Turība
Biznesa augstskola

Journal of Turiba University

Acta Prosperitatis

11

ISSN 1691-6077

Journal of Turiba University

Acta Prosperitatis

No. 11

ISSN 1691-6077

Turība University

Riga 2020

Journal of Turiba University
Acta Prosperitatis No. 11

When quoted the reference to the issue is mandatory.

Publisher Turiba University, Ltd.

Head of Publishing House **Daiga Rugāja**

Language editor **Sundars Vaidesvarans**, Turiba University, *Latvia*

CONTENT

PREFACE

We are very pleased to present the publication of this new issue. Every year we publish articles on various areas of scientific research, the authors of which are well-known scientists: professors, doctors of sciences, and doctoral students who take only the first steps in science.

This issue contains ten scientific papers covering a wide range of key issues in economics and law, representing a wide geographical distribution of research contexts. This volume contains the articles of authors from Denmark, Germany, Lithuania, Georgia, India and Latvia.

The paper by *Davit Aslanishvili* from Georgia reflects the problem of large-scale disproportion of success in the development of the banking sector and mainly analyses the unsuccessful development of the real sector of the economy and the mechanisms of the influence of credit market factors affecting economic growth.

The paper by authors *Ainars Brencis, Inga Šina, Ieva Brence* from Latvia assesses the possibilities of local government in Latvia to participate in social entrepreneurship, the legal regulation of which has been in force in Latvia for less than a year.

The paper by *Eugene Eteris* from Denmark looks at the development of global and European actions in sustainability and digitalization, which provide a background in the Baltic States' efforts to streamline their economic governance according to modern challenges.

The paper by *Udo E. Simonis* from Germany asks about excessive misuse of resources and a serious impact on the environment, as well as the need for a national and global "ecological upheaval". The researcher argues that only through improved cooperation among countries can the collapse of global ecosystems be prevented and global sustainability ensured.

The paper by Latvian researchers *Svetlana Gribanova* and *Anna Abeltina* describes the motivation structure of IT professionals in Latvia. The results of the research show that for effective management of this professional group, managers should create comfortable conditions for them, minimize control, focus on what people do and not how they do it.

Also, an article by researchers from Latvia *Arthurs Mons and Velga Wevera* is dedicated to the field of human resource management. The authors focused on the selection process methods used in organizations, when hiring personnel for different organization levels.

Researchers from India *B.Arul Senthil, D. Ravindran, S.A.Surya Kumar* conducted a survey among MBA students of various business schools in India and concluded that emotional intelligence plays a significant role in development and is much more important than rational IQ, especially for managers, because they are responsible for managing one's own emotional state and that of other people.

This issue of the journal also has three articles in the field of law. The paper by *Raimundas Kalesnykas* from Lithuania analyzes the prerequisites for creating an anti-corruption environment in public sector organizations and demonstrates Lithuania's best practices in this area.

The author *Karolis Kaklys* from Lithuania, in his article, analyzed the influence of the principles enshrined in the European Charter of Local Self-Government on democratic processes in Lithuanian self-government. He also offers some solutions for the Lithuanian legislator on the issues identified, in order to improve national legal regulation.

The article by researchers from Latvia *Marta Kive and Janis Grasis* reflects the results of the analysis of the advantages and disadvantages of the right to data portability, as well as their consideration in the context of developing a regulatory framework for the protection of personal data.

An article by researchers from Latvia *Una Skrastiņa and Džeina Gaile* analysed the opinions of the European Court and defines the legal principles and considerations that should be taken into account in situations where tender documents do not meet the requirements of the procurement commission and recommendations are proposed for further actions in Latvia.

We should like to thank all the members of the Editorial board for their hard work. Many thanks are also due to the contributors to this issue for their forbearance and patience in the necessarily long process of preparing papers for publication.

Co-editor-in-Chief,
Daina Vasilevska

WORLD EXPERIENCE: COMMERCIAL BANK CREDIT AND ECONOMIC GROWTH RELATIONSHIP

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Abstract

This research focuses on the problem of large scale disproportion of success in the development of the banking sector and mostly unsuccessful development of the real sector of the economy. It should be noted that this disproportion is a subject of consideration in contemporary economic literature and our research is an attempt to broaden the issue and share ideas inside the international scientific circles. The main problem in the research is the impact of the banking sector's credit portfolio and the functioning of credit markets on the economic growth of the country. In this regard, it is very important to identify, study the macroeconomic stabilization and accelerated economic growth of the country and analyse the impact mechanisms of the credit market factors on economic growth. The conclusion that combines many of the research and opinions given in the survey can be as follows: From the economic point of view, the main function of banks is to increase the financing/lending of funds as the core point to increase investments in the economy. Thus, the development of the country in economic terms depends on the increase of investments. At present, it is in the hands of the banking sector whether to lead us to economic immobility or to accelerate the country's economic development through efficient allocation of resources.

Keywords: Banking sector, economic growth, GDP, credit booms

DOI: 10.37804/1691-6077-2020-11-6-19

Background

This paper represents a study of research works and publications of scientists from different countries related to banking development and economic growth, personal involvements and activity and the research and observations of local scientists on relations between banking development and its impact on economic growth. The author wishes to thank all those who supported and contributed to the production of this study.

Introduction

The impact of the smooth functioning of the banking sector's credit portfolio and credit markets with regard to economic growth is widely discussed in economic literature. This issue is relevant for the further development of the economy of both developed and developing countries. Because of macroeconomic stabilization and accelerated economic growth, it is important to identify, study and analyse the mechanism of impact of credit market factors on economic growth.

Theoretical framework

In that view, it is interesting to analyse the level of study of this problem by foreign scientists. One of the research works, where this problem was studied, was presented by Nigerian University of Economics researcher Orji Anthony in his research on impact of bank saving and credits on economic growth in Nigeria in the period of 1970–2006. The study provided two models of impacts on economic growth. The first specification model for the ARDL-ECM regression presents specification variables such as: Per capita income (PCY), the ratio of bank domestic savings to market prices. The second specific model was developed to achieve the second objective, focusing on economic growth in Nigeria, namely the impact of bank domestic savings, bank loans and other variables of regression with respect to GDP (Orji, 2012).

Based on the results of the study, the Nigerian government has been recommended to make efforts to increase per capita income, reduce unemployment and effectively utilize bank credits and savings to accelerate economic growth in the country.

Another research, conducted by a group of scientists from El-Riyadh, the Islamic University of Saudi Arabia, described what was most relevant for

Qatar to raise the level of financial development and economic growth in Qatar. The study empirically explores and substantiates the long-term causal link between financial development and economic growth in Qatar in 1990–2012. The country's financial development is measured by three alternative indicators: the broad money (M2) attitude to GDP, the ratio of private sector bank lending to GDP, and the ratio of domestic banking credit to GDP. Economic growth is a measure of real GDP growth. The results of the study showed that there is a long-run positive equilibrium relationship between all three financial indicators and real GDP growth rates. The study found that there is a bilateral causal link between the broad money supply (M2) and GDP as well as the GDP growth rate, and there is a one-sided causal link between domestic credit to the banking sector between GDP and GDP growth in the short run. The results of the observation show that there is a one-sided cause of a positive correlation between the GDP growth rate and the domestic credit provided by the banking sector (Alkhuzaim, 2014).

The relationship between bank credit and economic growth relates to the work of Ho Ngai Wa in Macao, in which the author acknowledges that financial development and structure are closely linked to economic growth. In turn, the country's financial development has a positive effect on the level of investment attraction, but is relatively low correlated with the increase in production. Empirical research has shown that a number of financial indicators are strongly and positively correlated with economic growth. Macao has been heavily focused on access to bank loans and is considered one of the driving factors in the development of manufacturing (Ho Ngai Wa, 2005).

Of particular interest is a study done the International Monetary Fund on "Macro-Financial Stability Policy: Working with the Credit Boom and Downturn". The "credit boom" episodes, which include the rapid growth of lending, are a political dilemma for the country. Expansion of access to finance, widespread investment support and economic growth (Ho Ngai Wa, 2005) is a common occurrence, but when enlargement takes on a sharply accelerated nature it can become offensive, with weak lending standards, credit can be obtained. Unlimited use and value of funds are a dangerous bubble on assets. Normally "credit booms" are associated with a financial crisis (Alkhuzaim, 2014), "credit booms" are dangerous in the best of situations, and in the worst case we have a catastrophe. They were not focused on these dangers until the "Great Recession" crisis of 2008–2010.

Credit booms are problematic with the approaches of the central banks of India and Poland, with the credit boom making it difficult to distinguish

between healthy and unhealthy credit flows, so policies should be geared to contain results. For this purpose, it is necessary to use effective monitoring and control tools over the results of the past period. A statutory base has already been worked out, for example Basel III has introduced a number of capital buffers, which are adjusted when there is a moderate increase in credit (Basel Committee on Banking Supervision 2010; Dell'Ariccia, et al., 2012). This document discusses how and to what extent we should intervene in the credit boom or credit downturn. The study also analyses those geographical areas, their location, and problems where the boom effect is more likely. The authors consider such countries as the countries of South Africa and Latin America, as well as those of the European Union, which are in the process of enlargement in the European Union.

In terms of economic growth, it is very interesting to develop a warning indicator of the occurrence of a systemic banking crisis. To this end, an article by Mathias Drehmann, dedicated to the development of indicators for detecting the antiperiod of the banking crisis, is currently relevant. The article focuses on the factors of the banking crisis such as: private sector credit boom, non-credit lending, credit-to-GDP ratio, and more. The author particularly focuses on the new market for BIS data, which shows that banks can cover up to 30% of private non-financial sector lending. The author's analysis is based entirely on BIS's new database, lending to banks and the private non-financial sector.

The author focuses on two reasons in the action document:

1) Banks may be affected by the issuance of excess credit;
2) By financing the private financial sector, which may have unintended consequences.

Mathias Drehmann focuses on assessing the ratio of lending to GDP, which may be one of the indicators of the onset of the banking crisis. The percentage of this ratio may indicate the start of a banking crisis in the country. (Drehmann, 2013)

Credit market formation and development issues are also covered by the Croatian National Bank survey, which includes a draft version of the credit assessment in Croatia. The authors of the project are: Katja Gattin-Turkalj, Igor Ljubaj, Ana Martinis, Marko Mrkalj. (Gattin-Turkalj, et al., 2007)

The research focuses on monetary aggregates and credit demand, which have traditionally been an intermediate target of monetary and credit policy through which central banks seek to achieve price stability in the country. Recently, the issue of the emergence of the "religious boom" and its

prediction has become an issue in central and eastern European countries. Proper forecasting of credit demand, in view of this, contributes to the achievement of financial stability and economic growth in the country, which is also relevant for Croatia today. In this paper, using the determinants of standard credit demand, the method of least squares is used to determine the total credit demand in Croatia.

The results of the study show that credit behaviour can be explained by real GDP and real interest rates on loans. GDP is an important force behind the formation of credit demand. Other variables were used to test the reliability of the baseline specification. These variables were: inflation, the euro nominal exchange rate in the USD and the period of variables included the period of the late 90's and the period of 2006.

The study pays great attention to the study of population demand for loans, as the review of economic literature shows that demand for loans significantly determines prices for real estate. And, as the study shows, the increase in interest rates on loans has had a negative effect on the demand for loans from the population. Research has also shown a high correlation between credit and GDP, the use of which can be successfully identified over the long term.

Macroeconomists have long acknowledged that their activity at the forbidden threshold is unreliable under the real-time regime and could pose serious difficulties to the country's economic stabilization policy. In the article, the use of nominal coefficients of credit to GDP ratio is considered as a reference point for the anti-cyclical capital accumulation buffer. Practically calculated estimates of the ratio of credit to GDP in real time, with the advent of anti-cyclical capital buffers. (Gattin-Turkalj, et al., 2007)

The determinants of financial system development and private sector liquidation are discussed in the Master's thesis of the Middle East Technical University, published by Erzen Söğüt (Söğüt, 2008). The study period covers 1980–2006. The conclusion is that in the low-income countries, the increase of public debts leads to the reduction of credits of the private one, while in high-income and developed countries it is not the case. The reason is, that in low-income and less-developed economies banks prefer to give credit to the public sector as it is a safer asset and as a result – crediting of private sector is affected negatively. Regarding inflation, it is found that it affects financial development negatively only in high income countries while it has the opposite effect in low income countries.

Issues related to the functioning of the credit market and the economy of the country are also relevant today in the post-Soviet republics, which is clearly indicated by Mironchik N. L. and M. V. Demidenko's article Credit to the economy: new answers to standard questions (Mironchik & Demidenko, 2012). The article discusses the impact of the dynamics of the banking system of the Republic of Belarus on the country's economy. The paper presents comparisons between countries and its econometric modelling methods, based on which the authors of the article draw conclusions about the increase in the optimal rate of real lending, eliminating the gap between demand and supply factors for credit in Belarus and improving the efficiency of credit process management in the country at the macro level.

According to this study, modelling of credit dynamics in Belarus from 2002–2011 revealed that, along with banks' resource bases, GDP, interest rate and currency exchange rates, factors such as: expectations of economic agents on lending changes and real estate prices change.

The proper performance of the banking sector is very important for the stable development of the economy in the country. In an article by Tamás Balás of 2009, the author argues for the importance of analysing the qualitative performance of the banking portfolio during the recent financial crisis. His proposed PD model estimates other ex-post portfolio quality indicators, many of which have a limited impact on loan losses. The problem of misinterpreting the factors and factors that affect the quality of a credit portfolio often leads to incorrect conclusions in international comparisons. For example, in Hungarian practice the value of debt on average is considered to be an important indicator because it has a strong relationship with the loan loss. Accordingly, it represents an indicator that we would appreciate in the model predictions (Balás, 2009).

