem) level, one of those values – "Bureaucracy" – is potentially limiting. So in general there are three potentially limiting values (in Survival level and Self-esteem level). Potentially limiting values indicate that in this public authority there is exaggerated monitoring, control of procedures, caution, and probably also tendency to avoid the risk. At the same time employees are afraid to show initiative and act "outside the set frames," they are not able to build trustful relationship among them. As a result, employees' value are in contradiction, and this interfere the formation of successful team. Lack of harmonization in understanding of mission occurs if employees' awareness of their main motives does not comply with organizational goals or mission. Such contradictions are hampering the focus by creating the sense of uncertainty, and have negative impact on job performance. If organizational values do not comply with employees' values, then energy will not be concentrated in the same direction. If the harmonization of values is reached, the aim and confidence are found, then the team will be united and its collective capacity increases. Sun Tzu in the book "*The Art of War*" notes that if you know both yourself and others, you will never get in danger, if you do not know the others, you will have half the chance of winning, but if you do not know neither yourself, nor others, you will get in danger in every battle (Sun Tzu 2011:38). Barrett (Barrett 2008) reflects that organization cannot operate in level of consciousness which is higher than level of personal consciousness of its managers'. Figure 2 shows the results related to assessment of managers' and their substitutes' values, i.e., the main team.

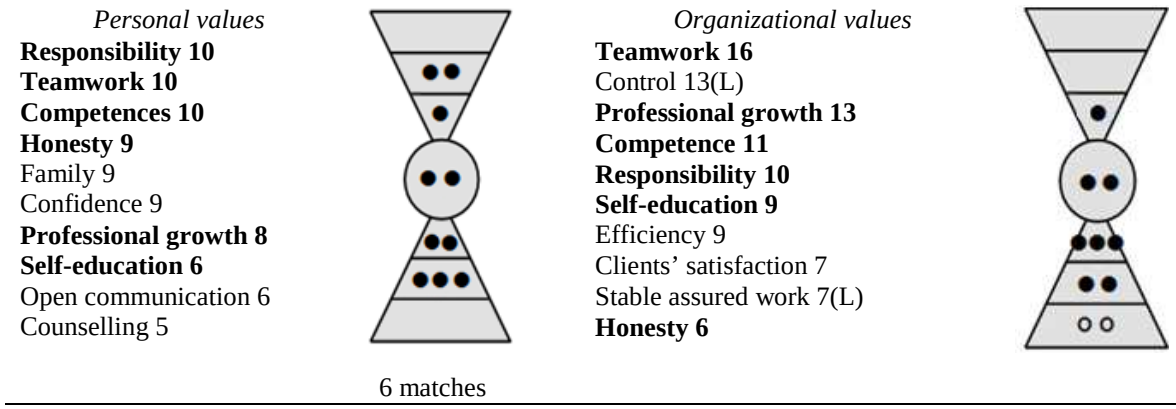

Figure 2. **Breakdown of managers' values**

Source: authors' calculations based on managers' survey data

Top ten the most highly rated managers' personal values are distributed in five Levels of Consciousness: *Relationship, Self-esteem, Transformation, Internal Cohesion, Making a Difference.* There are no any potentially limiting values among the personal values, all personal values are positive. The managers characterize themselves by the following values: responsible, competent and focused on teamwork. At the same time attention should be paid to the fact, that managers have not declared any values in the Survival level, but they concentrate to *Relationship* level of consciousness, what means that managers focus on harmonic mutual relations and good internal communication.

Top ten of the most frequently marked current organizational values is spread over five levels of consciousness: *Survival, Relationship, Self-esteem, Transformation, Internal Cohesion*. Two potentially limiting values in Survival level of consciousness – "Control", "Stable assured work" – indicates that managers are worried about a survival. It could also be a sign of excessive monitoring, hair-splitting, cautiousness, as well as tendency to avoid any risk. If managers are more interested in their own rather than the organization's success, they start to control each other, increasing the level of cultural entropy and thereby adversely affecting the teamwork.

Among personal and current values there are 6 matches – "Responsibility", "Team work", "Competence", "Honesty", "Professional growth", "Self-education".

However, matches between those personal and organization values, which are the most important in terms of levels of consciousness, indicate that these managers are able to create the team they want. The relationship value – "Teamwork" - shows that managers think about their employees. As well as managers want organization not to focus outwards, but inwards the organization – this is reflected by the fact that among personal and organizational values there are such values as – "Responsibility", "Teamwork", "Competences", "Honesty".

The level of cultural entropy as well as distribution of values – Common Wealth, Transformation, Self-interest – are shown in Figure 3.

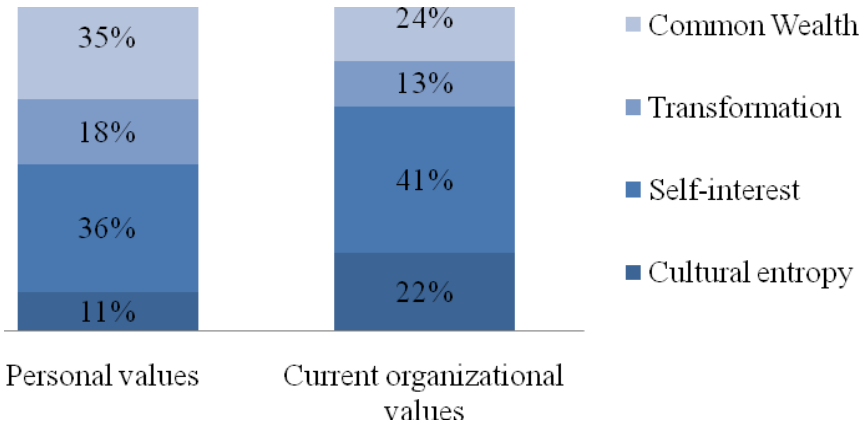

Figure 3. **Level of cultural entropy (%)**

The level of entropy represents the amount of energy, which employees and organization as a whole spend inefficiently. The cultural entropy and flexibility are inversely proportional terms (if cultural entropy is high, flexibility is low). The calculations made show that cultural entropy level in public organization X is 22%, and according to organizational culture's researcher R. Barrett (Barrett 2008) it indicates the need for transformation of organizational culture and structure. The cause of cultural entropy is insufficient harmony, insufficient clarity and lack of unity and trust.

All those deficiencies strongly reduce flexibility of organization, as well as hinder collective capacity.

When evaluating employees, it has to be noted, that for them equally actual and important values are both *Common wealth* 35% and *Self-interest* 36%, however, as the level of Transformation shows, employees are not ready to take responsibility, so it would be difficult for them to adapt to changes.

Conclusions

- Values of public administration should be clearly formulated and uniform, as a result employees working in public administration would improve communication, should create and strengthen a united team.
- Creation of the team does not necessarily mean that it will develop as a functional team and will reach a desired result, however, harmonization of personal and organizational values can be one of the ways how to improve the teamwork.
- Successful teamwork will be possible only if management dedicates enough efforts and balances excessive bureaucracy with responsibility and honesty, but caution and control – with improvement of management, at the same time paying more attention to open communication and teamwork.
- Management has to intentionally regulate organizational culture by establishing it in the shape they wish to achieve, and to manage organizational values. As a result, a value-oriented culture,

which is characterized by a low level of cultural entropy in all stages of organization, would be created.

- Personal values have a significant impact on work, communication and success of the team, because they will always be on the first place for the individual. Therefore, in order to understand whether the organization and employees are compatible with each other, it is very important for managers of organization to know system of values of their employees.

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EMPLOYEE SELF-DEVELOPMENT MANAGEMENT IN ORGANIZATION X

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Abstract

Employee self-development management in organization X

Key words: *Motivation, Self-development, Mentoring, Careers growth, Management, Organisation*

The aim of the given study is to research employee's self-development in the organization X. The substantiation of the research is based on multiple leading employee organisations self-development researchers works, such as Rueywei Gong, Shih-Ying Chen (2014), Melanie Seemann, Thomas Seemann (2015), Aleksandar Erceg, Antea Šuljug (2016), in which the motivation of the employees, the ratings of careers development results were inquired, as well as multiple motivation theories and the meaning of mentoring a couching in the self-development process were analysed, etc. In this research the outlook on how mentoring, which includes couching, the educational sponsorship, personal self-development, personal skill development creates employee's careers development, which is satisfaction with work, recognition, wage, inside communication and the achievements of employees. The base of this particular research is enterprise X, its employees, overall 150, among whom there are 70 client service and sales orientated specialists, 30 of them are managers and 50 of them are office employees of enterprise X. The papers' study is based on a survey regarding development opportunity application at the workplace, which has been created specially by the author. In the conclusion part of the research it can be established, that the organisations employees can improve their skills through mentoring, which has been provided by enterprises. As the study shows, mentoring is very effective way to contribute employee's personality development in the organisation, as well as high work quality and positive emotional mood at the workplace which significantly increases employees sense of responsibility and fulfilment of professional duties. The balance between given tasks, skills, workload and competence – creates supreme performance.

Kopsavilkums

Darbinieka pašizaugsmes vadība X organizācijā

Atslēgvārdi: *motivācija, mentorings, menedžments, organizācija*

Dotā pētījuma mērķis ir izpētīt darbinieka pašizaugsmes vadību X organizācijā. Darba teorētiskais pamatojums ir balstīts uz vairāku vadošo darbinieku organizācijās pašizaugsmes pētnieku darbiem, tādu kā Gong, R., Shih-Ying, C. (Rueywei Gong, Shih-Ying Chen, 2014), Sīmanes M., Sīmana T. (Melanie Seemann, Thomas Seemann, 2015), Ercega A., Šuljuga A. (Aleksandar Erceg, Antea Šuljug, 2016), kuros tika pētīta darbinieku motivācija, karjeras izaugsmes rezultātu vērtējumi, izanalizētas dažādas motivācijas teorijas, mentoringa un koučinga nozīme pašizaugsmē, u.c. Darbā tiek sniegts ieskats, kā mentorings, tajā skaitā koučings, izglītošanās sponsorēšana, personīgā pašizglītošanās, personīgo prasmju attīstīšana veido darbinieka karjeras izaugsmi, kas ir apmierinātība ar darbu, atzinība, atalgojums, iekšējā sadarbība un darbinieku sasniegumi.

Kā pētījuma bāze ir ņemts X uzņēmums un tā darbinieki, kopskaitā 150 darbinieki, to skaitā 70 klientu apkalpošanas un tirdzniecības speciālisti, 30 centra vadītāji un 50 X uzņēmuma biroja darbinieki. Darba pētījums ir balstīts uz speciāli autores izstrādātu aptauju par pilnveides iespēju izmantošanu darbavietā.

Darba rezultātos tiek secināts, ka organizāciju darbinieki var uzlabot savas prasmes caur mentoringu, ko nodrošina uzņēmumi. Kā liecina pētījuma rezultāti, mentorings ir ļoti efektīvs, lai veicinātu organizāciju darbinieku personības attīstību, kā arī augstu darba kvalitāti un pozitīvu emocionālo noskaņojumu darba vietā, tas būtiski paaugstina darbinieku atbildības izjūtu un profesionālu pienākumu izpildi. Līdzsvars starp uzlikto uzdevumu, prasmēm, darba slodzi un spējām rada maksimālu veiktspēju.

Introduction

Motivation is very complex and dynamic concept, which is based on needs, desires, values for each employee are different in different situations and personality development stages. Only in this way managers will be able to assign tasks for staff capabilities. Satisfied and capable employees is one step towards realizing the objectives of the organization.

To the leaders of the company to successfully raise the objectives and actions that need to be done, they must be understood and to understand what drives and motivates their staff. (Erceg, Šuljug 2016) Independent learning and practicing of mentoring leads to long-term quality effect, which motivates employees and moves up the career ladder. Human resources are one of the most key factors that constitute a mentoring system and as mentors are chosen people who are highly educated and more experienced. Growth is the personal development that predict continued development of their abilities, even if there is no external necessity to the effort. (Psychology Dictionary 1999)

Discussion

Mentoring is essential to personal growth and is an effective means of career development organization. In several authors studies, for example, R. Gong (Rueywei Gong) and S. Chen (Shih-Ying Chen) carrying out surveys, results showed that for employees' personal self-education mentoring courses are essential and have a positive impact on growth and development in their career in the company, as well as outside of it.

Higgins and Kram concluded that the focus on workers has a thriving business key and mentoring, including couching, labor protection, sponsorship, personal learning, personal skill development is the result of the career outcome of satisfaction with work, recognition, remuneration, internal cooperation, achievements, etc. (Higgins, Kram 2001) Theframeworkis shown in Figure.

Figure 1. **Research framework**

Since the 21st century, companies, organizations have occurred rapid changes that are associated with the development and use of modern technologies, which has also affected the career planning and outcome. Researcher D. T. Hall proposed to qualify these changes that affect in four categories of career development and the outcome. First, employment contracts between workers and employers have been changed (Rousseau 1995), since the main aim of the company was to gain profit, not focusing on employee well-being at work, which affect the personal and business development, professional activities. (Gong, MR Chen 2014). Secondly, the staff career growth is

affected by the latest technologies, which led to think about mentoring using for education of the staff, to achieve the best possible working results that also gave positive results. Thirdly, the sources from which staff tried to educate themselves, were changed, directing towards globalization of the economy. In the result was used different mentoring techniques and version that opened the greater possibilities and wider horizons. Fourthly, needs and available resources on the development of the organization's affecting activities of the organization. Higgins and Kram (Gong, MR Chen 2014) indicates that the employer and the employee must create strong relations among themselves and support each other in career development stages. The use of quality mentoring helps organizations to achieve their goals.

There must be harmony between employee's inner emotional state, confidence and management task, to achieve the objective efficiently without unnecessary victims and stress, which can lead to employee performance decrease or even burn-out. Stressed employees trying to run with the maximum capacity the necessary tasks, but by the time the positive stress becomes negative stress that contribute to that employee loses work creativity and inspiration, there is no longer sufficient motivation and support from management and it reduces or even stops self-growth development. (Seemann, Seemann 2015) In such cases, managers must immediately reduce workload and provide support to restore the power. Researchers Schwartz and McCarthy described several ways to strengthen, activate the working environment. To achieve this, the authors have pointed out four categories, and they are:

- Physical Energy: the body is the primary source of energy. It needs a healthy diet, regular breaks, a good amount of sleep, these conditions are very important that staff properly can carry out their duties at work and be able to develop.
- Emotional energy: that is the feeling and emotion that people get in the work environment and employees learn to govern them and enter them in the correct tracks to make work effective. Doing so can give them more control over their emotions and improve their energy. To strengthen emotional energy, workers can try to reduce the negative emotions and use positive emotions as fuel to fight negative.
- Mental energy: many workers and the leaders believe that several tasks are necessary at the same time taking account the huge demand and workload. However, the performance of several tasks reduces productivity, concentration losses on tasks. For example, an employee does not rest or lunch but reply to email or telephone calls, which was not so important, it consumes much energy and, at the end of the day, the worker feels confused because at the same time many tasks have been performed. Possibly that none of the tasks may have been fully completed.