For developing countries, including Africa, it is very important to have economic links between financial development and economic growth. The Kenyan Institute for Political Studies and Public Affairs Analysis present study covers data from 50 African countries, and covers the period 1980–2008. The study (Musamali, et al., 2014) uses two directions of financial development: the ratio of private sector credit to GDP and the second money-to-mass ratio (M2) to GDP.

The study found positive correlations between financial development and economic growth. However, there is a much closer link between money supply and economic growth. The results of the study show that the real development strategy of the financial and economic sector in Africa depends on these factors. From the economic regression model used in the

research process, a two-way goal-effect relationship between financial development and economic growth was identified. Overall, there is a sharp positive relationship between private sector lending and economic growth in Africa. There was also a relatively weak positive relationship between money supply (M2) and economic growth, which is directly dependent on inflationary trends in countries. At the same time, there may be a weak link between indicators, weak development of the country's financial sector. Therefore, African countries should take significant measures to increase lending to the private sector. At the same time, African countries must ensure a stable development of their country's economy, to avoid conflicts and wars between and within countries to create an attractive environment for foreign investors, such as international organizations such as the UN, IMF, and should promote African countries interests in financial institutions, in order to improve the areas of private sector funding. And their national banks must foster economic growth, shift to sound monetary policy, and at the same time actively fight inflation and its negative effects in countries (Musamali, et al., 2014).

In developed countries, the development of the banking sector is increasingly influenced by economic growth and ongoing inflationary processes. This is the issue discussed in the article by Suna Korkmaz on the impact of bank lending on economic growth and inflation. The issue was raised in 10 European countries, based on data from 2006–2012. According to the analysis conducted in 10 countries, the domestic credit of the 10 European banks has not been influenced by inflation, but by their economic growth. Banks in the country's economy are mainly established as intermediaries providing financial services (Korkmaz, 2015).

From the economic point of view, the main function of banks is to increase the lending fund to increase investment in the economy. Thus the development of the country in economic terms depends on the increase of investments. Banks are capable of leading to economic stability, and they are also capable of accelerating the country's economic development through efficient allocation of resources.

Another risk to the economy is the lack of inflation control. If inflation is not under control in the country, an effective economic structure will not be established, and the development of the banking sector will always be frozen, and bank lending will not ensure investment growth. Therefore, as a result of monetary policy implemented in the country, inflation should always be under control. From the analysis of the article, it can be concluded that the development of the country's financial market significantly affects

its economic strength. However, domestic loans and the banking sector do not affect inflation but substantially affect economic growth.

In his paper "Does Saving Increase the Supply of Credit? A Critique of Loanable Funds Theory" Fabian Lindner shows that excess saving does not lead to an excess supply of credit – which would lower interest rates – but to an excess supply of goods, services and/or labour which will lower prices and production. Finally, Fabian Lindner argues that the identification of saving with the provision of credit is likely to stem from the invalid application of neoclassical growth models to a monetary economy (Lindner, 2015).

Robert Kelly, Kieran McQuinn and Rebecca Stuart in the article regarding Ireland "Exploring the Steady-State relationship between credit and GDP for a Small open economy – the case of Ireland" examine the Basel proposal and makes two contributions. This determines periods of stability in the PSC to GDP ratio, thus allowing one to estimate the steady state relationship. A capital buffer to prevent excess credit can be based on deviations from this estimate. This would seem to be particularly warranted where a country experienced a rapid build-up of credit like Ireland with permanent and strong credit growth for the decade. The paper notes the emergence of a "twin club" development across Europe in that regard. Also, in their opinion the notion of alternative states in the GDP to PSC ratio needs to be allowed for in applying the Basel proposal across countries. Additionally, the paper examines a counterfactual scenario in which the expansion in credit is linked to that of deposits. The analysis suggests that there may have been significant benefits associated with such a link (Kelly, McQuinn, Stuart, 2013).

Georgian Experience and Results

The relationship between economic growth and financial market development is studied carefully by Georgian economists. Vladimir Papava in his papers – discusses the so-called "impact of the sharp growth effect" (Papava, 2014). Some authors assess the dynamic model of credit risk for the Georgian banking system and analyse the impact of key macroeconomic factors on credit risk. The impact of macroeconomic factors (GDP, real growth, exchange rate depreciation) on inactive loans by key sectors of the economy is also discussed. The author concludes that the principle of invariance is preserved in the adjusted economic growth rates based on the proportional overlap effect of the sharp growth effect. According to this, the ratio of adjusted indicators of economic growth does not depend on the selection of baseline indicators of economic growth and development. The application of this

principle indicates that this method of eliminating the effects of a sharp increase is not contradictory, and can easily be used for a practical purpose, as confirmed by the analysis of post-crisis economic growth in the post-Soviet countries.

It should be mentioned, that despite important theoretical research of Georgian economists on economic growth-the study of credit market itself, its changes and its impact on economic growth is limited just by theoretical and empirical focus. Just the impact of financial market risks and global crisis on the level of Georgian economic growth has been studied, rather than the deep relationship between economic growth and financial market development.

Great attention is paid to the analysis of the credit market during the financial crisis. I. Kovzanadze discusses the peculiarities of the world financial crisis, the existing models of its regulation and the peculiarities of their use. Here, the author proposes a new model of crisis management and implementation specifics (Kovzanadze, 2010), discusses the stages and results of the chronologies of the global financial crisis of 2007–2008. It also shows the impact of the crisis on the Georgian economy. At the same time, it focuses on the Georgian banking system in times of global crisis and defines a model of monetary-credit regulation that will enable the country's authorities to make effective use of the positive aspects of globalization.

Temur Khomeriki studied the features of credit market development in an unsustainable environment and characterized the key areas of revealing credit relationships and the behaviour of commercial banks in an unsustainable environment (Khomeriki, 2010). In particular, in the wake of the crisis in the mortgage market, the process of bank mergers is accelerating; improvements in banking are increasingly linked to the use of modern information and communication technologies; in the banking business, traditional banking deals with innovative products; with the development of investment banking, insurance-security and other financial-banking business, the investment-banking business is developing.

An analysis of the credit market situation and the characteristics of the financial crisis is provided by David Aslanishvili and Kristine Omadze's works, specifically examining the impact of the global economic crisis on the downturn of economic activity and on the background of changes in the credit portfolio of Georgian commercial banks (Aslanishvili & Omadze, 2013; Omadze, 2014).

Overall, this aspect is distinguished by the fact that the subject of research by Georgian economists is the causes and effects of financial crises that are reflected in economic growth, but their effects on credit market development are limited to an analysis of the state of the banking system.

One of the important aspects of Georgian economic thought is to identify trends in the formation and development of the banking system. In this regard, I. Kovzanadze discusses trends in the development of the economy and the formation of the banking system, problems in the banking sector of Georgia up to August 2008, features of detection, specificity of action, results and more. (Kovzanadze, 2010, 2002) In addition, other studies are concerned with the peculiarities of the monetary and credit system (Lazarashvili & Melashvili, 2014), characterization and comparison of two-tier banking systems with banking systems operating in developed countries, etc.

These aspects of the research are distinguished by the fact that Georgian economists focus on the improvement of the banking system and the development of its individual elements. The impact of the banking system on economic growth is relatively sharp.

Many papers have been written on credit portfolio changes and credit risks. Their main focus is on the peculiarities of credit portfolio formation of commercial banks, the factors that influence the borrower's creditworthiness, banks' interest rates and credit policy relationships (Aladashvili, 2014).

Maya Aladashvili discusses the impact of credit risks on the normal functioning of the banking system. The lending principles focus on the purpose, repayment, maturity and collateral of the loans (Aladashvili, 2012).

Georgian scholars study the characteristics of credit risk in the banking sector more in-depth and indicate that credit policy definitions should take into account reasonable maximum loan terms and actual loan repayment schedule (Aladashvili, 2014).

Thus, according to recent scientific papers published by Georgian scientists and economists, it is clear that the four aspects of the above mentioned research are the main directions of development of Georgian economic thought. Unfortunately, studying the transformation of the credit market in their work and revealing the changes in banking management is only theoretical-empirical. Therefore, it is necessary to analyse the extent to which the credit market and institutions have undergone changes in recent years.

Conclusions

The study provides a survey of the region and country, from which it becomes clear that banking savings and bank credits directly affect economic growth. The survey has analysed two models of impact on economic growth and concludes that the following recommendations include: increase in income per capita, decrease in unemployment and effective use of bank credits and savings to accelerate economic growth in the country.

Other examples of international research are linked to improving the quality of financial development and economic growth and the long-term cause-effective relationship between financial development and economic growth is determined. This study measures the financial development of the country with three indicators: M2 depending on GDP, private sector bank lending ratio, and the GDP to the GDP in the banking sector.

The real growth of real GDP is seen as a measure of economic growth. The results of the research showed that there is a long-term positive equilibrium relationship between all three financial indicators and the real GDP growth rate. As a result of the research, it was established that there is a bilateral causal link between the massive money mass (M2) and the GDP and the GDP growth rate.

A number of scholarly research finds that financial development and structure are closely linked to economic growth. On the other hand, the financial development of the country has a positive impact on attracting investments but relatively low correlation with growth. Empirical research has shown that a number of financial indicators are strong and positive in correlation with economic growth.

The study provided by the International Monetary Fund shows the direct positive impact of credit expansion on economy and its development. In that field, the access to finance and investment stimulates economic growth and it should be supported in the field of development both commercial lending and equity funding. But its aggressive development character (limitless use of the loan) and acceleration may speed up inflation, asset price bubbles and therefore, as the result, lead to weak economy. Usually, the “credit booms” are related to the financial crisis.

In that field, one more important issue is the commercial banking supervision as the core point of economy crediting and the place of “credit booming”. Special attention is paid to factors of banking crisis such as: private sector credit boom, non-credit lending, credit rating relative to GDP etc.

The research focuses on the study of the population's demand for credit. As the review of economic literature shows, the demand for credits significantly determines the prices on real estate. And, as the survey shows, the credit interest rate increase has negative impact on the population's demand for credits.

Also, research has proven high correlation between credits and GDP, which can be successfully identified in the long term.

A number of research studies show, in low – income countries, an increase of state involvement (crediting the economy) via the public debt growth leads to reduction of the private sector in economy. At the same time, in the case of high-income countries, the private sector lending and development mostly satisfies the demand of increasing public sector on credits and, therefore, decreasing demand on central government debts. In both cases, inflation has a negative impact on financial development and decrease the growth rate of GDP in the long-term period of time.

The stable development of the economy in the country significantly ensures the banking sector's performance. For developing countries, the existence of economic links between financial development and economic growth is crucial. Two directions of financial development are used to compare:

1) the private sector credits with GDP volume and;
2) the second monetary aggregate (M2) ratio with GDP volume.

As a result of the research, positive correlation between financial development and economic growth has been established and the ways and the necessity of future study of Georgian Financial development and Economic growth are outlined.

Acknowledgements

The author wishes to thank all those who supported and contributed to the production of this paper. Included in the list of valuable support are: Caucasus University administration and colleagues from University and business society.

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SOCIAL ENTREPRENEURSHIP OPPORTUNITIES IN LATVIAN MUNICIPALITIES

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Abstract

Until 2018, there was no legal form in Latvia to regulate businesses that were not aimed at profit making. Therefore, non-profit oriented organizations were forced to operate in a controversial legal status. The entrepreneur could choose to be a merchant, or to do entrepreneurship through a nongovernmental organization – which is not suitable for entrepreneurship. Local municipalities were also forced to act in a manner like entrepreneurs. In order to give their organizations autonomy, municipalities set up commercial companies that, according to Latvian legislation, were programmed to make profit. This led to a situation where the municipality, which "a priori" operates for the benefit of citizens, when establishing a new municipal company must behave like pure merchant whose only aim is profit. In this study, the possibilities of local governments to engage in social entrepreneurship were studied by using triangulation of data obtained by different research methods. The work assesses the possibilities of local governments in Latvia to transform their existing organizations, establish new social enterprises, and entrust social entrepreneurship functions to social enterprises founded by the private sector.

Keywords: social enterpreneurship, municipalities, social enterpreneurship in municipalities

DOI: 10.37804/1691-6077-2020-11-20-41

Introduction

Starting from the second decade of the 21st century, the concept of social entrepreneurship in Latvia has become increasingly topical. It has been fueled by practices of other countries, the European Union initiatives and national problems that the public and private sectors have failed to address. Discussions related to social entrepreneurship have taken place in Latvia and applied and scientific research have been carried out, which have resulted in proposals for the development of social entrepreneurship. The most significant works in this field include the study "Latvia on the road to social entrepreneurship" by Lesinska et al. (2012) and a study carried out by Pūķis (2012) on "Social Entrepreneurship Opportunities in Latvia", co-funded by the European Social Fund with the aim of monitoring the law from the point of the social economy and developing proposals for improving legislation. Academic works, such as Dobele's (2013) thesis "Social Entrepreneurship Opportunities in Latvia" are noteworthy. Using the results of the work, the mentioned author has published a textbook and several scientific publications. With the financial support of the Nordic Council of Ministers, a report "Guidelines for Social Entrepreneurship, Summary of Good Practice and Recommendations for Local Governments in Latvia" (Lukjanska & Cirule, 2014) was elaborated in late 2014. In 2014, with the financial support of the European Economic Area Financial Mechanism and the Latvian State, Lesinska (2014) conducted a study "Social Enterprises – Non-Governmental Organizations in Latvia", which emphasized the role of non-governmental organizations in social entrepreneurship. Also, in 2014, the European Commission (EC) Report on Social Entrepreneurship in Latvia "A Map of Social Enterprises and Their Ecosystems in Europe, Country Report" (European Commission, 2014) was elaborated. All the above-mentioned works have been developed with the support of various external financial instruments underlining the interest of various bodies outside Latvia in the development of social entrepreneurship in this country. In our opinion, this indicates that social entrepreneurship in Latvia is driven by external forces rather than being developed within the country and therefore the discussion in this context is not about opportunities and problems of social entrepreneurship development, but about adaptation. The exception are non-governmental organizations that have been granted the status of a public benefit organization, which might be a Latvian version of what is commonly understood by the term "social enterprise".

The activities mentioned are aimed at promoting social entrepreneurship, the legal framework of which came into force in Latvia on April 4, 2018. The purpose of the law is to contribute to the improvement of the quality of life in society and to promote the employment of groups at risk of social exclusion by creating a favorable business environment for social enterprises. Despite the adoption of the legal framework, Latvian municipalities are in no hurry to set up social enterprises, associating the Social Entrepreneurship Law with social care rather than community-projected activities. Therefore, the purpose of this study is to evaluate the possibilities of using social entrepreneurship in Latvian municipalities.

Theoretical framework and other countries' experience

Because the concept of social entrepreneurship is broad and involves different policies in different countries, there is no universally accepted definition of social entrepreneurship (Dobele, 2013). They are either too broad (e.g. EU common policies) or too narrow (national context). Therefore, universal social entrepreneurship features (objective) or national legislation (subjective) are used to define social entrepreneurship.

When describing social entrepreneurship, three elements can be distinguished: social entrepreneur (subject), social entrepreneurship (process), social enterprise (object). The last has been discussed more extensively in literature. Defining the mentioned elements in a broader context, a social entrepreneur is a socially minded person who, by doing business, solves socio-economic problems and creates positive changes in society (Dobele, 2013). Social business as a process is often characterized by the definition of Yunus (Yunus, 2007): "the process by which an entrepreneur produces goods and/or services with the aim of solving social problems rather than providing business owners with a profit". Dragon (2012) argued that "social entrepreneurship is one way of sharing social responsibility with the private sector", that social enterprise fills a niche between the public and private sectors. A social enterprise is defined by the Ministry of Welfare (MoW) as: "a company whose primary purpose is to create social impact, not profit for owners and stakeholders. It operates in the marketplace, producing goods and services in an economic manner, and uses profits to achieve social goals, and is characterized by environmental responsibility" (Ministry of Welfare, n.a.).

In order to reduce the shortcomings of the above definitions it is accepted to use five general features of social enterprise (used in the research of Lesinska et al. (2012); Dobele, (2013)):

1) the purpose of setting up a business shall be to solve social or societal problems as opposed to profit-making for the benefit of its owners;
2) companies act as economic agents producing goods and services;
3) companies have restrictions on the distribution of profits;
4) employees are paid in accordance to the labour market;
5) representatives of the target groups are involved into the management of the company.

While there are many features of a social enterprise, the most important thing that differentiates a social enterprise is its purpose which: "is not opposed to the purpose of profit" (Pūķis, 2012). The other factors that identify social enterprise are secondary and are aimed at justifying the ever-changing nature of social entrepreneurship.

As entrepreneurship and commercial activity in Latvia are not synonymous, the field of social entrepreneurship and interaction with commerce must be justified. ''Entrepreneurship is the continuous or systematic economic activity of a natural or legal person'' (Amona, 1999). The direct purpose of entrepreneurship may not be to profit. Commercial activity in Latvia however is the open trading of goods and services (buying and selling) by a merchant or commercial company for profit" (Laws 2001). The key words in this explanation are capital injections to ensure the operation and attitude of the subject to profit. These factors differentiate the entrepreneurs from the merchants. Based on the source mentioned above, an entrepreneur can be a natural person, a family, a company, a state, a local government, a public organization, a religious organization, and so on. Merchant on the other hand is a natural or legal person who is operating in the name of profit.

Social enterprises in European Union (EU) began their growth and development since 1980s. During this period, social enterprises developed their activities without significant support from public funds or the state (Kerlin, 2006). Nowadays much more resources are now available to EU social enterprises and various social initiatives. To access these resources, social enterprises are established as non-profit organizations, associations to achieve different goals in different fields.

Integration into the labour market was the most represented area of social enterprises in the EU. Social enterprises in the EU operate where there are market failures and where other market players are reluctant to address them because of little economic benefit. However, EU social enterprises are

diversified in their activities as they represent a variety of sectors and have no distinct leadership. For example, Belgium is the country with the most diverse representation of social enterprise sectors. In this country, social enterprises are also active in areas such as audit, marketing, and research. Belgian legislation allows the legal status of "social benefit company", which can be obtained by any company fulfilling the criteria of law called *Sociétés à finalité sociale.* Consequently, a specific legal form exists for a social enterprise. In Denmark, the most common definition of a social enterprise meets the following criteria: (a) not profit, (b) serve social, health or environmental purpose, (c) sell goods and/or services, (d) profits are to be reinvested in the company, (e) organizationally independent from the public sector, (f) registered in the Company Register. In Denmark instead of social entrepreneurship status (Belgium), there is a separate legal form for social enterprises. In France, on the other hand, there is neither specific definition nor legal status. Therefore, one can conclude that there is no consensus among researchers, policy makers and industry about what kind of organizations should be labelled as asocial enterprises. In France they operate under the legal form of cooperatives. Similarly, it is organised in Poland. There is no legal definition of social economy in this country, but Poland has created the legal form of "social cooperative". A social cooperative is a form of legal entity that (a) combines social and economic function, (b) does not redirect profits outside the organization, (c) the organization is not based on pooling the capital, (d) the organization has a high degree of autonomy. In Germany, there is no uniform definition of social enterprise. This is due to the fact the country has very developed social, which provides social services and is involved in entrepreneurial activities with social mission. This sector includes cooperatives, charities, economically active foundations, and associations. Sweden, too, does not have a separate legal form for social enterprises. Existing forms, such as cooperatives, societies, limited liability companies might be involved.

In Latvia, a social enterprise may be a limited liability company that has been granted the status of a social enterprise and carries out economic activities that have a positive social impact (for example, social services, inclusive civil society development, education, science support, ensuring cultural diversity).

Methods

Using the deductive method of transition from general to individual, the primary research objectives of this work were as follows:

1) explore the potential for transforming municipal agencies, institutions, and municipal companies into social enterprises;
2) evaluate the possibilities of establishing new municipal social enterprises;
3) analyse the possibilities of using the private sector for municipal purposes;
4) identify the main contradictions that would hinder the development of social entrepreneurship in Latvian municipalities.

Quantitative and qualitative research methods have been used to fulfil the tasks. A questionnaire was used as a quantitative method, and interviews with municipal executives were used for qualitative purposes.

The quantitative method took the form of a questionnaire. The pilot questionnaire was first prepared and sent to the municipalities with a request to complete it. Simultaneous testing of this questionnaire took place in three municipalities – Daugavpils, Kraslava and Rezekne, during which all shortcomings were eliminated. The improved questionnaire was posted on the web, followed by a request to the 109 municipalities of Latvia to complete it. Replies were received from 35 municipalities. The aim of the survey was to show the prevailing mood in Latvian municipalities regarding the social entrepreneurship.

The qualitative method consisted of visiting municipalities, conducting the field work and interviewing senior officials of municipalities and heads of institutions competent for the implementation of the problems to be solved in this research. This method was used to gain a deeper understanding, conceptualization and interpretation of the problems. A total of 25 managers or representatives of various municipal organizations were interviewed. The list of interviewees, the type and profile of the organization subject to the field study can be found at the end of the bibliography. The choice of semi-structured interviews and fieldwork is based on the need to apply deduction, shifting from general to individual, with emphasis not on evidence but on the existing situation, modelling the current situation and the course of future events. Therefore, when presenting the results of this work, it may be difficult for the reader to distinguish between the results of the research and the views of the authors.

The results of the thesis were interpreted using a comparative method. Its content is designed to constantly oppose the possibilities of local governments to set up their own social enterprises or to use the capacities of social enterprises established by the private sector in order to solve various municipal problems.

Results

A. Problems of understanding social entrepreneurship in Latvian municipalities

During the study, a problem common to many local governments in Latvia was that the terminology of social entrepreneurship, as due to localization problems, the first word meant not social or public good, but rather social care. The reason for this phenomenon is the direct translation from English. In English language social term stems from the word "society". In Latvian language to describe society it is common to use the term "*sabiedrība*" (latvian lang.) which would better fit the English word "public". For example, in Latvia, it is customary to say, "public media" rather than "social media", "public benefit status" and not "social benefit status", "public transport" instead of "social transport". If one uses word "social" in describing something it immediately associates with social care and care for people with special needs and not society in general. As a result, "the concept of social entrepreneurship in Latvia is distorted and remains narrow" (M. Bojārs, Chairman of Marupe District Council).

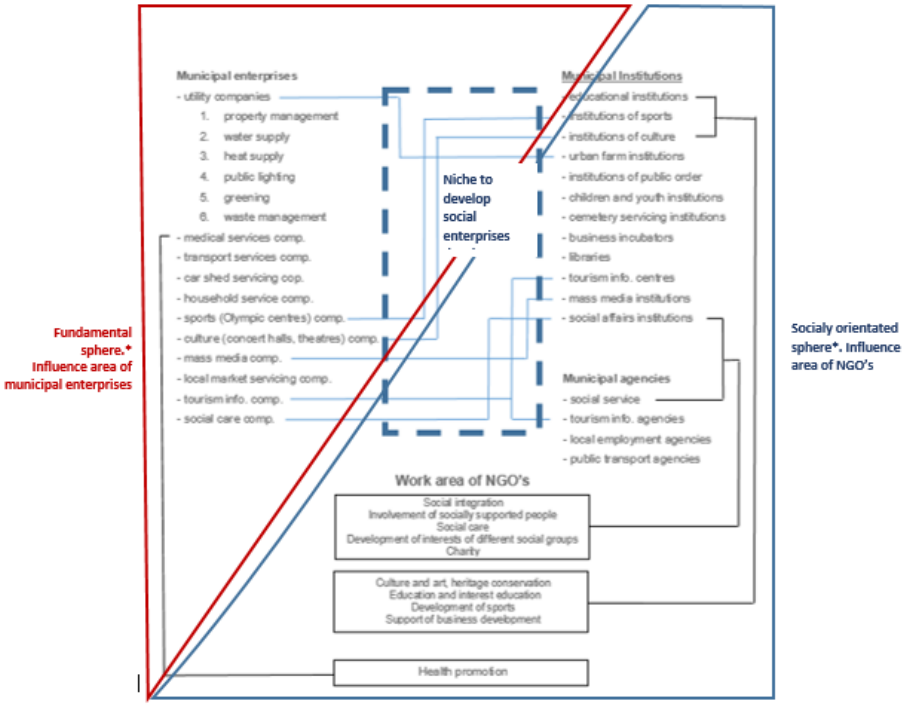
The problem is exacerbated by the fact that the use of another, less controversial, term such as "public business" in Latvia is difficult. When analysing the concepts of social entrepreneurship in other European languages, we always come across direct translation. For example, in Hungarian, the same translation method is used to localize social entrepreneurship. It is called *szociális vállalkozások*. As we observed looking at other languages in Europe terms are to be translated but not adapted. Due to this Latvia will need to spend a lot of time and resources on making people understand that social entrepreneurship is not directly linked to social care but society in general.

The lack of understanding of social entrepreneurship prevents municipalities from linking social entrepreneurship to those areas where municipal capital companies currently operate, as social care are considered to have no place there. This means that in the future, when municipalities are advised to set up social enterprises, the centre of gravity for their creation will be in social care services and will be linked to their clients. In municipalities responsibility for the implementation of social entrepreneurship actions and projects will be demanded from social care department heads who as they admitted are too busy with social care tasks and are very sceptical to deal with social entrepreneurship tasks.

B. Opportunities for Latvian municipalities to get involved into social entrepreneurship

In general, the development of social entrepreneurship in Latvia is viewed positively. One of the research questions whether social entrepreneurship law and opportunities to establish a social enterprise could improve the public and social care is viewed more positively than negatively in Latvian municipalities. On a five-point scale, the average mean for this question was 3.3. Higher optimism was found in municipalities closer to the capital Riga.

The first figure shows the diversity of entities used to execute the municipal functions and the linkage of functions with the private sector and its declared areas of activity. For example, support of non-governmental organisations is mainly related to the activities of institutions and agencies, but merchants are more related to the area where they can make business. These are business companies whose owner is municipality. In the process of creating the first figure, it became clear to us that the diversity of entities used to carry out municipal functions is not large. Also, they are similar in all Latvian municipalities – only some local governments have organizations that slightly differ. From this it can be concluded that in practice unique or extraordinary enterprises are rarely established in Latvian municipalities. They are largely unified and subordinate to the statutory functions of municipalities. The above mentioned makes us believe that in social entrepreneurship the situation will be similar – very low possible degree of creativity. In municipalities establishment of social enterprises that might offer unprecedented solutions to problems is very low. It will be more likely formality rather creativity.



** informal terms used in municipalities*

Figure 1. **Diversity of entities used to carry out municipal functions in Latvian cities of national importance**

Source: developed by authors using publicly available information on municipal, agencies, and companies (n = 8)

Figure 1 also shows the sectors within the competence of the municipality where the business methods for achieving the results of economic activity would be more applicable and those sectors where these opportunities are lower. In the middle, both have so called "flexible functions" that could equally well be performed by institutions, agencies, or companies, and are an indirect indicator of municipal functions where social enterprises might come in the middle (the blue square).