- Spiritual energy: if the job does indeed take responsibility and that is important to the worker, the worker will receive more positive energy. However, there are situations where an employee makes pointless work, so the mental energy is being destroyed. Employees who are granted with the time for activities that they like and seem important, are contributing to their mental energy. This requires a degree of autonomy when an employee is free to take certain decisions and take certain measures. (Schwartz, McCarthy 2007)

Key factors include worker characteristics: skills and ability to work. In the day-to-day operation of this activity, the characteristics can be considered as permanent and very important for the manager. In the long term, independent development of personal skills and capabilities is an effective recovery of energy and raises many times the potential for an employee. Similarly, as the main factor must be mentioned manager in whose competence is successful increase of the internal motivation of employees and the provision of high performance: the task and load. Combining factors, the skills, capacity and tasks assigned to the employee, the load is a balance that can be maintained and stabilized for success and development. (Seemann, Seemann 2015). All four elements together complement and amplify each other. If all these factors are in balance, then they generate maximum performance in the working place.

The importance of self-growth will be studied in the X organization. As survey base has been taken the company x and its employees, including 153 workers, 99 women and 54 males, including 68 customer service and commerce specialists, 27 customer service and sales professionals. The work study is based on a survey of the use of in-service training opportunities in the workplace.

Respondents were classified by employment duration, group of employees and age group: less than 1 year, 1-2 years, 2-5 years, 5-10 years and 10 years and more that employees are working in X organization. Under the group of employees is position that employee is taking in organization X, and this is the customer service and trade officer, the customer service and the Chief trade officer or the Centre manager, organization's Office worker and they who are working outside of the office - work trips.

By questionnaire the employees of the X organization, was asked to answer the question "what was your reason to apply for current position?", 24.1% as the most key factor was good remuneration, followed by 21.5% was prestige, 16.6% like this job, 15.5% working conditions, 15.2% required employment, and only 6.3% interest in the objective of the organization. On answer for question - Other, 3 respondents commented on the timing, place close to home and the development of self-growth. (see Diagram 1) In answer to this question, the respondents had the choice to choose several variants of the answer.

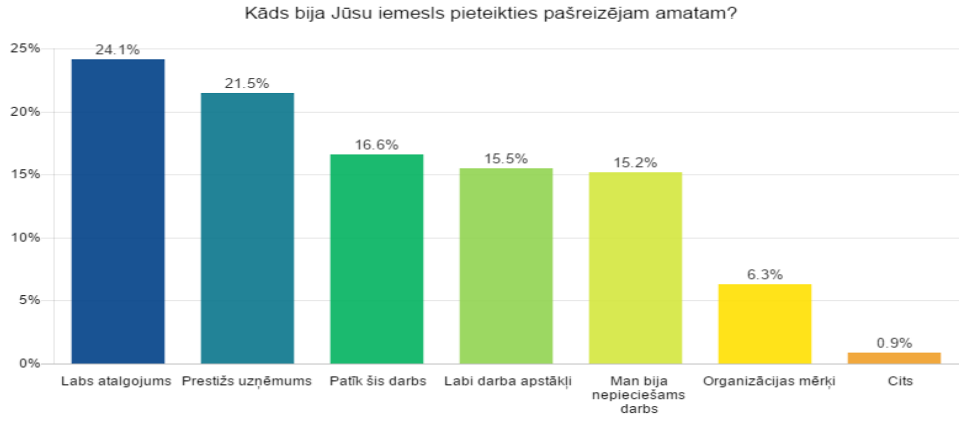

Diagram 1. **What was your reason to apply for current position?**

Further the author has made research about how differed women and men, the specific group of workers and the long-time working employee's answers to the question "what could you expect to improve in your self-growth in your company?" Diagram 2 will show the responses of employees who are working for the X organization less than 1 year.

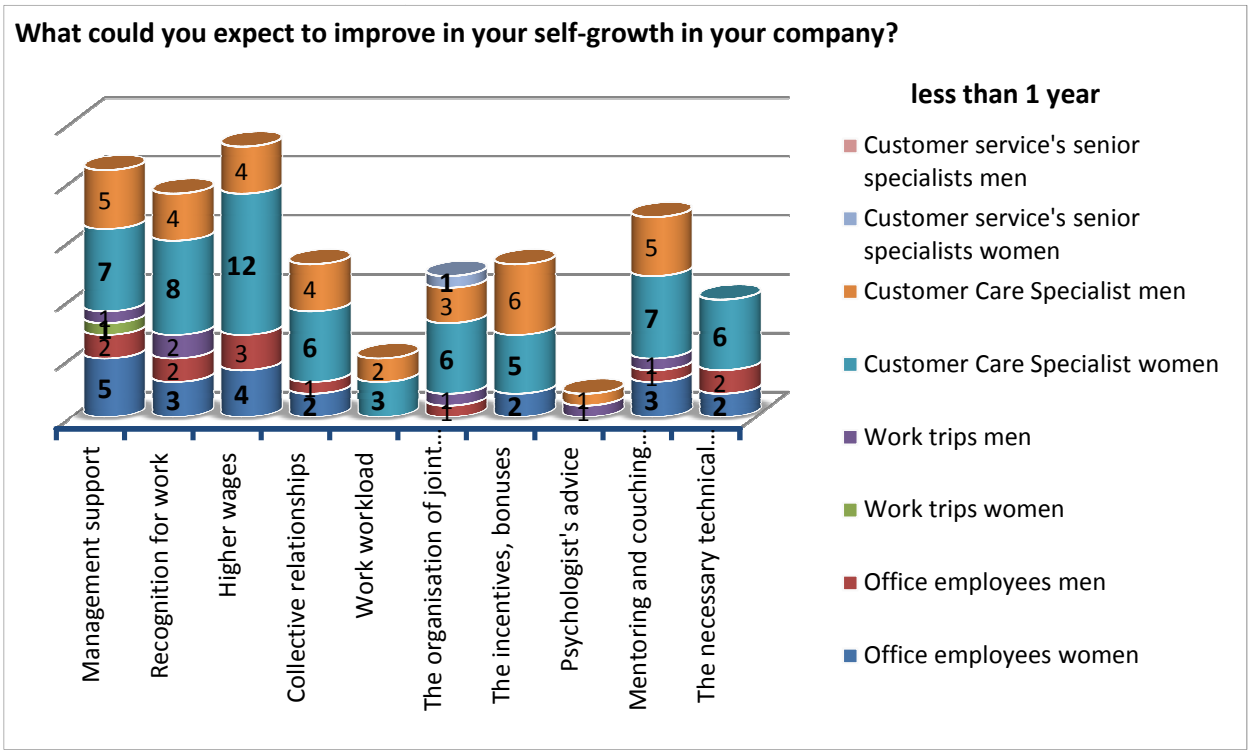

Diagram 2. **X organization employees who are working there less than 1 year**

As shown in Diagram 2, evaluating 35 respondents who are working in organization X less than 1 year responses, it can be concluded that the key factor which directs workers to self-growth in the X organisation is higher employment, management support, recognition for work and mentoring and couching training. The largest group of staff are customer service specialists, 15 women and 8 men. In women's view, their wealth in the X organisation could improve higher

wages (12/15), recognition (8/15) and then follow the other factors. Men as key factors mentioned the incentives, bonuses (6/8), management support (5/8) and mentoring, and couching training (5/8). Among the 8 employees of the office, 5 are women and 3 are men. Management support is paramount for women (5/5), while a higher salary for men (3/3). The other groups of employees are under-represented: they are 4 respondents from the work of the staff group and the senior customer service. In general, it can be concluded that in a group of staff who are working less than 1 year in the organisation X, the self-growth will not be improved with less workload, amount of work and psychologist advice.

Diagram 3. **X organization employees who are working there from 1 to 2 years**

As shown in Diagram 3, evaluating 41 respondent who are working from 1 to 2 years in the organisation X, it can be concluded that the main factor which directs the workers to self-growth in the X organisation is management support, increased salaries, recognition and mentoring, couchinaga training. The largest group of employees include 18 office employees and 17 customer service specialists. 8 women in the office's staff thought that they are able to improve their own growth with management support, as fully all 8 women noted this factor, followed by recognition (7/8). Among the 10 men employed in the office the most important factor is higher salary, which has been mentioned by 9 from 10 men, followed by collective relationships (8/10). The customer service specialist 14 women as the primary factor mentioned management support, as out of 14 women 10 has taken this factor, also dominates recognition of the progress (8/14), good

relationships amon collegues (8/14) and higher salary (7/14). The highest level for customer service specialists 3 men is the same for women in the same group of employees, except that men have also noted mentoring and couching training (2/3). Less than half of client service specialists women have noted that for them the important factor is mentoring in the company (6/14). In the case of the other groups, the responses coincided with those mentioned above. In general, as minor factors which would improve or not the self-growth of employees, the respondents have mentioned less work amount and workload (5/41), psychologist's advice (4/41) and required technical support (6/41).

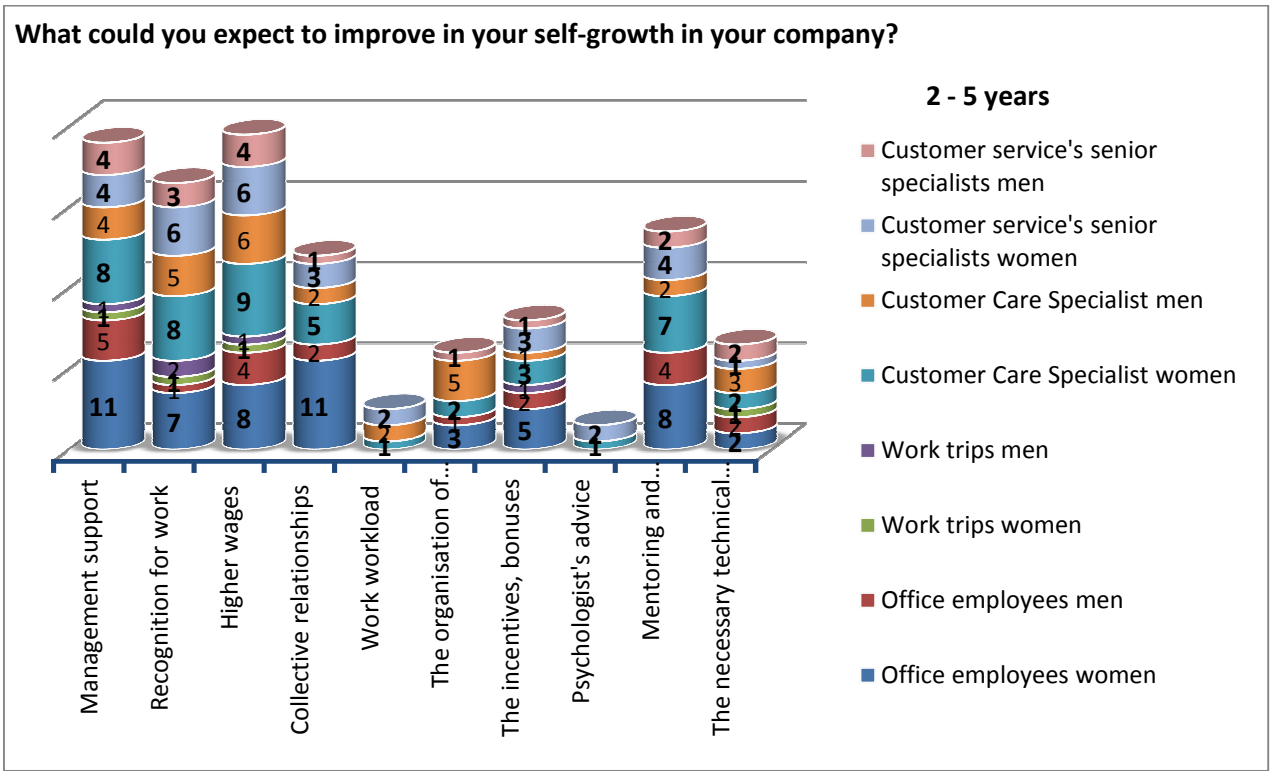

Diagram 4. **X organization employees who are working there from 2 to 5 years**

Diagram 4 presents the profile of respondents who are working 2 to 5 years in the organisation X. The total number of respondents in this category was 50 employees. In general, workers' self-growth could be improved by increased salaries, management support and recognition. The same as in Diagram 3, the most widely presented groups of employees are 17 office staff and 19 customer service specialists. For the group office stuff, 12 women as most important factor mentioned management support (11/12) and the relationship between collective (11/12). 5 male responses from office stuff coincide with the replies of the women. 13 women have noted that the most important factor that could imrove self-growth is higher salaries (9/13), followed by management support (8/13) and recognition of the work (8/13). In this group of staff, 6 men, as a key factor, have noted higher salary (6/6), followed by recognition (5/6) and the organisation of

joint recreational events (5/6). As thought 11 customer service's senior specialists both the men and women mentioned higher salary (10/11), management support (8/11), recognition of achievements (9/11) as well as mentoring and couching training (6/11). In general, it can be concluded that all employees who are working in the organization X from 2 to 5 years, the less effective motivation for self-growth mentioned less work amount, workload and psychologist's advice.