The activities of the entities used for the implementation of municipal functions can be divided into two areas: fundamental and socially oriented. These are terms used informally by local governments in internal communication. The socially oriented sphere is provided by institutions and agencies. Their activities are complemented by NGOs. In the fundamental sphere, especially in the utilities sector, there are municipal companies, rarely assisted by private merchants, mainly based on public procurement. In so called fundamental

sphere the least is known about the area where municipal companies and private companies meet. However, the private sector is reluctant to be accepted here. Therefore, initially new established municipal social enterprises will play interdisciplinary role by improving the work of municipal institutions and their companies. In other possible cases of municipal social enterprises, it is necessary to talk about the transformation of existing municipal institutions or companies.

Whether municipalities will transform their institutions or companies into social enterprises depends on two factors. Firstly, from an economic and secondly from a political point of view, seeking to emphasize the public rather than commercial orientation of the municipal enterprises towards society. The second scenario is more plausible and would aim to reduce the inconsistencies currently facing municipal companies – *de iure* all the municipally owned companies are profit orientated that contradicts against what they are doing *de facto*. However, this is hindered by the concerns of local government leaders that, for example, in peoples minds a heat and water producing municipal company in status of social enterprise, might create conflicting associations – company is not doing public work but is about to provide social care.

For economic reasons, the counterargument is the existing opinion of municipal leaders of low likelihood that a municipal social enterprise would function more effectively than a municipal commercial company. Therefore, at the initial stage if municipalities will transform their companies; they will transform "less heavy" organisations such as utility services. Companies that have or might have a link with social care issues.

Transformation into social enterprises would be more difficult for municipal institutions, which have few business-like opportunities. So, in the context of institutions and municipal agencies, one can measure the proportion of co-financing or other support that a social enterprise will require from a municipality. Therefore, in the case of municipal institutions and agencies as a body of social entrepreneurship we foresee two possible scenarios.

1. Transformation of municipal institutions into social enterprises might reduce the negative impact of the centralization. Entrepreneurship would increase revenues and reduce their constant need for municipal funding. Before decisions are made, institutions need to confront the social mission with their ability to self-sustain. The deeper is their social mission, the harder will be to operate in the free market conditions. An analysis of market opportunities would show the proportion of the institution's own revenue to the expenditure they need yearly.

2. Municipal institutions are not transformed into social enterprises, but new (private or municipal) social enterprise is established and takes over the role of municipal institution utilising market opportunities and business methods. For example, a craft centre operates as municipal institution and municipal social enterprise which can produce and sell souvenirs on the premises of the institution. A tandem is emerging, whereas the institution performs municipal functions, but social enterprise with business methods helps to make the best use of its resources.

The role of NGOs in contemporary Latvian social entrepreneurship is emphasized in Figure 2, which shows the percentage of those who, in the opinion of municipal officials, are the best to solve social problems by business methods. Figure 2 also shows that NGOs and municipality owned commercial enterprises might be the main subjects for social entrepreneurship. This statement is supported by another question in the municipal survey. Municipalities were asked which type of organization would be most positively affected by the Latvian Law of social entrepreneurship? 52% of municipalities believe that NGOs will be the biggest winners, followed by private companies (37%). Only 11% of municipalities believe that the biggest beneficiaries will be the municipalities themselves.

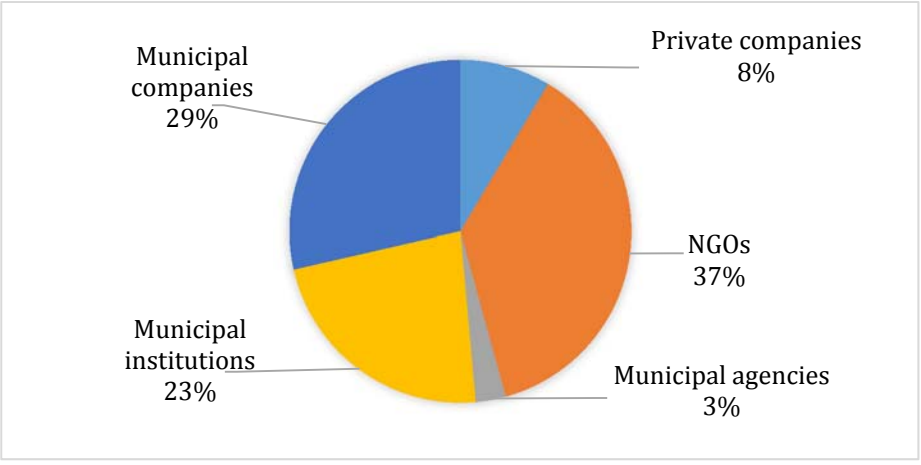


Figure 2. **Proportion of subjects solving social problems by business methods in Latvian municipalities (n = 35)**

Despite the mentioned trends, the scenario of mass transformation of NGOs into social enterprises is unlikely as they have many advantages in their current status. The most likely scenario is that social enterprises will be established by NGOs and will be linked to them. Working together they will

try to engage into niches that currently are within the remit of municipal social care. This means that, in future when social entrepreneurship in Latvia becomes developed the issues currently carried out by municipal institutions and agencies will be assisted by NGOs and social enterprises established by them. At an early stage, the NGO will be the brain centre of these start-up social enterprises, but their importance will diminish within the development of social enterprise.

As the scope of activity of municipal and private commercial companies is relatively similar (private companies may duplicate, the services of municipal companies, but not always they gain such right), the development of social entrepreneurship in this business like municipal sector could attract other players than NGOs. Fundamental sphere (utility services, public transport, health care) of municipal functions as discussed earlier involves wider business opportunities. This would be an area where hybrid enterprises could emerge. Hybrid enterprises is a type enterprise where social and profit goals coexist. There, the main candidates for this role in Latvian situation would be private limited liability companies with the municipality owned shares. Currently, like NGOs in the social sphere, private companies with municipal capital share are the prototypes of a Latvian hybrid enterprises whose interest in transformation into social enterprises may be of the greatest. However, compared to NGOs which are currently very active in supporting an idea of social entrepreneurship, mentioned private companies stand in shadow and know nothing about social entrepreneurship. Their current motive to move closer to the public sector and vice versa is related to balancing competitiveness in a situation where the company's product cannot be called commercial. Working in the name of society in the free market conditions help to gain the trust of municipalities their capital and consequent continued support to perform a specific task that is legally stipulated in a contract related to the delegation of functions.

C. Municipalities in setting up new social enterprises

Previous examples represent only the consequences, as our study revealed that the driving, not the motivating force in establishing municipal companies, is not to achieve high efficiency or profit, but to ensure the stability of public service, which municipalities believe the private sector cannot guarantee. For this reason, municipalities are in some way forced to engage in business, because the citizen always demands responsibility for the bad services from the municipality regardless who is provider – public

or private. In order to prevent the municipality from being responsible for mistakes made by a private entrepreneur, for example, in Marupe municipality the delegation of services of public interest to the private sector does not take place.

In other municipalities the situation is similar, as it was mentioned earlier informally the functions of the municipality are divided into fundamental and socially oriented ones. Fundamental functions in the context of private organizations should be outside the subjective risks and be under the control of the municipality – heat, water, property management, lighting, greening, and in part waste management. There, the involvement of the private sector is risky. Mentioned services can be duplicated by the private sector but not replaced, for example, waste management where the private sector is successfully involved in some municipalities. Municipalities admit that their companies are not always efficient, there are many subjective problems, but these companies are organized in such a way that the continuous provision of services to the population is maximized and directly related to the municipality rather than being delegated. Stability in this sector is paramount. Business efficiency is secondary issue. This leads us to conclude that municipalities are reluctant to establish new companies – they have no choice. In the name of public good they must.

The consequences of such situation are very well characterised by the Latvian President of the Competition Council, Ms Ābrama: "In practice, there are few examples of a municipality setting up an innovative company whose services are not yet available" (quoted from Spakovska, 2014). For municipalities to run enterprises means very simplified activity that requires to fit into a moderate corridor of customer satisfaction and business development where the pursuit of innovation and initiative is not rewarded. There are practically no municipal enterprises in Latvia that stand out from such innovation poor background. They are very similar, only the management is different. This means that the same situation can be addressed to social entrepreneurship, so the opportunities for municipalities to set up and develop an innovative social enterprise are very limited. Accordingly, the opportunities for establishing new social enterprises must be viewed from other angles – in areas where the municipality has an advantage. This we describe as their ability to create a new enterprise and to ensure its stability.

The main contradiction in this study is that municipalities are reluctant to set up new social enterprises, while at the same time they are reluctant to delegate municipal functions to private sector. It was also found that with

the financial and administrative resources municipalities are strong in establishing a new enterprise but weak in generating new ideas.

Considering Latvian experience in reducing the above-mentioned contradictions and obstacles, in the context of municipalities it is advisable to consider developing and supporting hybrid entrepreneurship. The essence of a hybrid company is that it combines private and municipal capacity (a hybrid entrepreneur simultaneously performs a public function and operates in the commercial sphere). This mitigates the disadvantages of the municipality as an entrepreneur (low efficiency, lack of motivation) and mercantilism and the pursuit of personal gain inherent in commercial activities. In the case of the municipality, this may be the golden middle for combining public and private capacity, which has been the main challenge of this study.

In order to substantiate this assertion, it is necessary to explain the reasons why in the past, some private companies approached municipalities by demonstrating that their activities are linked to public sector. The motive for getting closer to the municipality is the historically established. This is the situation where private company have been operating in an area which is in the middle between commercial and public. Many our identified hybrid like companies in Latvia have a history of at least 20–30 years. The need and opportunity to cooperate with the municipality has not been spontaneous, but has evolved over the years, coinciding with the public interest of the municipality and the entrepreneur. For example, "Vidusdaugava Television" Ltd, which commercially earns from advertising sales, produces original news broadcasts that would be difficult to commercialize in the regions without an alternative to subscription fees. Therefore, in order to ensure the development of the public good, a private company asks the municipality to co-finance or otherwise support the public side of the company's product. The municipality, based on the argument that a private company works for the public good, has many years of experience and other advantages uses one of the options for delegating municipal functions, resulting in cooperation between both parties to achieve a specific goal. Correspondingly, the municipal support to the organization enables the public service to be performed, while the income from commercial activities (advertising, broadcasting, and other services) is used for the development of the company.

There is no evidence that municipal capital can play a major role in the creation of a new hybrid enterprise. Municipal capital has symbolic role: due to successful cooperation, entrepreneur feels stability, but municipality on the other hand gains reliable partner. In Latvian situation municipalities

are not keen to use their capital to establish new enterprises, they better prefer to support existing ones – those with good reputation.

For a hybrid company to be economically efficient, it is important that it is managed by a private entrepreneur rather than a municipality, even if the municipality is the main stakeholder. It is recommended that the municipality establish a control mechanism. There is no good justification for a municipality to set up its own hybrid companies or to manage a private-municipal joint venture, as the profit motive cannot be an argument. In addition, in corporate governance the private sector is more likely to be more efficient.

In view of the above, two developmental options would be appropriate for the municipality in the context of setting up a social enterprise:

1) to develop a pure social enterprise as a municipal policy tool to address market failures. The primary condition for its operation would not be efficiency or price, but rather the stability of service delivery, a principle currently operating in municipal enterprises;
2) to establish or develop, together with a private entrepreneur, a privately owned and municipally controlled hybrid enterprise as a means of public service diversification and innovation.

D. A niche for the development of municipal social enterprises

Municipal enterprises are not created as an end in itself. They are developed because there was no better way to solve social problems. Newly established municipal companies are the result of long-standing positive and negative experiences crystallising areas where private sector is undesirable.

In the context of social entrepreneurship, the positive or negative experiences cannot answer the question of areas and problems to be solved by the newly established municipal social enterprises. Based on the municipal experience in setting up new commercial enterprises, a similar scenario for social enterprises can be predicted – municipalities will create new social enterprises only if it is concluded that problem exists and it is decided that a private social enterprise for municipality poses more problems than does good.

Taking into account all the contradictions mentioned, in the initial phase of the introduction of social entrepreneurship the niche of establishing new municipal social enterprises can be described as “interdisciplinary”, where strategic sectors and municipal functions, which are well implemented by organizations similar to municipal institutions, collide. Therefore, it can be assumed that the social enterprise niche in Latvia should start where administrative methods are exhausted and end where commercial profitability

begins, leaving this niche for hybrid companies and private businesses. This could happen when the municipality faces market demand that is too small to be of interest to the business. For example, regional authorities with large rural areas and residents who lack the technical resources to mow their property. People are ready to finance or co-finance such a service. The municipality, led by depopulation risk, sets up a pure social enterprise whose task is to help citizens manage their property. This example illustrates how a social enterprise serves as an instrument of municipal policy – to encourage people to stay in the county, because private merchants running similar business with their pricing policy do not encourage people to stay, but to leave.

By summarizing the opportunities and obstacles, it is possible to justify where the municipality is strong and weak in establishing new social enterprises:

1) with the financial and administrative resources, the municipality is strong in starting up a business, especially in the regions, and in ensuring stable business, guaranteed by public capital;
2) municipality is weak at generating new business ideas, as the individual or group of individuals employed by the municipality in the development of the company must follow the overall pace. Their salary does not correspond to the effort invested.