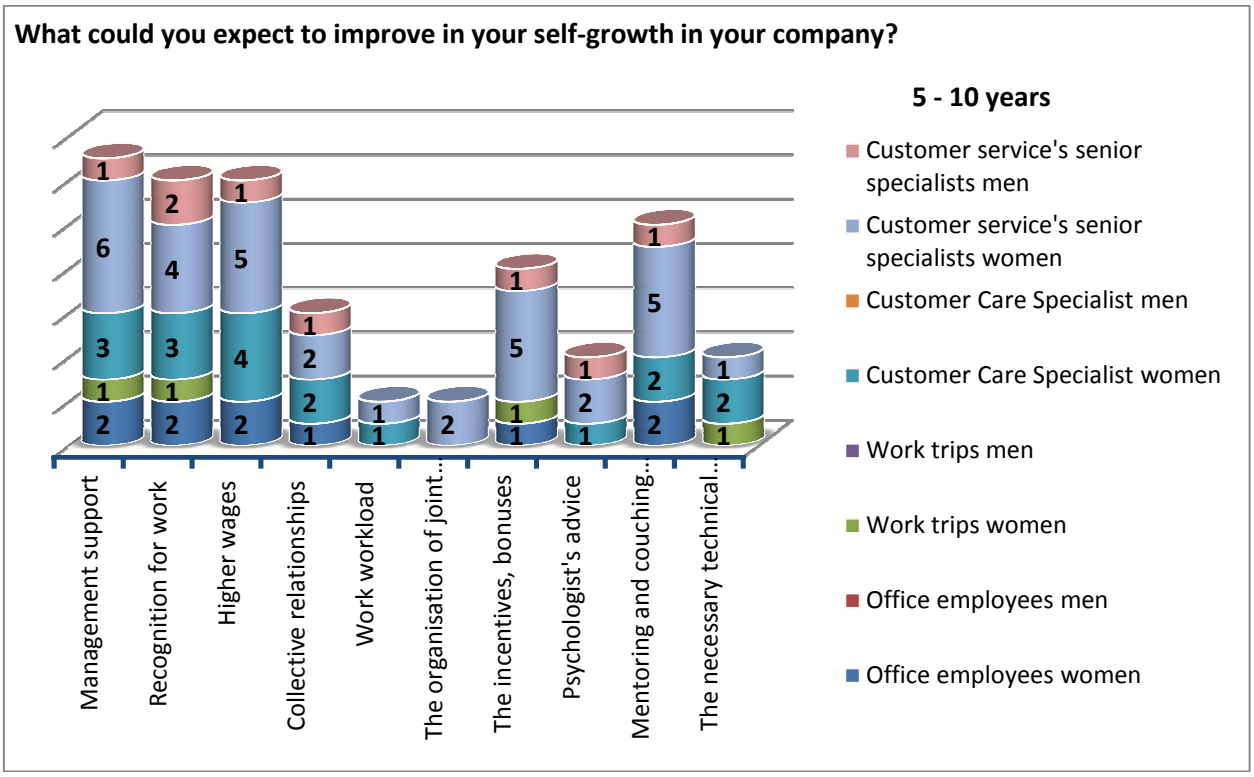

Diagram 5. **X organization employees who are working there from 5 to 10 years**

Employee category who are working in X organization from 5 to 10 years are 17 of the respondents (15 women and 2 men), the responses are displayed in Diagram 5. Among all respondents as the most important factors was marked management support, appreciation for the work, higher salaries and mentoring, coaching training. The most widely represented in the employee group is Customer service's senior specialists, which represents 9 workers, which of them 7 are women whose ascension could improve such factors as management support (6/7), higher salary (5/7) and mentoring, coaching training (5/7). In Customer service's senior specialists group 2 men believe that their self-growth will facilitate recognition in the work (2/2), etc. The second widely represented group is Customer Service employees, which represents only 5 women, from their point of view, the self-growth will improve higher salary (4/5), recognition in the work (3/5) and management support (3/5). In the Office stuff group 2 women noted that important for them is mentoring and coaching training, management support and higher salary. In general, it can be

concluded that the minor factors to increase self-growth in the company is less the amount of work and workload, organization of a common leisure activities.

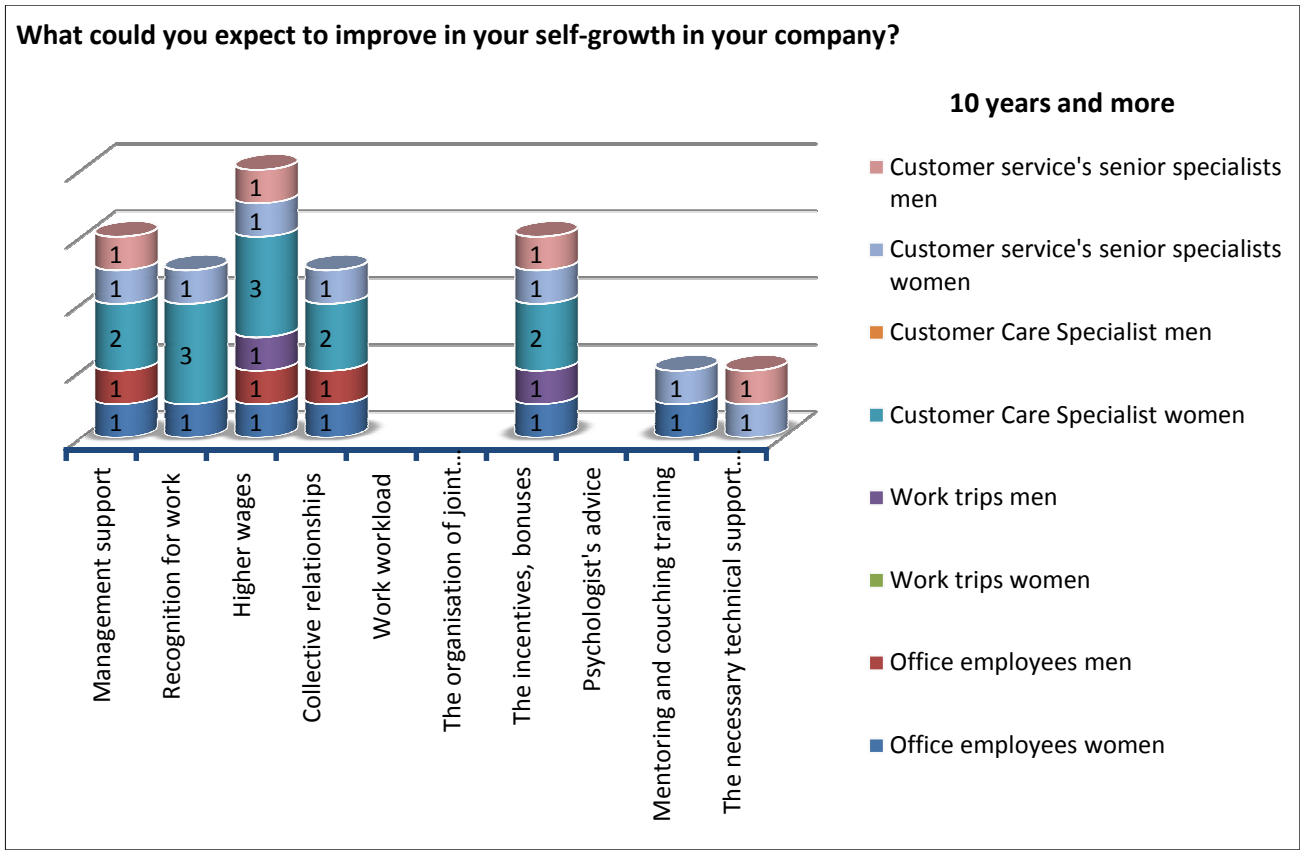

Diagram 6. **X organization employees who are working 10 and more years**

Finally, let' s look at Diagram 6 last category of staff who in X organization are working 10 and more years, it represents by 10 employees, of whom 7 are women and 3 men. Overall, respondents as the most key factor have mentioned higher salary, management support, and material incentive bonuses. The most widely represented is customer service specialist group, it represents 4 women whose self-growth could improve recognition for the work (3/4), higher salary (3/4). Factors such as the joint organization of recreational activities, psychological counselling and lower amount of work and workload is mentioned as irrelevant factors.

Conclusions

The employee can improve their skills through mentoring, which allows the company to promote its employee's personal development, an important level of quality in work, a positive emotional mood in the workplace, a high sense of responsibility, professional work performance.

The balance between imposed tasks, skills, workload and ability to create maximum performance.

Salaries, career growth opportunities, interesting and engrossing work, interacting with co-workers are key factors that contribute to employees' personal fulfillment and motivation in X organization.

The research results show that the self-growth of employees of X organization motivates higher salaries, management support, recognition by the management on the progress, mentoring and coaching training, as well as good relations with colleagues.

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METHODS OF SERVICE QUALITY EVALUATION

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Abstract

Methods of service quality evaluation

Key words: *service quality, customers' satisfaction, management of quality*

Implementation of the service and customer-oriented operating principles in institutions of the public administration is a part of so-called new philosophy of the public management. At first, the term was introduced by the scientists in the UK in the 1990s to describe usage of management models of the private sector in the public sector.

The aim of this study is to describe the methods of service quality evaluation that could be used to assess the quality of customer service in public institutions. The author used in the study the monographic method, as well as the analysis and synthesis methods.

SERVQUAL (Parasuraman, Zeithaml, Berry 1988).The questionnaire measures the difference between the customer's expectations and the perceived quality. The customers evaluate the apparent condition of the office and staff, staff empathy, non- material benefits, responsiveness, safety, reliability.

SERVPERF (Cronin, Taylor 1992).The questionnaire focuses on the quality perceived by customers.

ECSI- the European Customer Satisfaction Index. The ECSI represents another variation of the questionnaire model. Customer expectations, perceived quality, customer satisfaction, and customer loyalty are modelled in the same way as the SERVQUAL model and the Swedish Customer Satisfaction Index (SCSI).

Development of the quality management system in public administration of Latvia may make a contribution to the improvement of the society's quality of life.

Kopsavilkums

Pakalpojumu kvalitātes novērtēšanas metodes

Atslēgvārdi: *pakalpojumu kvalitāte, klientu apmierinātība, kvalitātes vadība*

Pakalpojumu un klientu orientēto darbības principu ieviešana publiskajā pārvaldē ir daļa t.s. jaunās publiskās pārvaldes filozofijas. Sākotnēji termins tika ieviests Lielbritānijā 90-tajos, lai aprakstītu privātā sektora pārvaldības modeļu izmantošanu sabiedriskajā sektorā.

Pētījuma mērķis ir aprakstīt pakalpojumu kvalitātes novērtēšanas metodes, kuras varētu izmantot, lai novērtētu klientu apkalpošanas kvalitāti publiskajās iestādēs. Pētījumā izmantota monogrāfiskā metode un analīzes un sintēzes metode.

SERVQUAL (Parasuraman, Zeithaml, Berry 1988). Aptaujā tiek novērtēta starpība starp klienta gaidām un uztverto kvalitāti. Klienti novērtē biroja un personāla redzamo stāvokli, personāla empātiju, nemateriālos ieguvumus, atsaucību, drošumu, uzticamību.

SERVPERF (Cronin, Taylor 1992). Aptaujā uzsvars tiek likts uz klientu uztverto kvalitāti.

EKAI- Eiropas klientu apmierinātības indekss. EKAI ir vēl viena aptaujas modeļa variācija. Klientu gaidas, uztvertā kvalitāte, klientu apmierinātība un klientu lojalitāte tiek modelēta līdzīgi SERVQUAL modelim un Zviedrijas klientu apmierinātības indeksam.

Kvalitātes vadības sistēmas attīstība Latvijas valsts pārvaldē, varētu dot ieguldījumu sabiedrības dzīves kvalitātes uzlabošanā.

Introduction

Nowadays, when rendering services in the private sector, it is self-evident the compliance with main principles of rendering of certain services and servicing of customers, ensuring the subordination of internal processes of institution in accordance with rendered services and customer needs. It includes both notification of clients about services to be rendered and the way of their receiving, and servicing of customers in manner and form convenient for they (personally, by telephone, using the Internet).

Service is a consumer order fulfilled for remuneration or for nothing within an economical or professional activity of a person, or fulfilment of a such contract concluded with a consumer, according to which a certain thing/ article is rented out, a new thing/article is manufactured, existing

thing/ article or its characteristics are improved or modified, or a work is performed, or an immaterialized work result is gained.

Quality is totality of properties and characteristics of goods and services which determines their ability to meet certain or foreseeable needs.

The International Standards Organization (ISO) defines the quality as follows: attributive characteristic of an object or item that determines its ability to conform with the defined and expected needs-standards.

Operation of any service is focused on the satisfaction of customer's needs. To understand the mechanism of the service area, the study of needs is necessary. The need considered as "lack, necessity to get something that an individual does not possess".

The usage in the public administration of operating principles approbated in the private sector and being customer and service-oriented, is at the moment one of the actual issues of modernization of the public administration both in the world and in Latvia. It is related both to the improvement of the services quality and its accessibility to customers, and with significant changes of the model of operation of the public institutions making the public administration more transparent and more efficient.

Implementation of service and customer-oriented operating principles in the public administration is a part of the so-called new philosophy of public management, which envisages the usage in public administration of management methods approbated in the private sector - focusing on results, efficiency, delegation of responsibility and operation in conditions of competition. Initially, the term was introduced in Great Britain in the 1990s with the purpose to describe the usage of private management models in the public sector. Great Britain was the first country that had already started in the 1990s progress to the reforms of the public service introducing standards of customer service in the public sector (CAN 2013).

On average, each eleventh Latvian resident (8.8%) works in the public sector - for state institutions or institutions of local government, for capital societies owned by above mentioned institutions, or in other institutions related to the State, or to local governments. Taking into account the total amount of employed population, the general governmental sector is employed by one fifth of working-age and able to work persons. Although in absolute figures, the number of persons, employed in general governmental sector of Latvia, has been significantly decreased, proportion of the decline is not so remarkable due to emigration affects - from 9.6% in 2008 to 8.8% in the 2nd quarter of 2016. In comparison with other countries of the European Union, the number of persons employed in general governmental sector in Latvia does not exceed the average ratio of the European Union. In Finland, for example, it comes to 8.2% (The State Chancellery 2016).

In Latvia, single improvement policy of the public service has not been approved up to now; the same is also related to the non-definition of the concept of public service, as well as to the duties of institutions in connection with rendering of services. However, a number of positive examples are also to be mentioned in connection with the organization of rendering of services according to the best practice.

On 19 February 2013, the Cabinet of Ministers of the Republic of Latvia (LR MK) approved the concept on improvement of the public service system, and this conception forms the basis for the project of the Public Services Law, which was examined at the meeting of the Cabinet of Ministers on 14 January 2014. A number of governmental institutions have implemented standards of customer service – VID (The State Revenue Service), VZD (The State Land Service), LAD (The Rural Support Service), PMLP (The Office of Citizenship and Migration), VARAM (The Ministry of Environmental Protection and Regional Development), the Court Administration. For assessment of operation of the state institutions in Latvia, a model is necessary, which would allow to determine in due time whether the operation of institution is sufficient qualitative when servicing customers.

In the 1990s, a number of attempts has been implemented in the world to develop a model using which the dissatisfaction of customers with the service would be measured. Let's look at them.