This means that the municipality has good opportunities to set up a stabile social enterprise but has limited opportunities to establish an innovative social enterprise. A study confirms this statement: 77% of municipalities believe that the term "innovative social enterprise" is mostly associated with the private sector rather than the municipality. The contradictions mentioned above mean that the establishment of a new social enterprise by municipality would be linked to attempts at solving chronical problems, where involvement of the private sector creates more problems than good. It is reasonable to say that municipalities will, for the most part, engage in new social entrepreneurship only if other options are exhausted. The authors of this study agree with Lukjanska and Cirule (2014) that the municipality should provide support for social entrepreneurship first, and only if there is a lack of social entrepreneurship initiative to establish their own enterprises. The above statement is also reinforced by the results of the study (Figure 3), where the municipalities were asked about their position regarding the development of social entrepreneurship.

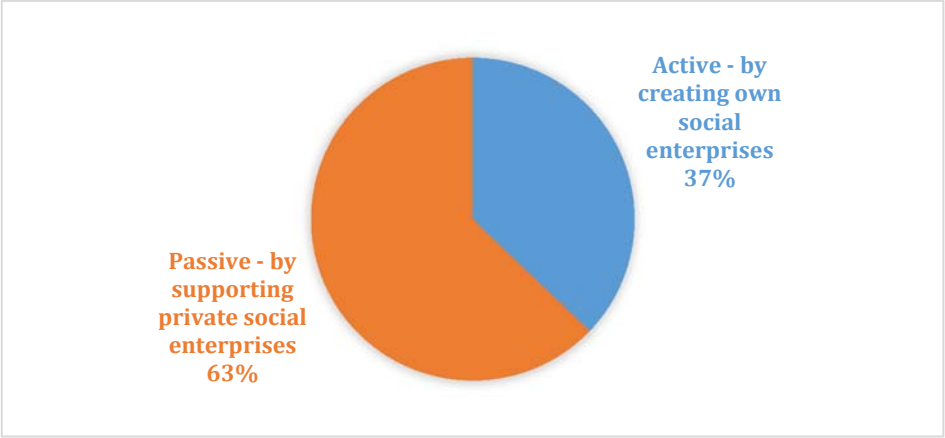


Figure 3. **Future position of Latvian municipalities in development of social enterprises (n = 35)**

In municipalities, the prevailing view (63%) concerns support for transformed municipal enterprises and/or social enterprises formed by the private sector. Without changing the order of the existing cases, local governments would better prefer to support social enterprises rather than establish them.

E. Problems of Delegation of Municipal Functions: Possibilities of Using the Private Sector for Municipal Purposes

According to the study, delegation agreements with the private sector are not widespread in Latvian municipalities. Municipalities use other alternatives for this purpose. Delegation agreements are usually concluded only with public sector entities – their own companies or those of other municipalities, or less often with private companies where the municipality holds shares. The use of delegation agreements in Latvian municipalities can be characterized using the European Union (EU) free market principle – the internal market is liberal but protectionism prevails at the external borders. Similarly, delegation agreements are concluded freely with municipal companies, but only occasionally with the private sector. The main obstacle to delegation agreements with the private sector is the large amount of fiduciary credit that the municipality would give to a private organization, which the private sector is rarely able to repay. Especially when it is entrusted with a strategic task. In order to avoid public outrage, municipalities delegate their functions only if they are given clear formal safeguards. Figure 4 shows the hierarchy of entities used to perform the functions

delegated by the municipality. If the municipality has sufficient resources, it seeks to fulfill its functions by its own means, either through an administrative apparatus or through the establishment of institutions or agencies, the first of which are more process-oriented and the latter more result-oriented.

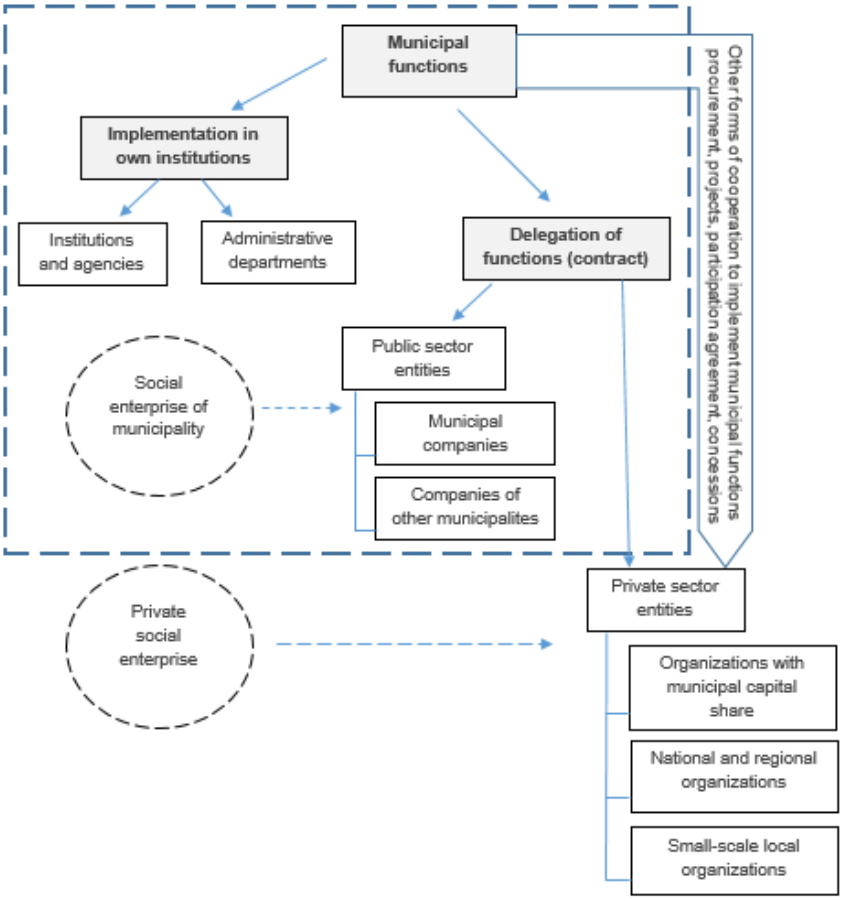


Figure 4. **Hierarchy of entities used to perform municipal delegated functions and possible linkage to social enterprises**

Source: developed by the authors, based on field research in Latvian municipalities

There is also no evidence that the growth of private social enterprises will increase confidence in the delegation of municipal functions, which is a major obstacle to private sector involvement. This statement is sustainable because it is not widespread in municipalities to delegate their functions to NGOs, even though there is a proven practice that many associations in Latvia operate similarly to social enterprises. Therefore, it is unlikely that a newly established private social enterprise will provide a greater fiduciary

credit than the current reputation of an NGOs. Rather, it will be similar. It can therefore be assumed that the proportion delegation credit will remain the same.

Conclusions and discussion

Because of the problem existing in the society to associate social entrepreneurship with social care, the gravity centre for the creation of new social enterprises in municipalities will be related to social care departments, their clients, and their employment.

Local governments in Latvia (59%) would be more willing to support the development of private social enterprises than to establish them (41%). This is why local governments are more likely to transform existing organizations than to establish new social enterprises:

1) in the case of municipal companies, transformation will be impeded not by objective but by subjective barriers, since heat, water, utilities and spatial planning in municipalities are called "fundamental sectors" that would be difficult for their management to associate with the term of social entrepreneurship. Therefore, the services which are in the middle between those offered by the municipal companies and the institutions will first be subject to the transformation;
2) in the municipal institution and agency sector, the role of social entrepreneurship is linked to: (a) a transformation that, by mitigating the impact of the centralization factor, would increase own revenues and reduce their need for municipal funding. Before doing so, one should measure how much co-financing a social enterprise will require from the municipality; (b) not transforming an institution but establishing a new social enterprise which takes over the functions of an institution with market opportunities and business methods. A tandem, where the institution performs municipal functions, but the company helps it to make the best use of its resources.

The niche for establishing new municipal social enterprises is characterized by the term "interdisciplinary", a place where strategic industries and municipal functions, which are well implemented by organizations and NGOs similar to municipal authorities, collide. Therefore, the social enterprise niche in Latvia should start where administrative methods are exhausted and end where commercial profitability begins, leaving this niche to hybrid companies and entrepreneurs.

With its material and administrative resources, the municipality is strong in starting a business, but weak in generating and managing new business ideas, as the main motive for starting a social enterprise in a municipality will stem from the implementation of municipal policies where creativity and efficiency are not decisive. A municipality will set up a social enterprise only if it is found that the problem is chronical and it is decided that the operation of the private social enterprise creates more problems than good for the municipality.

A private sector company is formed out of the entrepreneur's interest and his ambitions and is strong in generating new business ideas, so it would be necessary to create a way for the development of social entrepreneurship to both reduce their weaknesses and combine the strengths of the other. By joining forces to achieve a common goal, it would be possible to create the ideal social enterprise.

Problems of function delegation are the main contradiction of this study. Municipalities would be reluctant to set up new social enterprises, but would not be willing to delegate their functions to the private sector. This is circumstantial evidence that social entrepreneurship is actually taking place in Latvia, but it is contradictory with its negative consequences.

Reducing delegation discrepancies will be one of the major challenges in the development of social entrepreneurship, as municipalities have built a defense mechanism that the private sector cannot break through. Freedom of delegating tasks widely takes place within the municipality. Delegation to private sector is not common, which reduces the possibility of combining the stability of the municipality's operation with the business efficiency of the private sector.

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List of persons interviewed during the research

Person	**Position at the moment of the interview**
Maruta Plivda	Chairman of Preili Regional Council
Ilze Tijone	Head of Development and Planning Department of Bauska City Council
Rita Vectirāne	Deputy Chairman of Jelgava City Council in Social, Health and Culture Program
Mārtiņš Bojārs	Chairman of Marupe Regional Council
Pēteris Dzalbe	Deputy Chairman of Daugavpils City Council
Līvija Drozde	Daugavpils City Municipality Acting Head of Social Services
Aleksejs Stecs	Deputy Chairman of Rezekne City Council on City Development and Investment
Viktors Moisejs	Deputy Chairman of Kraslava City Council
Jāzeps Brencis	Executive Director of Kraslava City Council
Andris Vaivods	Member of the Board of SIA '' Vidusdaugava Televizija ''
Lilita Seimuškāne	Chairman of Livani County Council
Andris Vaivods	Ventspils City Council
Arnita Briška	Chairman of Livani County Council
Inese Magdaļenoka	Head of Livani Social Service
Zeltīta Vanaga	Deputy Principal of Livani Secondary School No. 1
Mārīte Vilcāne	Assistant Principal of Livani Secondary School No. 1, Teaching
Ilze Griezāne	Head of the Multifunctional Youth Initiative Center “Quarterly”

Gunta Jaudzema	Director of Latgale Arts and Crafts Center
Aija Smirnova	Head of the Rosary Center for Alternative Care Services
Inguna Badune	Director of Livani County Cultural Center
Dr. Vadims Krimans	Leader of the White House Society
Andrejs Patmalnieks	Chairman of the Board of SIA Livani Hospital
Valentīna Liepa	Deputy Chairman of the Board of Līvāni Apartments and Communal Facilities Ltd.
Eva Viļķina	Economist of Līvāni siltums Ltd.

SUSTAINABILITY AND DIGITALIZATION: DOUBLE STRATEGY GUIDELINES IN NATIONAL DEVELOPMENT

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Abstract

The article's aim is to show the development of global and European actions in sustainability and digitalisation, which provide a background in the Baltic States' efforts to streamline their economic governance according to modern challenges.

The research focuses on revealing the essence of the European institutions' activity in transforming the Baltic States' economic growth towards more sustainable and digital policies. Therefore, the research methods include mainly, though not exclusively, the European Commission's recommendations and actions concerning sustainability and digital agenda/economy in the Baltic States, for example, through analysis of these states' "smart specialisation strategies" and their efficiency.

Several Baltic States have already adopted sustainability and digital agenda plans and strategies. These aspects of modern growth are going to define the EU states and the Baltic countries progressive development in the years to come.

Finally, the paper formulates some conclusions and recommendations, both theoretical and practical, in the Baltic States' adaptations to new sustainability and digital paradigm in the countries' perspective growth.

Key words: digitalisation, growth strategies, sustainability

DOI: 10.37804/1691-6077-2020-11-42-56

Introduction

Modern revolution in national growth patterns, ignited by the sustainability requirements and the digital agenda/society's parameters, has affected almost all spheres of socio-economic development in the Baltic States.

At the end of 2015, during the United Nations (UN) General Assembly about 200 states adopted 17 ambitious Sustainable Development Goals (so-called SDGs) to be reached by 2030. The goals are numerous: from ending extreme poverty and combating inequality to addressing climate change emergency, to health care, to air and water quality and so on and so forth. The progress towards SDGs delivery is monitored by both the European Union (EU) institutions and the authorities in the member states; however, after five years in action, the process is far from being optimal and in some SDGs the situation is even reversing.

Using modern digital "applications" and new technologies could have definite positive effects on SDGs implementation through "green growth" development patterns by large and small companies, by economic sectors in general, by industries and by policy-makers.

According to "Global survey on Sustainability and SDGs" (published in 2020), the SDGs are rather unknown globally in science and education spheres with a negative SDG awareness in economic science (50% globally and 56% in EU).