Discussion

The method SERVQUAL has been developed by Parasuraman, Zeithaml and Berry (Parasuraman et al, 1988;. 1991; 1993; 1994). The quality of service is assessed by calculating the difference between the quality what a customer expects and what it really perceives when facing service.

SERVQUAL (Parasuraman et all 1988) is structured in two parts. The first and the second part contains 22 questions each, and questions are designed to evaluate customers' expectations and the quality really perceived during servicing. The assessment of service quality is obtained by comparing the values of customer expectations and perceived quality.

Cronin and Taylor (1992) have proposed the method SERVPERF (Cronin and Taylor 1994). Its main characteristic mark is that SERFPERF is focused on the evaluation of the service quality perceived by a customer. According to Cronin and Taylor, this version gives better results than SERVQUAL and reduces the number of inquiries to service users.

Schvaneveldt (1991) evaluated the service quality from two points of view in his questionnaire. The first direction was to show the dimension of perceived quality and the other one - to show the customer's feelings - satisfaction or dissatisfaction. In order to display importance of customer's expectations better, Teas (1993) proposed the usage of the NQ model (Normed

Quality). Expectations of a customer have been interpreted in two different ways: at the ideal level, providing the highest score of each attribute, or at the implementing level by examining actual circumstances under which the service may be provided.

In addition to these methods, various other methods of calculation of Customer Satisfaction Index (CSI) are practised on a large scale. The basic method which interpretations are used in Europe, was developed at Stockholm School of Economics. This parameter is calculated, based on the method of personal interviews, and is used as one of the parameters of the long-term profitability of a company and allows recognizing backgrounds and factors of satisfaction and loyalty of a customer.

The European Customer Satisfaction Index (ECSI). ECSI is another variation of the polling model. Customers' expectations, company's image, perceived quality, perceived value, customers' satisfaction and customers' loyalty are modelled similar to the SERVQUAL and the Swedish Customer Satisfaction Index (SCSI).

Results

The aim of this study was to compare the methods of service quality evaluation, to understand possibilities of their application experimenting parallel with the SERVQUAL and SERVPERF methods.

The study was based on the selection of public service customers in Latgale region. Twelve randomly selected representatives filled the questionnaire of SERVQUAL, other twelve – the questionnaire of SERVPERF.

In accordance with the samples of scientific literature sources, the questionnaire forms were prepared for inspection of both methods.

The questionnaire of the SERVQUAL method consisted of two parts. Each part of the questionnaire contained 22 affirmations about the service quality, which formed according to distribution a 5-dimensional set of criteria. A customer had to evaluate each statement in accordance with the 7-point scale.

Part A – displayed the customer's expectations related to the service quality as well as importance of various quality criteria for customer.

Part B – displayed evaluation of service received by customer; The questionnaire of the SERVPERF method consisted of 22 questions, which have shown evaluation of service received by customer.

The object to be estimated in the questionnaire forms was the service quality as a set of five quality dimensions, consisting of 22 criteria and accordingly:

Dimension 1 – Set of material benefits (appearance and physical components);

Dimension 2 – Safety (trustfulness/ reliability, accurate execution);

Dimension 3 – Responsiveness (diligence/ doings and helpfulness);

Dimension 4 – Competence (attention, reliability);

Dimension 5 – Empathy (convenient receipt of service, good communication and customers' understanding).

In spite of the limited number of selected participants, the statistical analysis disclosed some interesting results.

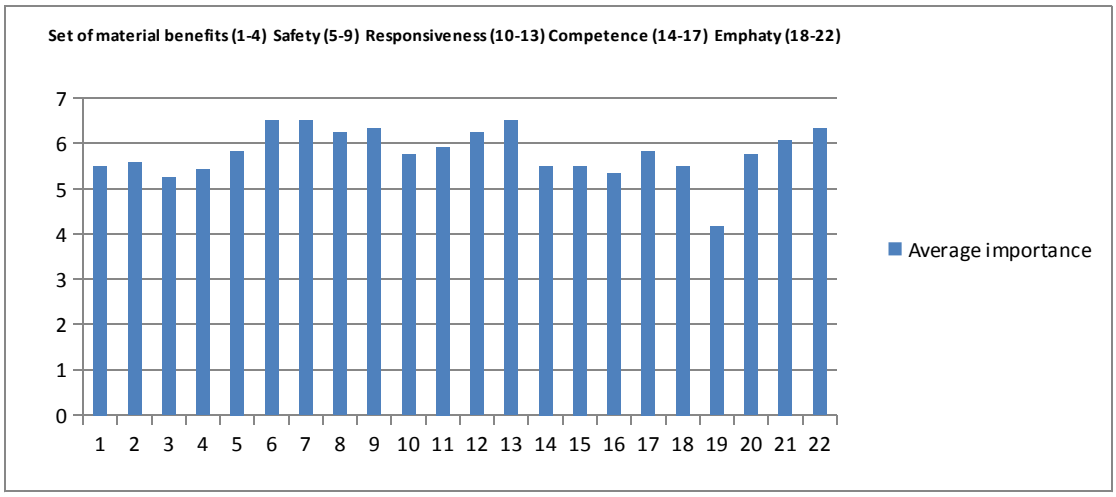

Figure 1. **Importance of dimensions of service quality to the customer (in points)**

Figure 1 depicts that customers have evaluated safety - 6.28 points on average, and responsiveness - 6.10 points on average as the most important dimensions of the service quality. Importance of competence - 5.54 points on average, empathy - 5.57 points on average are assessed lower. The importance of set of material benefits - 5.44 points on average is estimated lowermost.

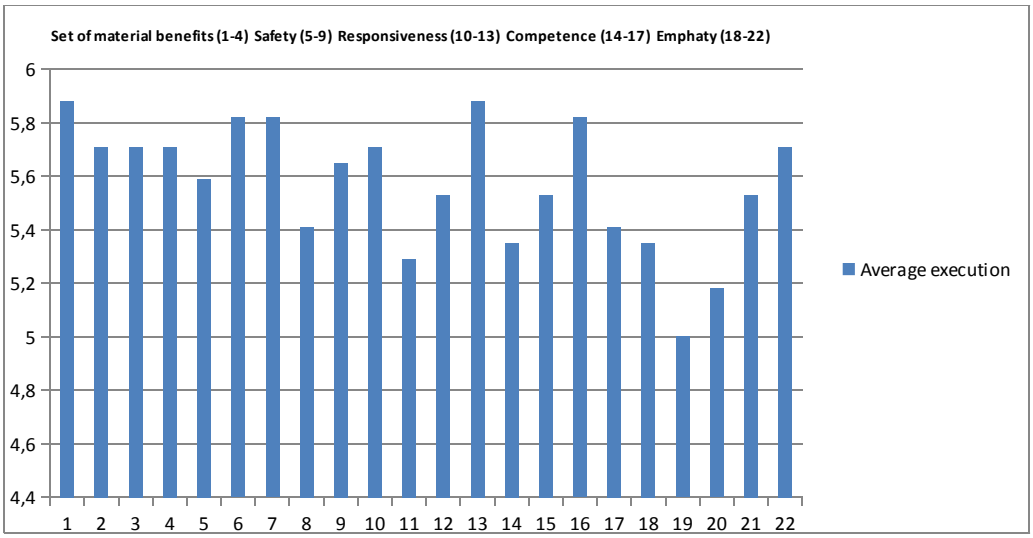

Figure 2. **Evaluation of execution of received service (in points)**

Figure 2 displays that the lower most rating related to execution of service is given to the quality dimension 5, resp., to empathy - 5.35 points on average, while the highest rating is given to the quality dimension 1, resp., to the set of material benefits - 5.75 points on average. The evaluation of execution of other three dimensions – safety, responsiveness, and competence is relatively of the same kind - 5.66, 5.60 and 5.53 points accordingly. Customers have reached the maximum rating (7 points) in no dimensions of the service quality, however, the average rating of five quality dimensions is above the average possible given score of points-5.578 points accordingly.

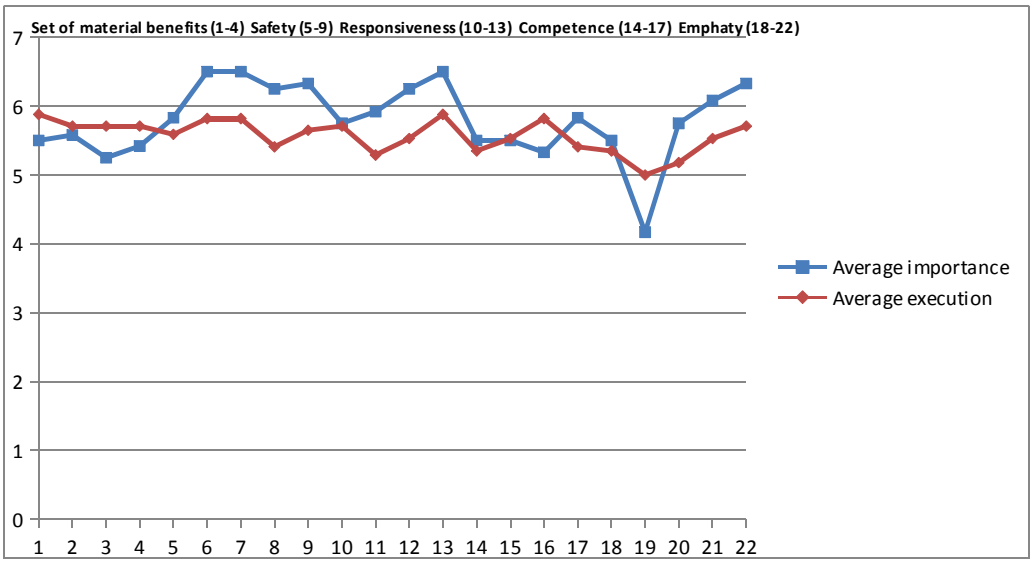

Figure 3. **Comparison of importance of dimensions of service quality with execution of service**

Comparison of service execution with evaluation of quality dimensions important for customers describes those quality criteria, which execution has been evaluated less in fact, and which should be improved. The average execution actually exceeds expectations only in the quality dimension 1, resp., set of material benefits, and a little – also in the quality dimension 4, resp., in competence. It is clearly visible both on Figure 3, and on Figure 4. In other three quality dimensions – safety, responsiveness and empathy, execution of service is assessed in fact lower than expectations of customers.

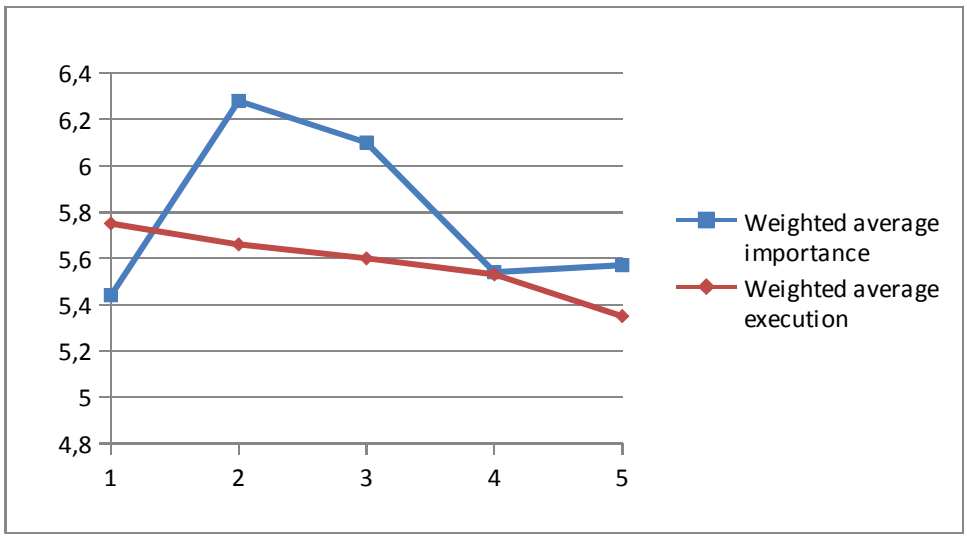

Figure 4. **Comparison of importance of service quality with execution of service according to dimensions**

When calculating the difference between evaluation of execution of service received by a customer and average values of certain quality expected by a customer, we obtain the average quality of execution which is mostly negative in different dimensions of quality. Positive evaluation of execution is obtained only in the dimension of material benefits and a little – in the dimension of competence and empathy. (see Figure 5)

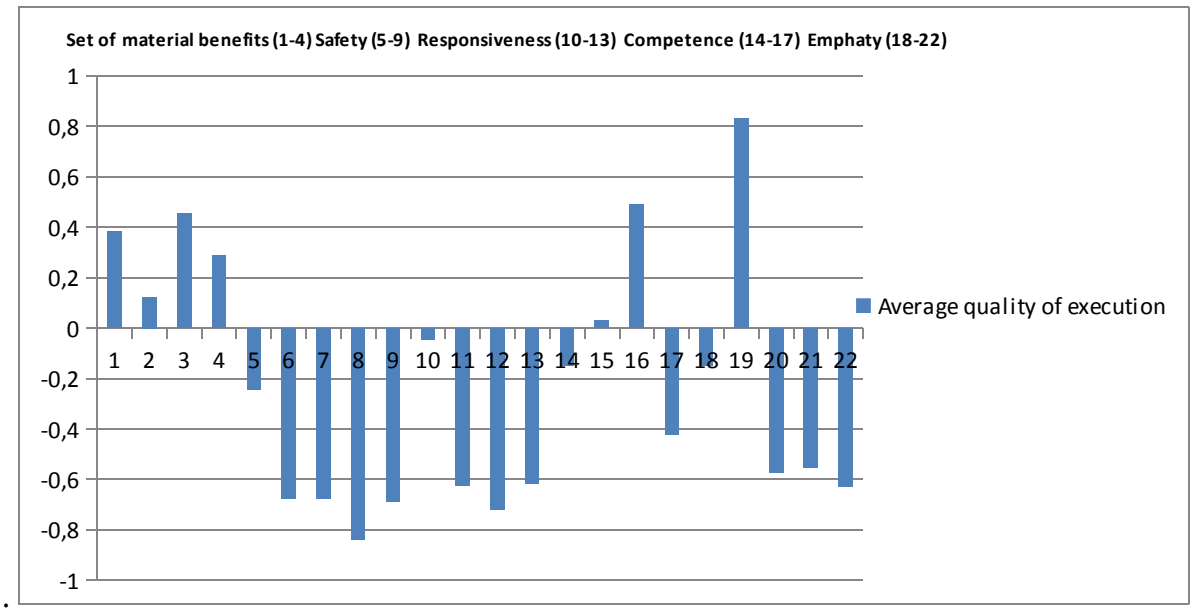

Figure 5. **Quality of execution of certain average service (in points)**

Conclusions

Experiment with two methods of service quality evaluation, on the one hand, approved the positive features of both methodologies, and on the other hand, depicted also a number of problems related to application of both methods. Customers who filled a questionnaire list of the

SERVQUAL method, passed an opinion on the full-scale nature of the questionnaire, however they also pointed out that the completion of the form requires a lot of time. Customers, who were offered to fill the SERVPERF questionnaire list, described it as easily filled one, which does not require much time.

The advantage of the SERVQUAL method is its ability to weigh every aspect of the quality of service according to importance, unlike the SERVPERF method, which provides results only about quality perceived by customer.

Comparison of service execution of the SERVQUAL method with evaluation of quality dimensions important for customers displays those quality criteria, which execution has been evaluated lower in fact and which should be improved.

Therefore, when choosing a method for evaluation of the parameters of service quality, it is necessary to take into account the area of activity of a company or an institution – in the contrary to quantitative parameters, where such specification is not required, because they are more or less the same in all areas

Development of the quality management system in public administration of Latvia may make a contribution to the improvement of the society's quality of life.

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THE CUSTOMER LOYALTY IN THE INTERNET DIMENSION: MAIN PROBLEMS

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Abstract

The customer loyalty in the internet dimension: main problems

Key words: *Customer loyalty, internet trade market, relationship marketing, loyalty problems*

Daily we are facing technology development that makes a need to integrate and develop already known approaches. With the usage increase of the Internet in everyday life, it has become important for enterprises to adapt to that market - a virtual and interactive. One of the problems faced by many companies is a complete transfer of its activities in the Internet environment, without taking into account its characteristics and specifics.

Companies now more likely are thinking about long-term relationships with their customers and trying to increase their loyalty. The author believes that the key point here is the differentiation of the concept of loyalty in the Internet and in the real world. To do this, turn your attention to the phenomenon such as the relationship marketing, which can form and influence loyalty.

The main purpose of the paper is to identify the main problems that applies to the customer loyalty in the Internet environment.

The main objectives of the paper - to identify the main differences of the concept of loyalty in the offline and online environments, to carry out a comparative analysis of them and to find out the main problems of the customer loyalty in the Internet.

As a result, this study will identify the main problems applied to customer loyalty in the Internet. If they are known the company will be able to prevent and correct that problems. The results can be used both theoretically as well as practically.

Kopsavilkums

Patērētāju lojalitāte interneta dimensijā: pamatproblēmas

Atslēgas vārdi: *Klientu lojalitāte, internet tirdzniecība, mijiedarbības mārketings, lojalitātes problēmas*

Ikdienas mēs saskaramies tar strauju tehnoloģiju attīstību, kas rada nepieciešamību integrēt un attīstīt jau zināmas metodes. Ar interneta lietošanas pieaugumu ikdienas dzīvē, ir kļuvis svarīgi, lai uzņēmumi varētu piemēroties šim tirgum - virtuālājam un interaktīvājam. Viena no problēmām, ar ko saskaras daudzi uzņēmumi, ir pilnīga jau zināmo metožu pielietošana interneta vidē, neņemot vērā tās īpatnības un specifiku.

Uzņēmumi tagad aizvien vairāk domā par ilgtermiņa attiecībām ar saviem klientiem un cenšas paaugstināt lojalitātes līmeni. Autore uzskata, ka galvenais punkts šeit ir atšķirība jēdziena lojalitātes internetā, gan reālajā pasaulē. Lai to realizētu ir nepieciešams pievērst šai problēmai vairāk uzmanības, piemēram, mijiedarbības mārketings, kas var veidot un ietekmēt lojalitāti.

Galvenais mērķis ir noteikt galvenus jautājumus, kas ir saistīti ar klientu lojalitātes interneta vidē.

Galvenie mērķi - identificēt galvenās atšķirības lojalitātes jēdzienā gan bezsaistes, gan tiešsaistes vidē, lai veiktu to salīdzinošo analīzi un, lai noskaidrotu galvenās problēmas klientu lojalitātes internetā.

Tā rezultātā šīs pētījuma izkristalizēs pamata problēmas, kas ir saistītas ar klientu lojalitāti internetā. Rezultātus var izmantot, teorētiski, kā arī praktiski.

Introduction

In this article, the author analysed and assessed customer satisfaction and loyalty in the Internet market. After the evaluation, the author proposed a model of loyalty transformation, which reflects loyalty to online trading. This topic is becoming more popular every year because of the growing number of online trade users in Latvia and all other countries.

The main purpose of the paper is to identify the main problems that are applied to the customer loyalty in the Internet environment.

The main objectives of the paper - to identify the main differences of the concept of loyalty in the offline and online environments, to carry out a comparative analysis of them and to find out the main problems of the customer loyalty in the Internet.

Research methods of the article: theoretical analysis of scientific literature, statistical and empirical analysis of data.

Customers should enjoy all phases of a buying process and, of course, communication with a representative of the company and further use of the product is extremely important for the consumer. However, this must be taken into account by the company with which the consumer communicates. Initially, we should understand that in literature could be found a lot of different interpretation and definition of consumer satisfaction during buying process phases.

So, in 1997, Oliver (Pires, Stanton2005) defined satisfaction as a psychological result, when the result from emotions is higher than expected. In 2009, Levin described customer satisfaction as the most important source of competitive advantage, which ultimately enhances consumer loyalty, and also facilitates re-purchase.

The author supports both explanations, because one shows the process of creating satisfaction, while the second explanation indicates the result. Of course, from the point of view of satisfaction, it is necessary to note the competitive development and work with the consumer for a long time, not only during his buying process but also later in order to create long – term relationship.

In the Internet market it is very important to satisfy consumers directly in the online measurement. When analysing the article (Udo, Bagchi, Kirs 2010), it is possible to investigate several theories and conclude that the quality of the variables has three basic dimensions - information, the quality of the whole system and the quality of the product. The author of the article determined that these measurements directly affect the satisfaction of customers in the online trading mode. In each dimension, one can be pointed out its own factors, so let's say the quality of service consists of five factors affecting it: benevolence, trust, responsibility, confidence and empathy. The author agrees to such a breakdown but believes that the quality of service should be added such a factor as the reaction time. For the consumer it is important not only to use a well-designed website, to which the consumer has already become accustomed and where the guarantees and good attitude towards the consumer have been well-written, but also where various kinds of issues are solved quickly and effectively. However, the author would also add to the quality of such a breakdown as the quality of the delivery, now there is a large selection of different delivery methods that affect speed, price and location, and there are also countries, cities and other locations where delivery is sometimes impossible.

For example, in 2014 Latvia experienced a significant increase in the number of recipients in the Latvian post, which was due to the rapid growth of Internet commerce. It should be noted that

the main reasons for complaints are international mail, mostly in small packages, missing or damaged supplies, delays in delivery and incorrect (incomplete) addresses (Haka 2015). This indicates that the quality of supply is not at a very high level, but it should be borne in mind that for the consumer it is important and it needs to be improved.

The author would like to note that the process of online purchase differs from the traditional one. It can be divided into three stages: the pre-purchase phase, the online purchase phase and the after-sales service phase (Subramanian, Gunasecaran, Cheng, Ning 2014). These stages are similar to traditional trade, but they have their own differences and specifics. The stage that precedes the purchase directs the consumer to purchase from a particular vendor, doing this with the availability of information and the completeness of the website. The stage of buying on the Internet should be simple and understandable for the consumer so that he can simply choose the method of payment, make sure that the money from the credit cards will be sent to where it is necessary to make him feel safe when buying online. Payments using cards remotely - this is an urgent issue when buying online (terminals accepting virtual cards) or when using the phone. In 2014, payments by payment cards in Latvia totalled 21.2% in terms of quantity and 22.4% in volume (in 2013, 15.8% and 12.5%). Last year’s Latvian citizens began to use e-commerce opportunities and online shopping more than previously (Haka 2015). The stage of after-sales service associated with delivery in a specially and pre-agreed period of time, previously reported to the consumer, the product is the same as described and corresponds to the picture, and if necessary, the product can be returned, and any consumer problem is quickly resolved. If all these steps are carried out on time and will be of appropriate quality, the consumer will feel satisfied and he will want to reuse a particular online store, which will increase the level of loyalty to the Internet trading market or a particular store.

Although there are many interpretations of customer satisfaction and loyalty, which can only be expressed as a repeat purchase, the author wants to emphasize that this is not the only way to show it. Loyalty is a behavioural and perceived component and a set of interactions, as shown in Fig. 1, which is the author's model of the study 2014-2015, which was conducted as part of the master's work (Radionova 2015). In turn, loyalty directly affects customer satisfaction, which can be influenced by various values, such as functional value, purchase value (monetary value), social and emotional values. Such a model, developed by the author, indicates that there are factors that can influence the loyalty of consumers from outside, such as socio-demographic character, duration of use, variety of marketing activities. The model can be used in its entirety, but each sector has its own peculiarities, and, of course, the Internet market has its own peculiarities that allow you to modify a model and apply it to online stores.

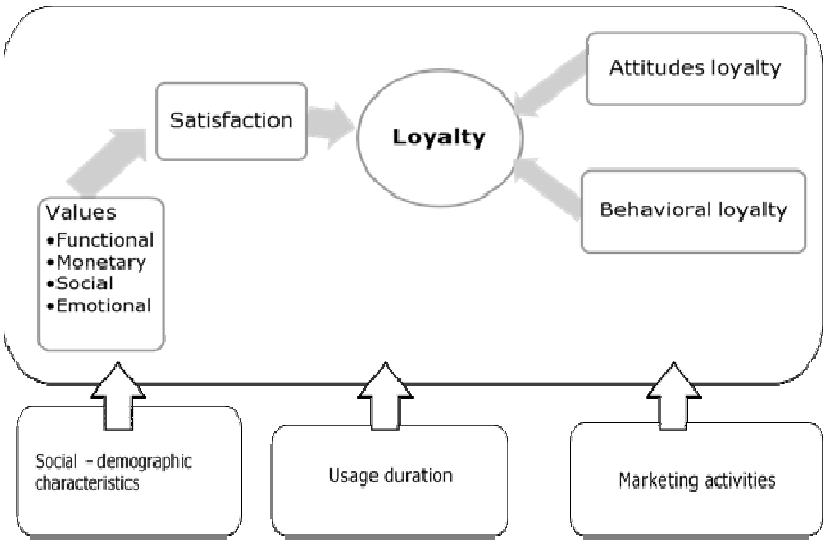

Fig. 1. **Consumer loyalty model** (Radionova 2015)

There is a need working with consumers on the Internet to find a special approach that could be integrated into this environment. Various sources indicated three main approaches to increasing consumer loyalty in the Internet (Yi 2103):

1) Professional approach - of course, in terms of traditional marketing, professional services related to direct service and staff skills. On the Internet everything becomes different. First, when selling products on the Internet, photographs of good quality and a full description are displayed, the prices must be up-to-date. If there are any failures in receiving the product, the consumer will see that the product in real life and the picture are two different things, then there is no doubt that he will return the goods. The same applies to prices - both to the product, and to the delivery and taxes. Here, the consumer should immediately see the full price, and not just at the very end, when he sees that the amount is greatly increased. In this case, the consumer often refuses to buy and seeks other alternatives from other traders.
2) Interaction with consumers - on the Internet you can leave feedback - both positive and negative. No doubt, only positive reviews are not received even by the best online store, which also should not forget that reviews are written by people, and also take into account psychological factors. After receiving any feedback, you need to quickly process it. This interaction with the consumer is a two-way communication to build a stable relationship that will be trusting and long-lasting. Thus, the consumer should turn to a benevolent, understanding and respectful seller; any problem that may arise should find a solution that could satisfy both sides. There should be an opportunity to return the product, receive cash compensation, etc. In any situation, it is necessary to demonstrate to the consumer that it is important and that the merchant cares about it. In addition, you need to provide a convenient process for buying, delivering and invoicing. That is, the process of buying a product must ensure the satisfaction and comfort of the consumer.

3) Stimulation - do not forget that for any online store it is important to make a profit, which means that the consumer will have more chances to visit the site and make as many purchases as possible. For example, various promotions and discounts very well motivate consumers to make purchases. Sometimes such actions are coordinated with traditional stores, if the company has both stores in a traditional and Internet environment. Loyalty programs become relevant and stimulate to purchase in a online store in order to accumulate bonus points, free shipping, discounts, various gifts, etc. It is important to approach each client personally - a personal approach, such as a thank you note, congratulations on the holiday, faster delivery, etc. After such a service, a consumer will want to share a positive experience with his friends or acquaintances or in social networks and blogs or elsewhere, thereby creating a positive image of the company.

After compiling the theoretical information, the author modified and adapted the model of customer loyalty to the Internet market (online store) (Fig. 2):

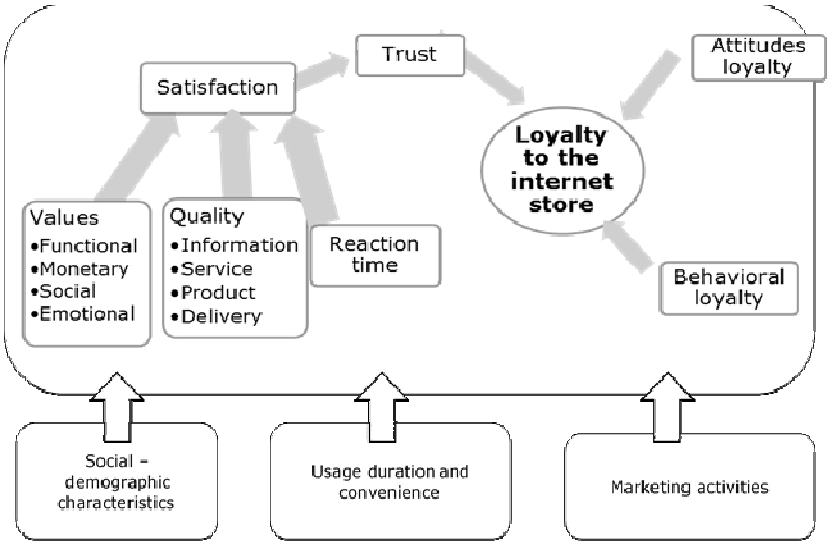

Fig. 2. **Consumer loyalty model to the internet store** (Radionova 2015)

The loyalty models created by the author indicate that the process of creating loyalty on the Internet and in online stores is a more complicated process, because it is influenced by several factors. In this case, you can talk about repeated purchases that will appear when there is a high level of trust that affects satisfaction. Although the Internet is much faster to find the right products, you can also find a product that is not available in a traditional store, so because of foreign stores in Latvia are more popular than local ones.