This is the reason that presently, the SDGs are still "rarely addressed in classical business studies and research fields of economics", acknowledged a global survey. Among various SDGs, priorities, generally, are attributed to such goals as SDG-12 "Responsible consumption and production", SDG 13 "Climate actions" and SDG-4 "Quality education" with the most important SDG-17 "Partnerships for the goals". (Global Survey, 2020)

The effect of modern industrial technology

All EU member states are desperately trying to unite modern technologies (embedded in the 4th Industrial Revolution report, 4IR published in 2016) with the SDGs: no doubt, the 4IR serves as a driving force in implementing SDGs. (Schwab, 2016)

For example, about 70% of the SDGs could be actively implemented with already existing digital technology applications. However, the states are presently quite slow and inefficient in unlocking digital potentials, including

artificial intelligence (AI). State governance structures have to be more active in deploying new technologies for both short-term growth and long-term (commercial) gains through a more responsible and purposeful approach in using digital technology in implementing SDGs. The figure below shows the 4IR's inherent connections in modern decision-making processes.

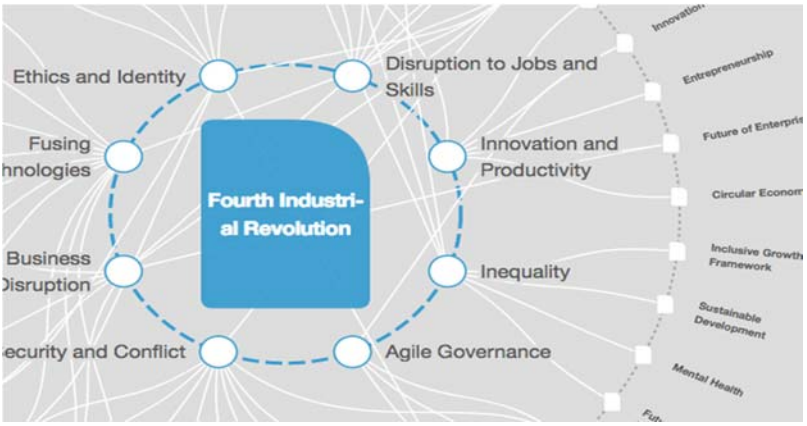

Figure 1

Source: World Economic Forum, 2020

Digital agenda and sustainability: effect for the Baltic States

European digital policy and technologies are not only interconnecting the member states in developing new growth paths, but they are also integrating the EU countries into the global processes of which the SDGs are a vital component. EU institutions have already set standards in telecoms and data protection, for instance, though the states fall behind in other areas of the digital economy. Investments in blockchain, high-performance computing, quantum computing, algorithms and new tools for secure data sharing and usage are the vital points on the path to innovation (Eteris, 2018).

Digital data and AI technologies can definitely help to develop smart solutions in the member states concerning numerous socio-economic and sustainability issues: from health to farming, to food security, to manufacturing including "smart specialisation strategies". In these directions, new approaches to education and learning – with improved quality education – are the keys to paving the way for a new area of sustainable growth.

The following are the main directions in the optimal use of digital solutions in sustainability:

1) digital economy and society issues, which can ensure that citizens and businesses would have full advantage of digital opportunities. However, the Commission noted, about 47 per cent of the EU population is not properly digitally skilled, yet in the near future, about 90 per cent of all jobs will require some level of digital skills (EC, Europe for digital age, 2020);
2) the EU member states actions (with the assistance from the EU institutions) in creating proper and efficient conditions for digital networks and services. The Commission acknowledges that high-speed, secure and trustworthy infrastructures and services shall be supported by the EU. Only the "right environment" for innovative digital services will help in creating advanced infrastructures and feasible conditions for investment in digital networks (Global Survey, 2020).

   Better regulations for digital networks and services are also important for creating rules that match the pace of technology, such as the next-generation of 5G mobile connections or the financial technology implementation, so-called fintech. There are presently several directions in the EU digital single market: some of them are both directly and indirectly connected to sustainability. In creating a digital society, the European Commission aims for an inclusive digital society in the member states, which will benefit from the digital single market. Building smarter cities, improving access to e-Government, e-Health services and digital skills will enable a truly digital European society. (EC, Shaping Europe and creating a digital society, 2020);
3) the countries' digital priorities: digital issues are not a "specific priority" in the new Commission; in the previous college, there were even two "digital Commissioners" – one for the digital economy and another one for the digital society. Increasing "digital role" in the member states' socio-economic development is a vital component in European integration too. Data protection has become an important issue and reforming data protection will give people control over their data and help businesses comply with the single market. In May 2018, the General Data Protection Regulation entered into force in the member states, which provided for a single set of data protection rules for all companies operating in the EU, wherever they are based. Stronger rules on data protection mean that: a) people have more control over their personal data, and b)

businesses benefit from a level playing field in digital spheres (EC, Data protection, 2018);

4) the commercial aspects of the "EU digital society" strategy, which guarantee a better access to online goods for consumers and businesses by helping the member states create a commercial level-marketplace. The new rules adopted in theEU prevent an unjustified geo-blocking in the EU states: i.e. people can freely buy from a website based in another EU state; thus barriers for consumers in cross-border shopping are abandoned. New rules entered into force in the member states in December 2018, which ended online discrimination on the basis of nationality or place of residence. These rules ensured that people no longer face barriers as being re-routed back to a country-specific website, or having to pay with a debit or credit card only from a certain country. Besides, online sellers are obliged to treat all EU consumers equally regardless of the "shopping place". The new Commission President, Ursula von der Leyen acknowledges the college commitment to upgrade the Union's liability and safety rules for digital platforms, services and products, with a new Digital Services Act (EC, New rules on commerce, 2019).

Investments for the EU's digital agenda

For the successive implementation of the European Fund for Strategic Investments, EFSI (which was a focal point in the *Investment Plan for Europe*, originated in November 2014) the Commission extended in 2016 its duration and capacity to boost investment. The so-called "EFSI 2.0" is in force from mid-2018 to the end of 2020 and intends to help the states in increasing investment targets from € 315 billion to at least half a trillion euros. In December 2017, the EU institutions together with the states agreed on the "EFSI 2.0 Regulation"; it became the law in December 2017 (EC, State of the Union, 2016).

One of the EU agencies, the European Policy Center, EPC launched in 2017 a programme "Connecting Europe" jointly with Stiftung Mercator. Connecting Europe enables projects and organisations to actively engage with EU policymakers. Besides, the programme focuses on joint activities both on the future of Europe and sustainability, climate change and other key EU issues. By conducting those activities, Connecting Europe fosters an open, constructive dialogue among the member states and the EU decision-

makers. In this way it promotes favorable exchanges between civil society initiatives on the ground and the EU policy community. The project enhances mutual understanding among the EU states in positive contribution to sustainability (European Policy Center, 2019).

Sustainable aspects in the "digital industry" particularly attracted the EU's attention: thus, the Commission launched in April 2016 the first industry-related initiative of the "digital single market package", complementing the various national initiatives for digitising industry, such as Industry 4.0, Smart Industry and *l'industrie du future.*

The Commission is taking actions along 5 main directions:

1) use of policy instruments;
2) financial support;
3) coordination among the member states in "digital industry";
4) legislative efforts to trigger further public and private investments in all industrial sectors;
5) creating framework conditions for the digital industrial revolution. (EC, Shaping Europe's future, 2018)

Industry is one of the pillars of the EU economy: e.g. manufacturing sector in the EU accounts for 2 million enterprises, 33 million jobs and 60% of productivity growth. However, the new industrial revolution, driven by new-generation information technologies such as the Internet of Things (IoT), cloud computing, big data and data analytics, robotics and 3D printing has opened new horizons for industry to become more efficient and innovative. Recent studies showed that digitalisation of production and services can add more than € 110 billion of annual revenue to the European economy in the next five years.

European industry is strong in digital sectors such as electronics for automotive industry, security and energy markets, telecom equipment, business software, as well as laser and sensor technologies. European states are also have world-class research and technology institutes; however, there are large disparities in digitisation among EU's regions.

Present EU plans are aimed at mobilizing up to € 50 billion of public and private investments in support of the digitisation of industry. This money is divided into the following activities: € 37 billion investment to boost digital innovation; € 5.5 billion national and regional investments in digital innovation hubs; € 6.3 billion for the first production lines of next-generation electronic components; and € 6.7 billion for the European Cloud Initiative. (European Commission, digitising industry, 2018)

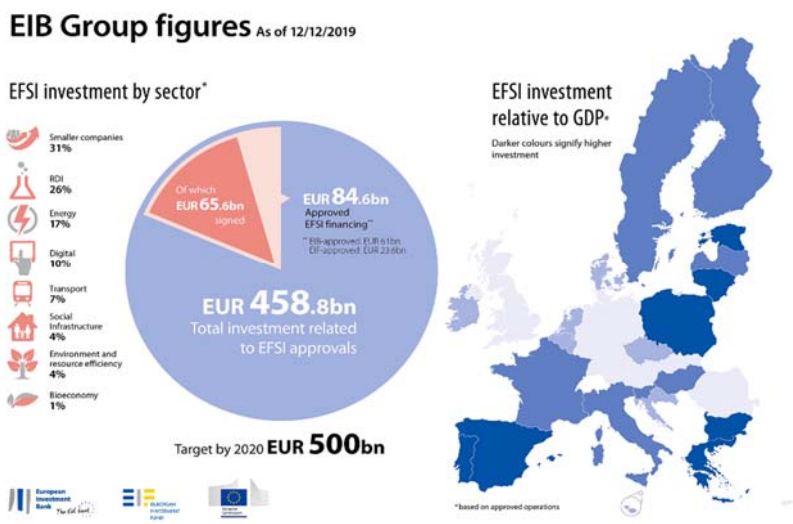

Figure 2. **EIB's efforts in activating investments**

Source: European Commission. Investment plan results (2020)

As to EFSI finances for the Baltic States approved by the EIB Group, Estonia has had €158 mln, Latvia – € 270 and Lithuania – € 386 mln; this financial "loans & guarantees" were supposed to trigger, correspondingly, € 1335, € 1133 and € 1809 mln of investments. The investment activity, as to the share of GDP, is the highest in Estonia (second among EU-27), seventh in Lithuania and ninth in Latvia (first was Greece and third Portugal).

The EFSI can contribute to large, "green digital infrastructure" projects, with deployment of the latest technologies to allow access to ultrafast broadband in the EU states. These projects can originate from national broadband plans, regional initiatives or be led by private companies willing to invest in future oriented broadband infrastructures and digital services such as high-performance computing and cloud services. The EFSI is one of many EU financing tools available to start-ups in the digital sector: for example, projects suitable for financing in the digital sector under the EFSI could also benefit from the support of grants and financial instruments from Horizon 2020, European Structural and Investment Funds (ESIF) and the Connecting Europe Facility. This funding source may finance part of the project (in the form of a grant or a loan) while an EFSI-backed loan may cover the remaining costs of the project.

The European Investment Plan includes more than just a guarantee provision to unlock additional investments through the EFSI. The digital economy and

the digital sector should significantly benefit from the various elements of the Plan.

As for all sectors, project promoters in the digital sector can seek technical assistance through the *European Investment Advisory Hub* (EIAH). The Hub offers a single access point for advisory and technical assistance services to allow promoters get their projects off the ground. (European Investment Bank, 2020)

The European Investment Project Portal – the *#InvestEU Portal* – is a platform to boost the visibility of investment opportunities, including those in the digital sector, across Europe. The aim of the Portal is to bring together project promoters seeking investment with investors seeking projects. (European Commission. European Investment Project portal, 2020).

The European Investment Project Portal (EIPP) offers assistance in numerous viable projects connected to sustainability issues: 111 projects in "energy union", 138 in transportation, 145 in environmental quality and protection, and in use of natural resources.

For example investment opportunities can be seen in the EIPP by all EU member states according to numerous criteria, e.g. environment and natural resources, infrastructure and innovation, etc.

In order to implement the SDGs, it is critical to mobilize private finance at a greater speed and scale. Financial innovations, new technologies and digitalization have the potential to contribute significantly to this task. In this regard, the UN Secretary-General has recently appointed a Task Force on Digital Financing in SDGs to investigate how this potential can be unlocked while managing at the same time the associated risks. The Task Force results and the outcomes were seen at the "German Sustainable Fintech" undertaken by the Sustainable Digital Finance Alliance to include representatives from business, politics, civil society and academia in Germany and Europe. The idea is to reveal new trends in the finance sector, to leverage innovation for financing sustainable development with key actors from the digital, sustainability and finance sectors to trigger further initiatives.

Most EU states created national SDG solution networks; thus, the German Sustainable Development Solutions Network (SDSN Germany) was founded in April 2014 which pooled together knowledge, experience and capacities of German academic, corporate and civil society to contribute to the sustainable development in Germany and around the world.

In this regard, the Sustainable Digital Finance Alliance is to leverage digital technologies and innovations to enhance financing for sustainable development. The UN Secretary General's Task Force on Digital Financing of the SDGs is a clear example of activating some concrete and actionable steps to identify ways through which the digital revolution should be harnessed to help advance the SDGs.

Sustainability in the European context

Since the adoption of the 2030 Agenda in 2015, the EU has made significant progress in delivering on the SDGs and continues to reinforce its efforts. Thus, the EU institutions have activated the member states' policies towards transition to a low-carbon, climate neutral, resource efficient and circular economy that goes hand in hand with increased security, prosperity, equality and inclusion. (European Commission. Reflection paper, 2018)

Among most pressing sustainability challenges for the member states the Commission suggests for example a transition from a linear to circular economy. One of the leading persons in the advocating SDGs, Jeffrey Sachs once underlined that sustainable development had been both the greatest and most complicated challenge for modern civilization; however, he also warned against cynicism, confusion and "miserable politics" on many issues. Being a former environmentalist leader, Sachs' conclusion on the global scene sounds dramatic: enormous world economy has already created a gigantic environmental crisis that threatens lives and wellbeing of billions of people. Besides, the environmental threats are rising on several fronts at the same time: climate change, shortage of fresh water, chemical pollution of oceans and threatening habitat of other species, etc. The answer to these threats is not a reduced or alternating "de-growth", but "sustainable development", presently dubbed SDGs.