Discussion

The author of the paper put forward the following hypotheses:

H1: Satisfaction in the online measurement depends on the factors different from the offline environment.

H2: Consumers are mostly satisfied with online shopping processes.

H3: Consumers prefer to buy online in foreign stores.

According to the statistical office of Latvia, consumers are increasingly ordering goods or services on the Internet. So, for example, in 2016, compared to 2015, the percentage of Latvian residents who order goods increased from 0.55% to 2.5% monthly (http://www.csb.gov.lv/dati/statistikas-datubazes-28270.html), which shows that the population is ready to buy goods much more often through the Internet. Also, according to statistics, it can be seen that consumers are mostly satisfied and satisfied with orders in the online environment. Figure 3 shows that the quality of delivery causes the biggest ordering problems (3.01% of men and 3.49% of women), which means that they come not corresponding to the description or damaged. Also, consumers are concerned about the security of online payments (0.94% of men and 1.63% of women) and the possibility of delivery (1.26% of men and 1.01% of women). There are other problems, but it can be seen that the percentage of dissatisfaction is not great.

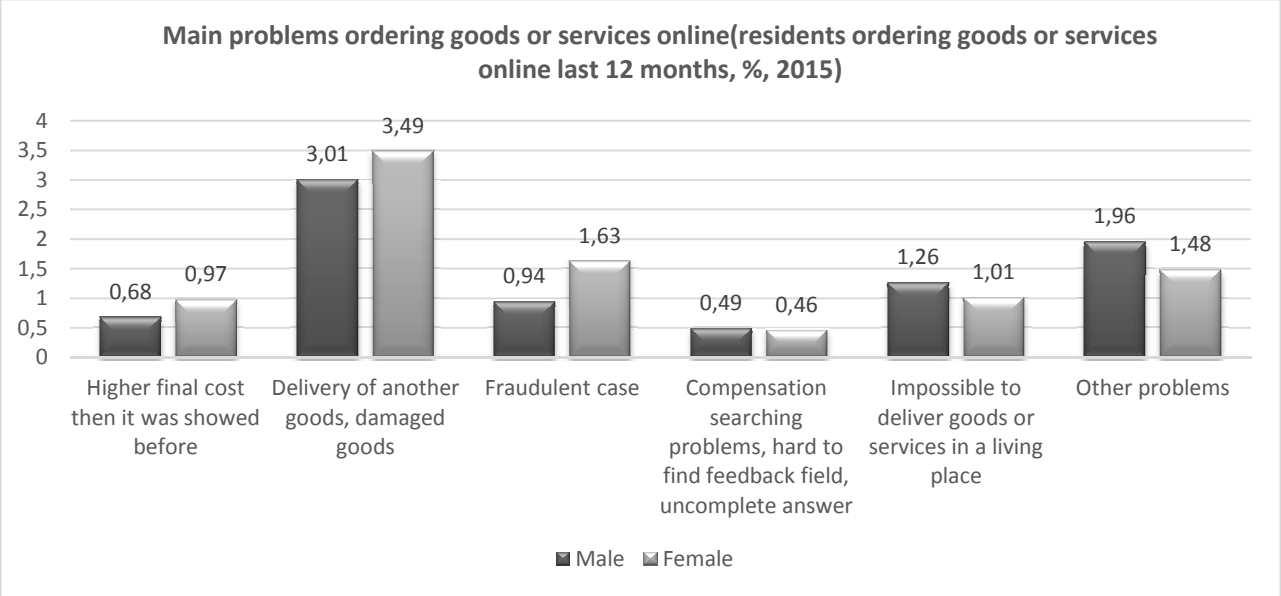

Fig. 3. **Main problems ordering goods or services online (residents ordering goods or services online last 12 months, %, 2015)**

Also, statistics show (Figure 4) that Latvian residents use the local online platforms for shopping more. Here the author wants to note that one should not forget about the services of Internet banks, telecommunications companies, the possibility of buying food, even pharmacies. Men in 2016 bought goods or services from local producers in 82.2% of cases. But it is worth noting that the tendency to buy in overseas online stores is growing, for example, for women from 2013 to 2016 this indicator rose from 16.5% to 38.9%.

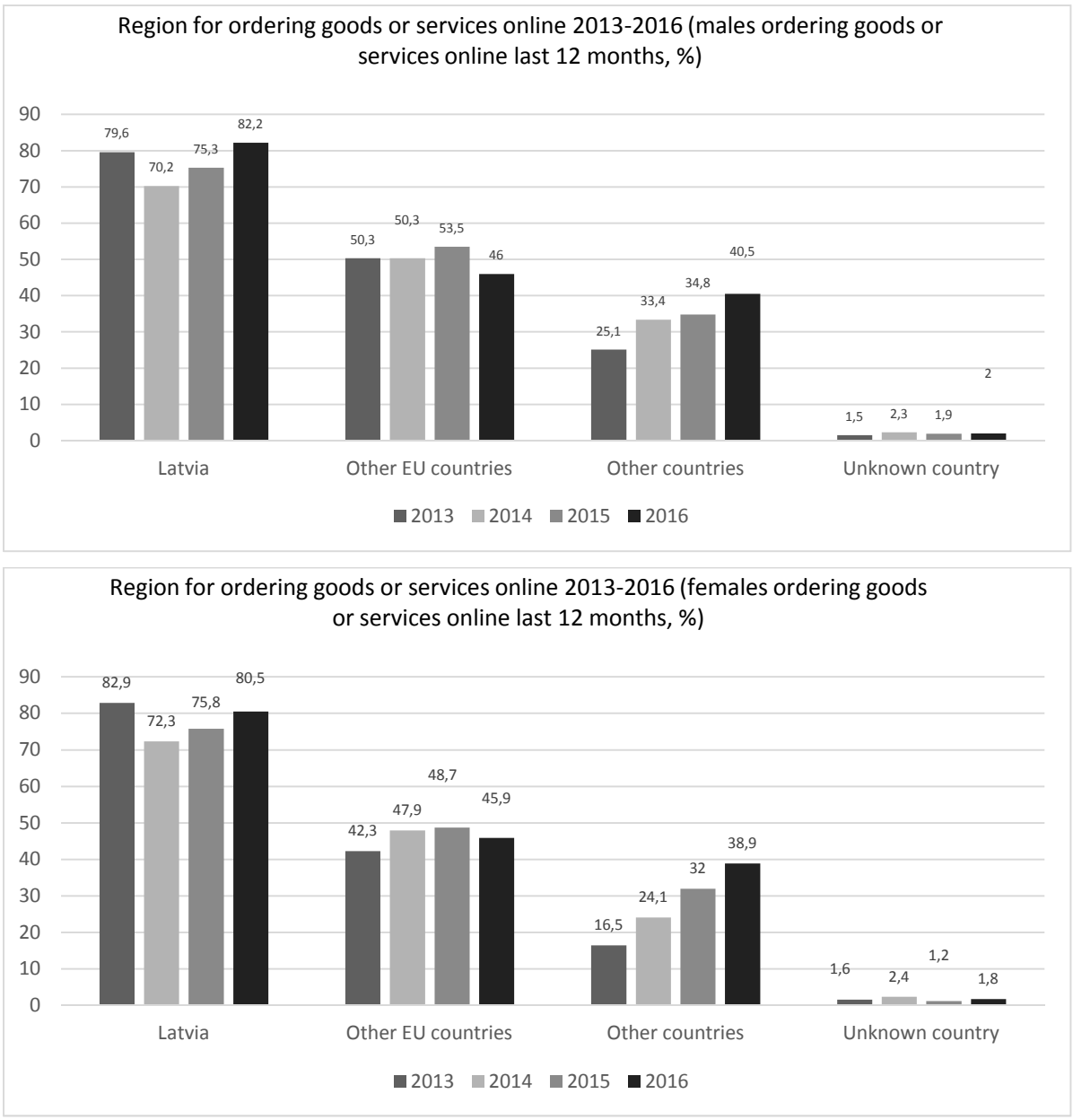

Fig. 4. **Region for ordering goods or services online 2013-2016 (males/females ordering goods or services online last 12 months, %)**

Conclusions

1. The satisfaction of consumers in the Internet market affects the quality, which can be divided into four aspects: the quality of information, quality of service, product quality, delivery quality. Satisfaction causes customer loyalty, so traders in both markets must focus on quality in all dimensions, for which different customer studies can be done to assess not only satisfaction and loyalty, but also to find the cause of the results.
2. The online purchase process consists of three stages: the pre-purchase phase, the online purchase phase, the after-sales service phase. At the first stage, the consumer is directed to a specific website of a seller / store. The second stage is when the client is provided with complete

information and a secure purchase through the Internet. The third stage is fast delivery to the buyer, and the product must completely coincide with the information provided by the seller, and feedback should be provided to express gratitude or complaints, evaluate the service, return the purchase or ask questions. Interacting with consumers, sellers must specify complete and relevant information that will not confuse consumers, increasing not only satisfaction, but also confidence in the seller. After this process, sellers must react quickly so that you can increase the level of trust that affects satisfaction and loyalty.

3. Professional skills, interaction with consumers and stimulation of consumers can be used to increase customer loyalty in the Internet environment. The formation of loyalty to the Internet and online shopping is influenced by such factors as opportunities, quality (in all dimensions), reaction time, duration of use and convenience. Internet traders must expand their territorial delivery capabilities and product range; which could not only attract new customers, but also contribute to the satisfaction of existing and customer loyalty. Due to the large number of other sellers and opportunities, Internet sellers should find the most effective way of communicating with the consumer in order to have a long-term relationship with the consumer.
4. H1, H2, H3 - have been proved or partially proved. H1 - theoretical evidence, satisfaction in the online measurement depends on the factors different from the offline environment, because there is a reaction rate and quality in the new variations. H2 - Consumers are mostly satisfied with the online purchase processes, which was confirmed by the statistical bureau. H3 - Consumers prefer to buy online in overseas stores - in part, currently dominating in local stores, but the trend of foreign development is extremely high. To improve the situation, sellers should analyse what consumers like in foreign stores, and improve communication, making changes to all qualitative measurements, which will increase satisfaction and confidence level.
5. It is recommended to react as quickly as possible to various situations and to improve all quality parameters to satisfy consumers and improve the level of effective communication with customers. This helps to increase the level of loyalty to both the product and the seller.

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QUALITY AS THE CORE ELEMENT OF COMPANY'S COMPETITIVENESS

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Abstract

Quality as the core element of company's competitiveness

Key words: *quality,skills, competition, competitiveness, factors*

The importance of quality isue the last 20-30 years have significantly changed. Today it has a special place. That can be explained by a fierce competition in the global market as well as through public awareness of the quality and widely available information about that. Today, the consumer remains picky and demanding. At the beginning the focus was only on products. The quality of products meant conformity to the consumer requirements. Today this definition includes various elements of awareness. This study investigates the impact of quality practices on many measures of organisational performance comprising customer satisfaction, improved competitive position and overall business performance.

The competitiveness of enterprises mainly originates from quality competitiveness. Quality is an important aspect that promotes competitiveness.

Topicality of the issue is determined by the fact that quality is one of the important factors that can give capabilities of to the a new product development, to conquer new markets, and save its position as a well-recognized and trusted product and brand. Anyone purchasing a product has his/her own idea on how long it should serve and how it needs to look like.

The purpose of the study, based on a theoretical knowledge is to explore the quality as one of the competitiveness's elements that may affect the success of the enterprise, to draw conclusions and make proposals. The author used the monographic method. The author set the following tasks: 1) the quality meaning and the evolution of quality meaning; 2) to develop the model of quality concept; 3) to identify the basic elements of the company's competitive advantage on the realization in the market; 4) to offer the model by companies' a competitive advantage in building and implementating it in the market; 5) to summarize conclusions and recommendations.

Today's it is not enough just to analyze the progress made so faer in quality field. This is very important to analyze the competitive situation in the industry. Companies, that focuse to the consumers need to analyze and comply competition at the market. The company's different skills are a competitive advantage. Without different skills the companys can lose competitive advantage, due to their different skills the company can create a competitive advantage. It will help to beat its competitors.

Kopsavilkums

Kvalitāte kā uzņēmuma konkurētspējas viens no būtiskākajiem elementiem

Atslēgvārdi: *kvalitāte,prasmes,konkurence,konkurētspēja,faktori*

Kvalitātes nozīmīgums pēdējos 20-30 gadus ir diezgan mainījies. Mūsdienās tai ir īpaša vieta. Tas ir skaidrojams ar sīvas konkurences rašanos globālajā tirgū. Sabiedrības izpratne par kvalitāti ir mainījusies sakarā ar plaši pieejamo informāciju par to. Patērētāji ir palikuši izvēlīgāki un prasīgāki. 20 gadsimta beigās kvalitāte vairāk nozīmēja produktu atbilstību patērētāju prasībām. Mūsdienās šī definīcija sāk iekļaut dažādus kvalitātes izpratnes elementus. Pētījuma ietvaros tiek skaidrota kvalitatātes ietekme uz daudziem organizācijas rīcībspējas rādītājiem: klientu apmierinātību, konkurētspējas uzlabošanu un vispārējo uzņēmuma darbības sniegumu.

Par konkurētspēju galvenokārt spriež pēc uzņēmuma spējas nodrošināt kvalitāti. Kvalitāte ir svarīgs aspekts, kas spēj veicināt katra uzņēmuma konkurētspēju.

Tēmas aktualitāti nosaka tas, ka kvalitāte ir viens no svarīgiem faktoriem, kas spēj dot jauniem produktam attīstības iespējas jaunu tirgu iekarošanā un esošo pozīciju saglabāšanā labi atpazīstamiem un uzticamiem produktiem un zīmoliem. Katram iegādājoties preci vai pakalpojumu ir savs priekšstats par to, cik ilgi produktam būtu jākalpo un kā tam jāizskatās.

Pētījuma mērķis, pamatojoties uz teorētiskajām atziņām, ir izpētīt kvalitāti kā vienu no konkurētspējas svarīgākajiem elementiem, kas var ietekmēt veiksmīgu uzņēmuma darbību, apkopot secinājumus un izteikt priekšlikumus. Autore izmantoja monogrāfisko pētīšanas metodi.

Tiks risināti šādi uzdevumi: 1) analizēta kvalitātes nozīme un tās attīstība; 2) izstrādāts kvalitātes jēdziena modeli; 3)identificēti galvenie uzņēmuma konkurētspējīgo priekšrocību realizācijai tirgū elementi; 4) sniegts uzņēmuma konkurētspējīgu priekšrocību veidošanas un realizācijas tirgū modelis, 5) apkopoti secinājumi un ieteikumi.

Nav pietiekami vienkārši izanalizēt panākumus kvalitātes jomā. Ļoti svarīgi ir analizēt konkurences situāciju nozarē. Uzņēmuma dažādās prasmes var kļūt par konkurences priekšrocībām. Bez dažādām prasmēm uzņēmums var zaudēt konkurētspējīgās priekšrocības un pretēji- uzņēmums savas dažādās prasmes var izmantot kā konkurētspējīgās priekšrocības. Tas palīdzēs konkurentu pārspēšanā.

Introduction

Most businesses operate in competitive markets: they have to 'take on' and 'see off' rivals. Every organisation must decide for itself how best to try and to do this. Not all companies come up with the same answer and for good reason. Firstly, there are several different ways of gaining competitive advantage. Secondly, businesses need to used to their strengths and not all businesses have the same strengths. Thirdly, many markets are segmented and what is important to one set of customers may be less important to another set. So, businesses need to decide which segments of the market they are targeting. Ways of seeking to gain competitive advantage include: offering lower prices, delivering products more quickly, offering superior customer service, including after sales service.

Discussion

Up to today, the scientists still have not come to a single definition of quality. Usually, the term "quality" concerns both goods and services. American scientist John Stewart defines quality as the feeling of each individual regarding something being better than another is. This individual feeling tends to change in the course of time depending on age and other factors (Stewart 1994: 486).

Other authors, in their turn, relate the term "quality" with objective properties: "*The quality is the totality of properties defining the compliance of the object with determined requirements of a consumer, an institution or the producer itself*." (Krēsliņš 2003: 207) Austrian economist Karl Aiginger treats quality as "*goods or services that distinguish with high-evaluated qualities by the customers*" (Aiginger 2001: 5). The properties that motivate the customers pay more are either measurable (endurance, speed etc.) or "intangible" (reputation, design, trust).

In 2006, Harvey came to the statement, that "quality does not mean only quality guarantees and standards. Quality means process, meanwhile the standards aim to the result and levels. Quality is dynamic and it means changes" (Harvey 2006: 26). They understands the quality as transformation and a meta-term of the quality meanwhile the other quality definitions are partial indicators of transformation process. The transformative approach is the essence of the quality and other definitions only assess the resources or results according to particular criteria. (Harvey 1996: 24)

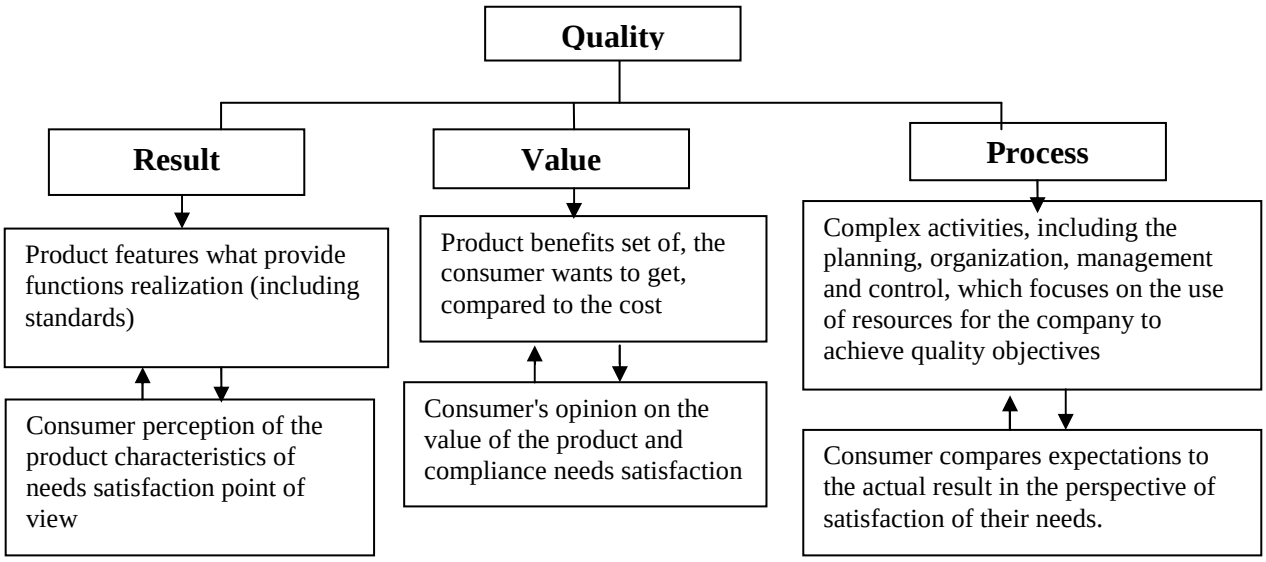
Lee Harvey and Diana Green have grouped the interpretations of the term "quality" in several categories: (Harvey, Green 1993: 37)

- Quality as "zero defects". This approach is particularly applicable for mass products;
- Quality as excellence. This is a traditional approach, where the aim stands for being the best;
- Quality as the compliance to the goal to achieve. The definition of the term must be specific, meaning the quality of something for a defined purpose.

- Quality as transformation. Every company must think on continuous development of its operation.

Important that definitions containing the idea of quality as applicability for use are too narrow, and they need extending by adding other characterizing features, such as for instance compliance etc. Researching the evolution of the term "quality", I have concluded that it would be wrong to restrict the term "quality" with a single definition; however, it must be reflected in the quality model in question. (See Picture 1)

The model of Picture 1 contains the following main statements of the questions: viewed by the company and the consumers, the quality is at the same time the result, the value and the process. The disregard of any of these elements would produce negative effects on achievement of quality aim. The term "quality" is not restricted with the facets of production; it must include the perception of the consumers, who compare their expectations to the actual result in the perspective of satisfaction of their needs.



Picture 1. **Model of the term "quality"** (designed by the author)

Therefore, the meaning of the notion "product quality" is wider and has to be applied only to the production process. The notion is widespread and includes both internal and external economic activities of the organization as well as the market of product distribution, including the society, suppliers, employees and management. The critical importance of quality management is realized all over the world leading to the improvement of internal and external operations of the company in all fields by quality management instead of continuous control.

Large number of researches and publications has been dedicated to competitiveness and the related issues, including the works by Michael Porter (Porter1998), Jay Barney (Barney1991), Philip Kotler (Kotler 2006), Coimbatore K. Prahalad and Gary P. Hammel

(Prahalad, Hammel 1990) etc. However, one needs to admit, that despite the considerable attention being paid to the issues of competitiveness, many important terms, for instance "competition", "competitive advantages", "competitiveness" and "competitiveness factors" are still often misinterpreted.

After due summarization of information and detailed analysis, the author concludes that there are no disagreements among the scientists regarding the substance of the notion of competitiveness meaning the rivalry among any subjects for the achievement of better results in a defined field. According to the economic theories, this rivalry goes on among the companies etc. for achievement of better results (Barney 1996, Porter 1998,Hoffman 2000).

However, the subject of disagreements often touches the types of competition and analyzing approaches of them. Author shares the opinion that the competition within a defined field should be separated from the market competition. The dawn of the term "competitive advantages of the companies" dates back to early research by Wroe Alderson, who writes on competition among the companies. In 1937 in his work "A Marketing View on Competition", Alderson has pointed out the basic principles of the competitive advantages of the companies. In further research Alderson has been one of the pioneers to emphasize that in their operations the companies should create and develop the distinctive skills that would produce advantages in comparison to the competitors (Alderson 1965).

The competitive advantages are based on distinctive skills of the company, since without them the company is not better than its competitors or potential producers of substitute products and therefore can lose the battle of competitiveness and vice versa – due to company's distinctive skills the company can create a competitive advantage that may help to beat the competitors. However, not all skills can be defined as distinctive. If the competitors are able to imitate or copy the skill of a particular company in any of its functional operations, it becomes a basic minimum requirement of the respective field (Caune, Dzedons, 2009: 232)

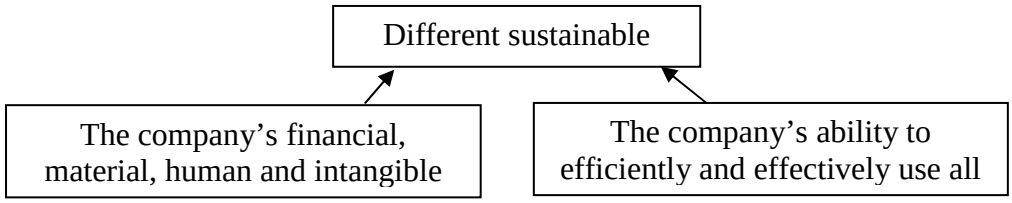
Among the researchers and experts that appreciate the importance of the distinctive skills in the creation process of the competitive advantages the sources there are certain disagreements regarding the sources of the aforementioned skills. One of the directions that emerged is the resource-based view of the firm. The followers of this direction is of the opinion that the totality of the existing hard-to-imitate resources of the company and its use provide the opportunity to achieve the competitive advantage (Carson, Gilmore 2009: 369). The research direction differs from the approach focused on analysis of the surrounding environment and described by Michael Porter, who builds the theory around the interrelations of the internal resources and achievements of the company (Porter 1998: 4). Prahalad and Hemmel have indicated the importance of the distinctive skills of the company in the creation of the competitive advantage. The main thesis

advanced by the scientists are as follows: 1) the competitive advantage depends on skills of the company to perform the development of innovative products faster and cheaper than competitors; 2) one of the sources of the competitive advantages is the ability of the management to consolidate technologies and resources, that enable the company to adapt to the environment; 3) it is necessary to create the link between the skills of the company and the final result; 4) the management of the company should pay great attention to the elaboration and implementation of strategy. One of the main goals of the strategy is to define the skills to be developed in the company (Prahalad, Hammel 1990, 79-92).

Other researches divide the resources and the skills of the company, emphasizing the specific importance of the latter. The resources (values) of the company consist of any material on non-material values (patents, reputation, good supplier relations), that can be applied in planning, production, market offers of products and services, meanwhile the skills of the company mean the operations through application and coordination of the values within the aforementioned processes. Resources can include the investment of the performed processes or the results, meanwhile the skills transform the investments, thus adding the value to the result. (Caune, Dzedons 2009: 384). Author shares the statement that the skills of the company can be considered more important source of creation for the competitive advantage, since the efficiency and quality of the company in comparison to its competitors mainly depends on ability or fail to use the resources.

The efficient combination of resources and ability is what build the distinctive skill of the company, allows to react immediately on environmental changes, and thus obtain a competitive advantage. There are several conceptions justifying the critical importance of the company's skills in the achievement of the competitive advantage (Lapa 2006: 574-588). Therefore, in fact, the resources and abilities of the company should be researched in correlation. The analysis of material and non-material resources alone, disregarding the skills of the company, would provide one-sided and inaccurate view on competitive advantages.

The summary on elements that create the competitive advantage of the company is represented in Picture 2.



Picture 2. **The elements of creation of the company's competitive advantage** (designedby the author).

The picture shows that the competitive advantage is based not only on resources, but also on skills. The scientific literature mostly covers the issues related to the evaluation of the resources, meanwhile the subject of evaluation of company's skills and the related contents are hardly ever researched. Nevertheless, in today's economics, the skills increasingly play the main role in company's operations, and the impact of resources goes down. The detection and analysis of skills is very important in the process of creation of competitive advantages. The competitive advantages must be sustainable. The idea of the sustainability of competitive advantages emerged in the 80-ies of the 20th century, when Georg S. Day indicated to the application of strategy that would help the company to guarantee the sustainability of the competitive advantages (Day 1988: 10). Michael Porter believes that a competitive advantage is sustainable, when it lasts for a good while (Porter 1998: 214).

One of the most exhaustive definitions of a sustainable competitive advantage of the company was formulated by Jay Barney: "The company has a sustainable competitive advantage, if it has launched a profitable strategy, which was not simultaneously applied to current or potential competitor, and the other companies are not able to imitate the benefits of this strategy" (Barney 1991: 320). This definition points out that the company should pay the attention not only to its current competitiveness, but also to the potential competitors that could enter into the market in the future. Secondly, the definition sets the indicator of sustainability: the measurable value is the resistance against the imitation or copying.

The distinctive skills should be valuable in order to allow the company to take the advantage of the opportunities offered by the environment and to neutralize the existing threat therein. The resources and skills of the company that are hardly applicable to the use of environmental opportunities or neutralization of existing threat are rather weaknesses of the company.

Distinctive skills should be hard to encounter among the competitors. The resources can be valuable in relation to the income or costs, but if available to other companies, they cannot serve as the source of a competitive advantage to none of these companies. The distinctive skills of the company must be hard to imitate. When the company achieves the distinctive skill, the next step is to ensure its sustainability, since many competing companies can strive to achieve the same. Therefore, the resource in question possesses a sustainable competitive advantage as long as another enterprise has not tried to imitate or substitute the original resource. If the imitation of the resources is not more expensive than the original resource or the creation of skill, the competitive advantage is able to provide only short-term benefits and vice versa (Volvenkins 2012).