Another challenge is in a sustainable transformation "from farm to fork", i.e. food production is already a burdening issue in many countries in the world, while 20 per cent of food is wasted. Besides, the agro sector can reduce greenhouse gas emissions and limit climate risks.

Two other challenges are: future-proof energy sector, effective construction and mobility, as well as ensuring a socially fair SDGs transition. Thus, the EU states have to include in the national governance such priorities as promoting renewable energy, energy efficiency in buildings and in climate-neutral transport. As the Reflection paper confirms, buildings, for example,

are responsible for around 40% of energy consumption and transport represents 27% of Europe's greenhouse gas emissions.

Thus, the normative side of sustainable development should envision the following basic objectives of "good governance": economic prosperity, social inclusion and coherence, environmental sustainability and exchange of good practices. In this regard, the *normative objectives of sustainable development* could be used together with "environmental integrity and resilience".

The real global challenges demonstrate a growing inequality in the world: there are huge differences in incomes between the industrial countries and the least-developed countries; there are great urban-rural inequalities, as well as income inequality within countries. The only way out of these inequalities is to take into consideration the global ecological realities; that means that the world and regional economies should develop in a fundamentally different way (e.g. in energy sector, consumption and food issues) with the concept of circular economy's approaches.

There are already powerful low-carbon energies available at sharply declining prices, and more of them are coming each year: the governments have to find new energy pathways based on energy efficiency and low-carbon energy supplies; besides, new agro-farm systems adapted to local ecological conditions and causing less ecological damage shall be available to farmers. The end result from these and other examples would be to "de-couple" growth from resource use and environmental impacts. However, according to J. Sachs, in the global perspective, "resource de-coupling" and "impact de-coupling" have not yet occurred (Sachs, 2015).

Teaching sustainability: SDGs in universities

After the sustainability issues have occupied a permanent place in the states' political economies, another problem occurred: i.e. implementation of SDGs and an optimal use of time in the necessary transitional periods. The important part of the latter is the process of "introducing" the SDGs into peoples' minds and experiences. Thus, the issue of teaching sustainability came into the education policies' agenda. The author has presented a first in Europe (and probably, in the world) introduction into the complexities of such teaching with new approaches to SDGs-learning, which are no longer an option but a must

Teaching sustainability is challenging on numerous grounds: first, because of the novel essence of sustainability; second, because of the interdisciplinary

nature of SDG problems: the teaching process requires both cross-sectoral and holistic knowledge which is not presently taught in the universities.

In teaching sustainability, instructors often face the need to dwell into uncharted waters of other scientific fields – natural, technical and social. Hence, the ways to build sustainability's qualification need interdisciplinary approach.

As soon as sustainable growth becomes a critically urgent concept in the states' governance theories, economically feasible approaches and solutions shall become win-win situations. However, most of the educators/teachers are still in the linear market economy practice, which does not allow for revolutionary approaches to modern SDGs.

Thus, **new forms of teaching and learning are necessary** in delivering on SDGs, that can help students deal better with complexity, ambiguity, uncertainty, with new values and moral dilemmas; in line with breaking the "business-as-usual" approach, it has to challenge the "education-as-usual" concept. And in this regard, the new author's book deserves an additional attention to all interested in the SDGs phenomenon.

Higher education has experienced during last decades dramatic changes: higher education and research are to take more active role in the SDGs' perspective implementation. SDGs provided means and ways to draft concise and credible approaches to their implementation with a view of using different levels of education and training by using modern tools and techniques to reveal necessary knowledge and required skills.

Knowledge based system shall include SDGs components and system thinking. Besides, the following aspects shall be considered: "teach the teachers" about the SDGs requirements; develop new e-learning skills in SDGs teaching; developing partnerships with other universities teaching SDGs; providing coordination among national political, economic, business, cultural and educational authorities to facilitate the states' SDGs fulfillment obligations under the UN Agenda 2030, as well as an exchange of positive practices.

Teaching sustainability has become a challenging issue since the UN 2030 Agenda entered into force. The success of implementing SDGs depends, first of all, on the ability of states' education policies to accommodate the SDGs and 169 targets within the modern educational challenges. Teaching SDGs is partially divided among several education policy levels: schools, colleagues, higher education institutions (general and special).

Teaching and training today's youth means providing contemporary skills to tomorrow's policy- and economy- decision makers, providing them with necessary basic knowledge on modern 4th industrial revolution challenges

with a critical approach as well as system-thinking approaches to complex socio-economic problems.

Both existing education institutions and teaching methods shall be re-assessed fundamentally: higher education institutions shall teach the necessary skills for SDGs; the teaching methods shall be adapted to the needed general and professional skills to practically implement SDGs and targets in the transformed socio-economic policies. Long-term professional and vocational education/ training shall be available through people's life span. All national middle- and high- education institutions shall provide valuable examples for teaching future decision-makers providing them with the necessary skills.

The UN recommendations to implement SDGs are expected to be included into the national education priorities; now it's the states turn to set SDGs high in education policies, teaching and training. The task is complicated; but that doesn't make national decision-makers to be the idle reviewers: "teaching SDGs" means offering a mix of knowledge and skills for effectively implementing SDGs and the global sustainable targets of the UN-2030 Agenda (Eteris, 2019).

Sustainability and digitalization: governments' role

The EU states' decision-makers shall be active in moving quickly to create new mechanisms in SDGs implementation and in digital technologies. As World Economic Forum underlined in winter-2020, "time and expertise on one hand" coupled with "enabling government policies and regulations on the other" could trigger sufficient progress. As soon as the rapid pace of change of technological innovation goes on, the "channels of technology" will play a greater role in supporting states' efforts in SDGs implementation. Thus, government actions in the member states are likely to include the following actions:

1) developing responsible "technology codes and standards" as well as data protocols in consultation with industry;
2) harnessing public procurement tools (including sustainability standards) for digital assets and suppliers of "responsible technology requirements";
3) prioritizing investment in the 4IR-enabling infrastructures including broadband, open cloud connections, satellites and energy grids;
4) taking a lead in basic/applied research and fintech at the "intersection of technology and societal/environmental impact", including opportunities for more customers' oriented research;

5) catalyzing innovation in new solutions, e.g. through incubators, accelerators and price support mechanisms;
6) performing perspective sectoral and environmental policy solutions through subsidy reforms;
7) updating national structural policies to reflect the 4IR achievements, including reforms in labour market, taxation, social safety nets and education (World Economic Forum, 2020).

European "green deal" through the digital agenda

The Commission is of theopinion that the "green transition" shall be a "window of opportunity" in the member states to foster sustainable and job-intensive economic activity.

Europe needs a digital sector that puts sustainability and green growth at its heart. Digitalisation presents new opportunities for: a) monitoring of air and water pollution, b) monitoring and optimising the consumption and usage of energy and natural resources.

The Commission is advocating a "sustainable products" policy, which will prioritise reducing and reusing materials before recycling them. However, presently, due to insufficient manufacturing technology opportunities, only minimum requirements will be set to regulate the share of environmentally harmful products being placed on the EU-27 markets; most important is to tackle "false green claims".

Two visible examples: the Commission has proposed measures in 2020 to ensure that all packaging in the EU would be reusable and/or recyclable by 2030; new business models will be developed based on renting goods and services to assist member states in shifting consumption patterns away from single or limited use products.

Since March 2020, the member states would follow the EU adopted industrial strategy to support the green transformation. Hence, the member states' industries will be provided with assistance to modernise and exploit existing opportunities nationally and regionally. Generally, the main aim is to stimulate the development of new markets for climate neutral and circular products. As a by-target for the member states, the decarbonisation and modernisation of energy-intensive industries, e.g. steel, cement, chemistry, etc. will be essential.

The potentials in sustainability are great: so far, according to the Eurostat data from 2016, only about 12 per cent of the materials used by the EU member states' industries come from recycling. (EC, Sustainable industry, 2019)

Conclusions

Sustainability has become already "a must" in the Baltic States, as well as in other EU countries: corresponding EU strategies have turned the EU member states towards implementing SGDs. Digitalization is having an additional cumulative effect in this process, while often having some separate and positive circumstances.

Positive examples of teaching sustainability in universities provide definite reasons to believe that changes in education policies in the Baltic States would have a lasting positive effect on SDGs implementation.

Existing digital applications being deployed presently through specialists' exploration of the 4IR's changers would provide for drastic innovation in the next decade in all spheres of socio-economic development in the Baltic States. Inherent connections between sustainability and digitalization in the research, development and innovation phase are already providing an active support for quicker SDGs implementation in the states.

Some pioneering research fields, e.g. quantum-computing have already been determining optimal carbon capture materials and AI-enabled research, which assist in creating new antibiotics to address microbial resistance to current medicines; in short, there are apparent and breakthrough innovations – in technology and social/governments policies – to assist the SDGs' implementation in the states.

Regardless of some problematic issues, modern governing policies, in general, are showing definite potentials in turning available science, technology and digital achievements into breakthrough solutions that shall bring countries closer to optimal SDGs implementation. New EU efforts in combining sustainability and digitalization (e.g. through the "green deal") that the countries' "double strategies" are having a long-term potentials.

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MOTIVATION TO WORK AND MANAGEMENT OF IT PROFESSIONALS: CASE OF LATVIA

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Abstract

The purpose of this article is to describe the motivation structure of IT professionals in Latvia from two points of view: from the point of view of IT specialists themselves and from the point of view of HR managers working on attracting and managing IT specialists. The research question is how to improve the efficiency of IT professional management. The theoretical background of this approach is based on McClelland's theory of learned needs. This study uses theoretical approach, focused on understanding of individuals' needs and considering people's achievements as the main motivational factor. According to this theory, in order to motivate an employee to work efficiently and maintain his devotion to the company, it is necessary to understand his unsatisfied need and offer opportunities for its constant satisfaction.

The results of the research show that IT professionals are a group of people whose needs for achievements and needs for belonging dominate. Needs for power are present to some extent. For effective management of this professional group, managers should create comfortable conditions of work for them. Convenient working conditions assume minimization of control, focus on what people do, not when and how they do it. It is significant to provide very accurate information about the project goals, restrictions, stages and deadlines and clearly formulate expectations of labour productivity and obtained results, minimize routine connected with reports.

Keywords: motivation factors, labour productivity, theory of learned needs, creative people, and narrative interview

DOI: 10.37804/1691-6077-2020-11-57-71

Introduction

Modern economy is often called "the knowledge economy" (Stehr & Mast, 2012). The idea of knowledge economy is that companies' growth and profits mostly depend on knowledge and information than on such factors of production as labour and capital. This economy relies on the proper use of information, as well as its volume and opportunity to distribute this information (Sharif & Irani, 2012). Therefore, habits, knowledge, creativity and individuality of employees, all that Becker called human capital (Becker, 2009) are the key components of such economy. Thus, attracting, retaining, and motivating employees become increasingly challenging for management (Ankli & Palliam, 2012).

Success of a company mostly depends on stability in business processes of human resource management (Dominguez, 2018; Graa & Abdelhak, 2016). Human resources are often considered as one of the most important factors in achievement of sustainable development of organization (Zaborova & Markova, 2018; Vetrakova, et al., 2014). In the knowledge economy, IT specialists have a special role, as it is they who create informational innovative products, improve technological processes and engage in business analytics (Parijat & Bagga, 2014). Methods of motivation for work, programs for attracting and retaining IT professionals differ from programs oriented on other specialists. Studies show, that IT professionals have specific values, special needs, and they prefer to keep their own lifestyle (Wei & Yazdanifard, 2014). What's more, IT professionals are in great demand in the labour market that significantly complicates management tasks (Lunenburg, 2011).

According to the Central Statistical Bureau, the number of employees in the IT sector in Latvia for the last 10 years has increased by 58%, from 18.9 thousand in 2008 to more than 30 thousand in 2018. The number of IT companies in Latvia in 2008 was 2.6 thousand; at present, there are more than 6 thousand already. The share of the IT sector in Latvia's GDP has increased to 4.2%. 98% of Latvian companies use a computer and Internet in their work and two thirds of companies have their own page on the Internet. At the same time, there is a large shortage of IT specialists in Latvia. According to the Ministry of Education of Latvia, only 5% of young

people choose specialties related to IT technology for their studies. As a comparison, this figure is 18% in Europe.

The main factor affecting the efficiency of management and stable development of company is the quality of human resources. Successful businesses generally know about the importance of positive motivation of their employees, perceiving them as the company's greatest asset. In the information economy, the IT sector, human resources are becoming the biggest competitive advantage (Iqbal, 2019). Effective management of human resources is connected with maintaining the motivation of employees.

The goal of the article is to understand how the connection of motivation to work and motivators for increasing labour productivity is brought to life. The paper compares the point of view of IT specialists and the point of view of HR managers working on attracting and managing IT specialists in order to find out how adequately managers understand the structure of the needs and motivations of IT professionals in contemporary Latvia.

Theoretical Approach

This study uses a theoretical approach, focused on understanding of individuals' needs and considering people's achievements as the main motivational factor. The theoretical foundation of this approach is based on McClelland's theory of learned needs (Burnham, 2008). According to this theory, in order to motivate an employee to work efficiently and maintain his devotion to the company, it is necessary to understand his unsatisfied needs and offer opportunities for its constant satisfaction.

Every time an unsatisfied need is met, an employee feels pleasure from work that increases his desire to work much better. If the process of work is organized in a way that the satisfaction of the need is constant, a certain repertoire of behaviour is created connected not only with the content of the work, but also with getting pleasure from the satisfaction of needs (Boezeman & Ellemers, 2014).