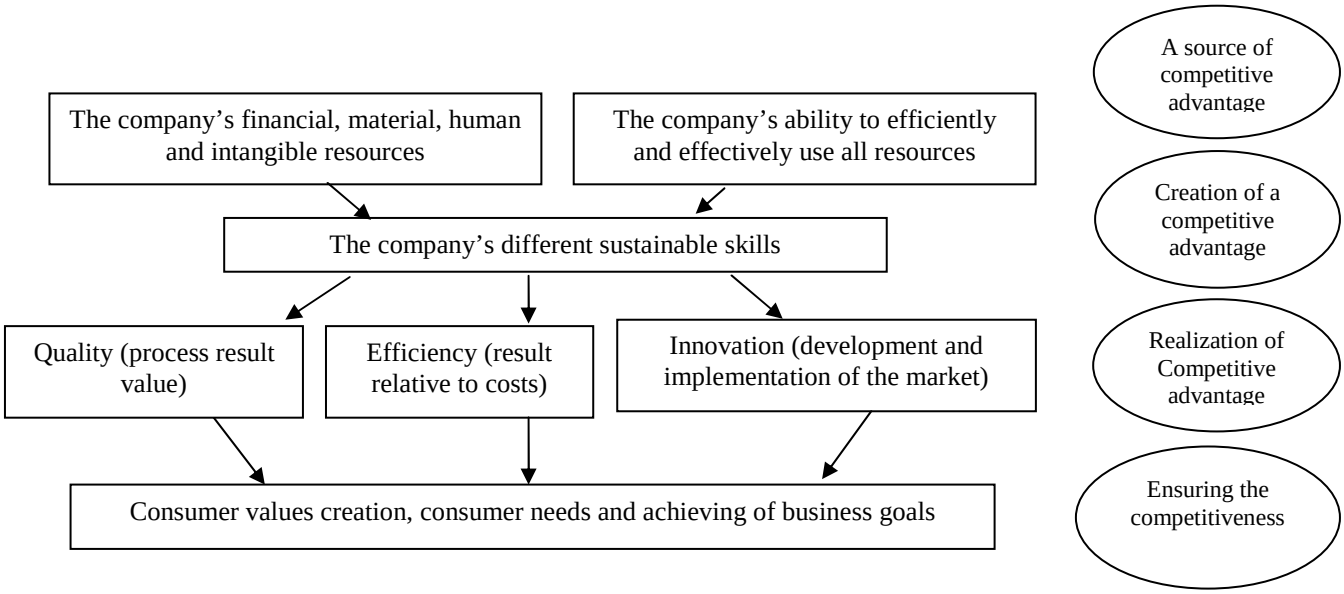
Author tended to agree that non-material resources have higher potential in terms of creation of competitive advantage, since it is more difficult to imitate the. However, there are some companies, which count on quickly imitable resources (Dogle, Hern 2006: 542).

With the help of distinctive skills, companies must offer to the market products of consumption value exceeding the value expected by the consumer. Consequently, one can achieve competitive advantages due to lower prices for the same consumption value complying with quality requirements. To consider the resources a source of potential competitive advantage, they should be able to create the value required by the consumers. More the resources can satisfy the needs of the consumers and to provide additional benefits, more increases their value from the perspective of the competitive advantage (Smithee 1999: 5-15). Long-term competitive advantages derive from quality management, brand management, creation of consumers' loyalty program, stable and long lasting relations with consumers and other marketing operations.

Company's strategy should efficiently use the available valuable, rare and hard-to-imitate resources and skills. For instance, by choosing the market strategy "average quality-average price" the company must take into account the need for appropriate quality management system, effective supply and information system skills. Innovations require new product development processes and creative skills of the staff. In fact, the distinctive skills and respective competitive advantages of the company are manifested in the market as compliance with the needs of the consumer and goals of the company, the quality (process, result, and values), efficiency (result versus costs) and innovations (elaboration and launching new products to the market).

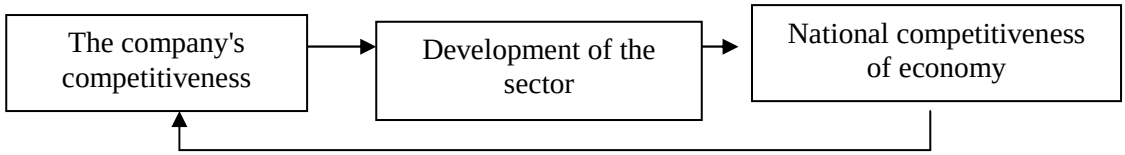
*Only the sale of competitive advantages can lead to the competitiveness of the company's product/brand in the market, therefore author cannot agree with the scientists who look at the competitive advantages and competitiveness both theoretically and in practice as to identic phenomena (*Volodina 2004: 416-425). The competitiveness is the result of the implementation of company's competitive advantages in long-term period. *In point of facts, this definition does not contradict to the definitions of World Economic Forum and Michael Porter. World Economic Forum defines the competitiveness as ability and present and future opportunities of the entrepreneurs to create for the world the goods of better quality and price in comparison to inland and foreign competitors. (*The Global Competitiveness Report 2009 – 2010: 492*)*. Michael Porter sees the competitiveness as the productivity of the company. The common feature is the ability to produce goods or offer services of high quality at low costs in comparison with inland and international competitors (Porter 1990). Depending on field to which the term "competitiveness" is applied, it is possible to distinguish the following types: competitiveness of product (goods and services); competitiveness of brand; competitiveness of company; competitiveness of industry/cluster and state/region. *The competitive advantage consists of*

several components – quality, efficiency, innovations as well as the awareness of customers' desires and their satisfaction. Analyzing each of the competitive advantages one shall consider that all components are closely interrelated and depend of each other. Author believes that it is possible to achieve a justified formulation of the term "competitiveness" combining the elements that constitute the competitive advantages and those of sale. In practice, the term appears schematically by merging Pictures 1 and 2 and creating a new Picture 3.



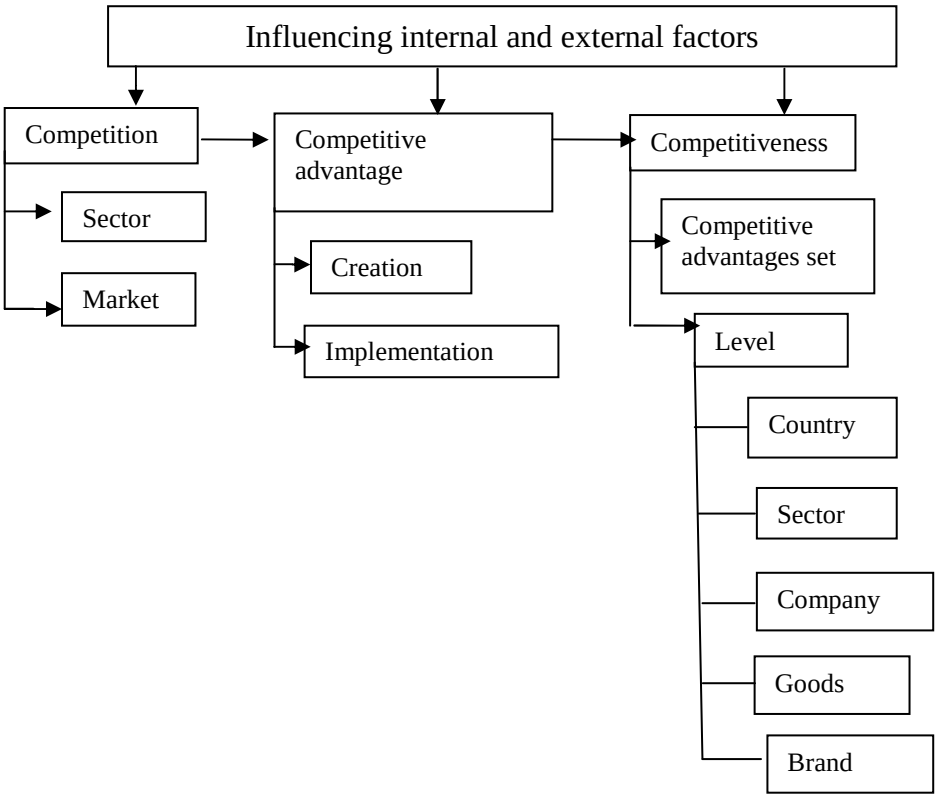
Picture 3. **Model of creation and sale of company's competitive advantages**
(designedby the author)

Besides, the author affirms that the creation of sustainable, distinctive skills (use of resources and abilities) and their application to contribute in the improvement and efficiency in satisfying consumers' needs in comparison to direct or indirect competitors aimed to achieve the goals of the company that can be regarded as competitive advantage. Analyzing the importance of the competitiveness, the interrelation and interdependence of economic processes and subjects must be taken into account. See the aforementioned interrelation of economic processes and subjects in Picture 4. The development of states depends on many elements of the market, especially on competitive advantages of the companies.



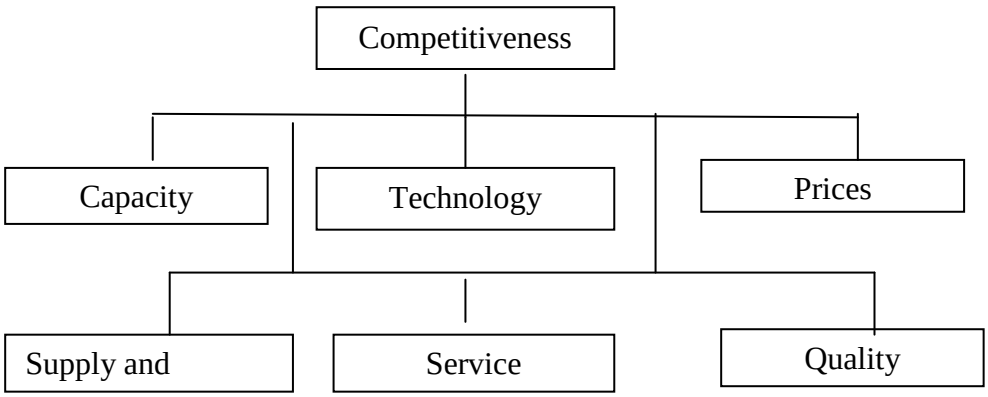
Picture 4. **Interdependence of economic processes and subjects**
(designed by the author)

Each type of competitiveness has its particular characteristics, however, all of them tend to have common features. On the one hand, the competitiveness of an industry or a national economics can be implemented only through an efficient operation of a particular company. In the particular company the competitiveness, depend on consumers' satisfaction regarding the product quality and price, which, in their turn, constitute the value of consumption. In this case, the consumer is not interested in costs of the company or in sales problems regarding the product. The summary of the interdependence of the categories author has thoroughly researched can find below in Picture 5.



Picture 5. **Interdependence of the terms "competitiveness", "competitive advantages" and "competitive capacity"** (designed by the author)

As can see, the competitiveness, the competitive advantages and the competitive capacity are closely interrelated and their development depends on both internal and external factors. On basis of the interpretation of the term "quality" and the complex adoption of quality methods, the quality can be considered one of the basic elements of company's competitive capacity. In order to assess the competitive capacity of the company it is essential to make the comparative analysis of the factors. Stephane Garelli offers to take into account the following assessment factors: (See Picture 6).



Picture 6. **Assessment factors of the competitive capacity**.(Garelli 2009)

As demonstrated in the picture, quality is one of the factors characterizing the competitive capacity of the company; however, the question that arises directly is whether the demand and the attendance are not related to quality as the result of the process. This chart does not show efficiency and innovations as the results of competitive advantages.

The factors used in the creation of the competitive capacity as well as the type of their application keep changing along with the level of economic development of the company's operation country. Therefore, the compliance of the factors used for the creation of the competitive capacity to the stage of the economic development level produces the impact to the company's performance.

When the state economics keep developing, new, distinctive skills that created the base of the competitive capacity must change, because the factors considered being strengths in the competition conditions during the previous state development level can turn into weaknesses in the new stage of development. Each country can have a particularly suitable innovative strategy depending on level of economic development. Author believe, the company to a certain extent depends on external factors, such as crediting, state tax system, investment environment, national innovation policy, social environment, development level or infrastructure, legislation etc. For example, due to different tax allowances for companies working in the field of scientific research, the state can increase the investments and, subsequently, thanks to the assigned funds and improvement of the system the state has the opportunity to affect business environment. Next group is internal factors, which, to my opinion, consist of competitive capacity of products, marketing, management and sales efficiency, stability of financial conditions and production competitiveness. Through the research of these factors, the entrepreneurs can take the opportunity to detect the fields, where some measures have to be taken in order to ensure the sufficient level of company's competitiveness in the country. In the result of interaction between the external and internal environment the company produces goods that are distributed in the

market and, depending on level of competitiveness of the company, the company experiences profit or losses (Воронов: 2013**).**

In case of comparison, it is essential to find out, which factors are basic for the competitive capacity of the company and to what extent these factors are present. The comparison requires a systematic approach, since the changes of business environment and the development of economics change the factors affecting the competitiveness. In order to follow the competitiveness development trends in the industry and in the market as well as to monitor the changes in the affecting factors, the company should carry out several defined operations.

Conclusions

- The scientists still have not come to a single definition of quality. Definitions containing the idea of quality as applicability for use are too narrow, and they should be extended by adding other characterizing features, such as for instance compliance etc.
- Despite the considerable attention paid to the issues of competitiveness, many important terms, for instance “competition”, “competitive advantages”, “competitiveness” and “competitiveness factors” are still often misinterpreted.
- Among the researchers and experts that appreciate the importance of the distinctive skills in the creation process of the competitive advantages the sources there are certain disagreements regarding the sources of the aforementioned skills. One of the directions that emerged is the resource-based view of the company. The followers of this direction have the opinion that the totality of the existing hard-to-imitate resources of the company and their use provide the opportunity to achieve the competitive advantage.
- To consider the resources a source of potential competitive advantage, they should be able to create the value required by the consumers. More the resources can satisfy the needs of the consumers and to provide additional benefits, more increases their value from the perspective of the competitive advantage.
- The competitive advantage means to create and implement sustainable, distinctive skills (resources and abilities) in order to satisfy the consumers’ needs more efficiently in comparison to direct and indirect competitors and to achieve the aims of the company.

Proposals to entrepreneurs:

- To the enterpreneurs would be wrong to restrict the term “quality” to single definition. Instead, it should be reflect in a particular quality model (result, value, process).
- The enterpreneurs clear understanding of terms “competitiveness”, “competitive advantages”, “competitive capacity” and “factors of the competitive capacity” can be achieved through the analysis and assessment of company’s competitive capacity, which is critically important for the strategic planning and implementation of operations.

- The entrepreneurs should distinguish the competitiveness of the industry (number of companies, structure etc.) and the competitiveness of market (needs etc.), moreover, analyze them separately.
- The research of resources and skills of the company must consider their interdependence. Observing the potential of a company or its competitors, the analysis of material and non-material resources disregarding the company's skills will provide a one-sided and imprecise view on competitive advantages.
- The distinctive skills have to be valuable to make use of them by the entrepreneurs in combination with opportunities given by the environment and neutralizing the existing threats within. The resources and skills of the company that are hardly applicable in taking advantage of the environment and prevention of existing threat should be regarded as the weaknesses of the company. The resources and skills of the company are worthy, if they provide the company a chance to reduce the cost or increase the income in comparison with situation, when no such resources would be available.
- In the course of development of the state economics, the entrepreneurs must change the distinctive skills in the base of the competitive capacity, because the factors considered strengths in the competition conditions during the previous state development level can be regarded as weaknesses in the new stage of development.

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