McClelland developed the basic theories of motivation that had existed before him (Cerasoli, et al., 2014) and formulated three needs that are formed in people in the process of socialization. He called them learned needs: the need for achievements, the need for belonging, and the need for power. From his point of view, every member of the society owns these needs, but for everyone they are expressed variously (de Gieter & Hofmans, 2015).

From the point of view of the production process, these needs can be defined as follows: a person takes personal responsibility to find a solution to the problem; a person sets attainable goals, but assumes calculated risks; a person wants feedback on his labour productivity (Rybnicek, et al., 2017).

Atkinson and Raynor (Braun, et al., 2013) formulated the relationship between motivation in achievement and career growth. Successful work over a long period in a particular career requires both skills and motivations. Therefore, the cumulative achievement defining career success indicates not only the necessary abilities, but also motivation.

The importance of motivation in achievement arises from its relationship to labour productivity. Psychologists studying production processes often describe the relationship between motivation and labor productivity using the following formula: productivity = (ability × motivation) (Aydin & Tiryaki, 2018). Campbell and Pritchard (Campbell & Pritchard, 1983) expanded and clarified the role of motivation in this formula. They showed that there are three activities related to work efficiency for which motivation is needed. Firstly, this is initiation of efforts for doing the work; secondly, spending of a certain amount of effort for the work; and, thirdly, persistence and spending of time in order to do the work well. They summarized their point of view on motivation in the following way. Motivation is something that explains direction, amplitude, and constancy of an individual's behaviour. Motivation depends on abilities, skills and understanding of the task to be performed. The environment can limit motivation if it resists an individual's behavior (Kohls, et al., 2013).

The theory of learned needs allows us to formulate several assumptions concerning the structure of motivation of professionals. People with strongly marked need for achievement are motivated by situations in which they have personal responsibility for actions, when success can be claimed for their own talents and efforts. They have a need for rising mobility, for a rapid career growth. They prefer to work alone, avoid routine, and set themselves long-term goals. Material motivators are important to them as indicators of achievement (Sung, at. el., 2015).

Specialists, having a predominant need for belonging, do not like to work alone. Cooperation is important for them and they work patiently and thoughtfully. They avoid career growth, are able to maintain relationships in a team, prevent conflicts. They are afraid to make a mistake, to let the team down, so they spend a lot of time to find the right solution (Valle & Perrewe, 2016).

The need for power can be expressed in making alliances, initiating most actions, avoiding responsibility, being aggressive, and desire to pass the work to others.

Methodology of Research

The methodology of research included two parts; each of them was a separate research. The main goal of the first part was to understand how IT specialists themselves determine the factors that motivate them to work more efficiently and productively. IT professionals working in Latvia were the object of the first part of the research. This part was done using the narrative interview method. The interview sample includes 30 interviews: 25 males and 5 females, 10 respondents aged from 20 to 30, 10 respondents aged from 30 to 40 and 10 people over 40. The respondents were selected in accordance with the principles of constructing a sample of maximum diversity. The sample includes respondents from all age groups and generations, which are currently represented on the labour market, respondents who occupy different professional positions and job responsibilities. Such a sample configuration allows revealing differences associated with demographic and social factors.

The aim of the second part of the study was to compare the factors that, from point of employee's view, motivate them to work more productively, with the incentives that HR managers use in their work. The object of the second part were middle and senior managers, HR specialists connected with management of IT professionals. The second part of research used the method of expert interview. A total of 12 experts were interviewed. All of them were middle and top managers of companies that work in the field of information technology.

The basic topics of narrative interviews with IT professionals were those related to the formation of IT community in Latvia, effective motivation to work and job satisfaction. The experts spoke about their point of view about what can be considered as motivation for IT professionals to work, what value material motivations have in the system of motivation and whether demographic characteristics of IT professionals influence motivation and labour productivity.

Results

Motivation of IT professionals. IT professionals' point of view

In the course of the interview, the respondents were asked how they would motivate their employees if the tasks involved complex, difficult and responsible work.

The analysis of the interview showed that, despite the danger of generalizations and the fact that all people are different, and one IT specialist differs from another, several factors can be identified, that in IT professionals' opinion, influence job satisfaction and increase their motivation to work more efficiently.

Professional achievements

IT professionals are well motivated by challenges. They like it when all their skills are used. They are proud of their ability to solve complex tasks. They often strive to prove the significance and value of what they can do, the uniqueness of their knowledge. What's more, it is very important for professionals to see that their work makes sense, that it is needed and useful for the company.

The results of the research show that the most effective strategy for motivating IT specialists is to realize the complexity of the problem solved and their role in solving it. A complex task is a challenge for any professional. The need to cope with such a task creates a drive, stimulates performance, makes you forget about the time spent at work, i.e., increases labour efficiency.

The labour efficiency of IT professionals directly depends on whether the manager could set the task appropriately and organize the working process. Fair organization of work and distribution of duties are very important for effective work. And here the role of the leader and his example matter a lot.

"First of all, I would set an example. Yes, we have such projects when they come and say: "Guys, the deadlines are tight, there is a lot of work, and you need to work hard". But we don't have that kind when a person comes, some leader, points at everyone and says that everyone works at the weekend, but he himself is going on vacation. That is, if the project is difficult, everyone works. No matter it is a director, adviser or a programmer" (a man, 33 years old).

It should be noted that specialists of the highest level do not need additional motivation. They always work well and efficiently. They cannot work in another way.

Opportunity for professional growth

Mental workers are motivated by training, the opportunity to get new knowledge, skills, and the opportunity to improve their skills. They think that constant training is necessary, and are in dire need of being kept abreast of the latest trends and innovations in their field. A gap in this area is a real threat to their career. They cannot let that happen.

In the course of the interview, all respondents noted that they pay closer attention to the search for new knowledge. It is important to note that IT professionals improve their skills no matter companies compensate their costs or not. Therefore, if the company covers such costs, it is perceived as an absolute advantage for the company causing gratitude among employees and motivating them to work better.

As regards to ways of improving one's skills, respondents noted participation in conferences, listening to podcasts and reading specialized literature. However, the most effective way to get new knowledge, according to respondents, is online courses, paid online courses, though.

"I like listening to podcasts. There are specialized podcasts; they cover all sorts of technical things. These are basic ones. Then, if I get interested in something, I read something special then. Cool colleagues surround me. They always share some information with me. And what interests me, I try to learn everything about it, find it on the Internet, and read. Quite seldom, but I attend conferences. But it is, rather, not because of the information, but to relax, to find some new inspiration" (a man, 40 years old).

Companies are interested in their employees gaining new knowledge, as this enables increasing their labour productivity and reduces the loss of personnel connected with monotony of work. Companies use different strategies in order to organize the process of employees gaining new knowledge. Some companies compensate the time spent by employees on self-training.

Some companies organize training courses themselves; they decide themselves which courses are useful for employees and in what amount. Other companies go about providing employees with maximum information about existing courses, pay for these courses, and allocate time to attend them.

Identification with the company

The research showed that IT professionals, as a rule, firstly identify themselves with their interests or with their profession, and then with their organization. This can be a problem when a person's professional goals do not match the goals or mission of the management of the organization.

The main demotivator of IT professionals is routine, lack of independence, creativity and drive. Therefore, only awareness of the complexity and importance of the work, as well as understanding the value of their role in the work of the whole team and in solving this problem, can motivate IT specialists to work more effectively. Some companies purposely form a sense of belonging to the team, to the company, to satisfy the need of employees for belonging.

“We have several additional days to our vacation, insurance, paid mobile phone with very good fees. We almost do not count how much we spend on mobile communication. Naturally, Telecom operator and all that. You want to do sports, no problem, do sports. Want to participate in volunteer actions-welcome, here volunteer actions are. You want something else... There is even a whole department considering ideas. The company is interested in employees’ ideas, and besides, in any. If you have an idea, you can give it, form it. There are templates, documents. A special commission will consider it. If it is good, you'll be able to realize it yourself, or you will be provided with people in your team able to help you realize it or they will do it themselves, if it brings profit and benefit to the company. You can be appointed the head of your idea, which you like, which you have realized, and you will even get money for it. I think it's a very good motivation, the right motivation when the company is looking for talents inside the company”.

It can be assumed that bonuses connected with the payment of mobile communication, an opportunity to do sports, etc. are a welcome addition, but not a determining motivating factor. However, such companies, according to respondents’ words, have the most qualified specialists. They value their employees. Therefore, in addition to the opportunity to get new knowledge and improve their qualification, companies form for their employees a whole package of additional services that make their lives more comfortable.

Material motivators

Though wages and benefits certainly matter, they cannot be the basis of a strategy to motivate and retain IT professionals. In the course of the interview, all respondents emphasized that motivation with the help of financial instruments (salaries, bonuses, cancellation of bonuses, threats of dismissal) is not an effective way.

“I think that money is a weak motivator. Because if there is only financial motivation, they will just cheat, that is all. I think that in this situation in the market it is ineffective”. (man, 40 years old).

As can be seen from the above interviews, threats related to dismissal or cancellation of bonuses are even a more ineffective measure than financial incentive. The situation in the market of IT technologies in Latvia is that most specialists can always find another job. Only companies with a worldwide fame can afford some pressure on their employees. However, there are almost no such companies in Latvia.

At the same time, there is a shortage of highly qualified specialists in the market of IT technologies in Latvia. Such specialists “cost “a lot and employers value them.

“Motivation in IT field is a complex matter. When I start doing some managing things, I start hating all programmers. I understand that I am probably the same; it is very hard to motivate. They must be fascinated somehow. Otherwise, it is very difficult. If they are not fascinated, you can't motivate them even with money”. (a man, 41 years old).

In that way, speaking about the motivation and labour efficiency of IT professionals, it is important to understand that material factors play an extremely unimportant role in this process. IT professionals simply will not work for a salary that does not fit their ideas of decent life, which seems inadequate or not fair to them. After discussions about this salary have been completed, and the specialist has decided to start working in this company, the question of the material side can be closed. As the results of the research show, if necessary, i.e. in case of material problems, IT specialists know how to solve this problem without resorting to changing a job.

Motivation of IT professionals. Managers ' point of view

Attracting and retaining IT professionals in contemporary Latvia is a difficult task for a manager, as professionals of this profile are of great demand in the labour market.

".. his personal needs are necessary to be found out. What does he work for? For money, in order to level up his own skill, or to become more professional? Or maybe it's more important for him to work on some interesting project, for some reasons of his own. Accordingly, you need to communicate with him constantly and find out about his needs, and cover them".

Managers who work with IT professionals realize that there is no single motivation for all specialists. They understand that people change, and at different periods of time they have different needs. For this reason, an effective strategy for a manager, in this case, can be constant communication with employees.

Replacing one employee with another is a very expensive costly process, connected with business risks. Therefore, in all companies, managers pay a lot of attention to loyalty programs, and companies spend a lot of resources on them.

"Demand for IT specialists is much higher than specialists exist. So, there is always an opportunity for them to find work, even much more paid, than their skill allows today".

It is clear from the above quotes that specialists in this field can claim a salary higher than their skills. In the interviews, managers told that freelancers can sometimes earn more than specialists working in staff, and it makes companies spend more resources on hiring good specialists than they expected.

Moreover, companies often become dependent on an IT professional, as in case of dismissal, it will be difficult for the company to find a new professional able to work with the developed software.

"Some organizations ... are in a kind of trap, dependence on a specialist. And as a result, the dismissal of this employee threatens the service of this software to be stopped. But it is even more difficult to look for a specialist who can understand someone else's code".

As a rule, managers understand that in order for an IT specialist to agree to work in a company and not to look for another job, it's necessary to create certain conditions comfortable for him. And success in solving this problem is connected, first of all, with an adequate understanding of the specifics of IT professionals' work.

The results of this research show that managers who work with IT specialists understand correctly one of the most important motivations for this professional group – professional achievements. IT professionals in

their interviews often told that they like clear, specific and complicated tasks, like to benefit the company, like to see the result.

It is important to say that the given tasks should correspond to the professional level of the specialist. All IT professionals are constantly learning and improving their qualification. That's why, they must have an opportunity to demonstrate their new skills.

One more motivation of IT professionals, in managers' opinion, is good interpersonal relationships in the company, psychological comfort.

"In most cases, IT professionals are thinking people, thinking critically. They need to express creative, engineering thinking. ... There is an opinion that IT professionals do not like people, or are secretive. It's mostly not true. They are close, if they are not satisfied with interpersonal relationships."

From the above quotes it can be seen that an important motivation for work for IT professionals is interest in the work being performed and pleasure from the result. Many experts said during the interview that it is necessary to maintain interest in the tasks to be solved, to make sure that the work does not turn into routine for an IT professional. And, of course, offer a decent salary. This is not discussed, as a rule.

In their interviews, IT professionals said that it is important for them to have identification with the company, not just identification with the profession. Good interpersonal relationships in the company create such identification, form additional value to the workplace and therefore, work for loyalty to the company.

Getting new knowledge and professional development is another motivation, which was called by both managers and IT professionals as a very important.

"We pay for courses the employee has chosen himself. We let people go to conferences. New knowledge is very important in this field. If you do not do this the person will simply leave."

IT professionals in their interviews did not speak about importance for them of free schedule and opportunity to work remotely. Perhaps such a schedule and style of work is perceived by them as something natural, evident, that is actualized only in a situation of its impossible realization.

It is important to say that freedom of IT professionals makes additional difficulties in the work of management, but they are ready to take on risks in order to motivate the IT specialist to work.

"Sometimes due to the fact that they all work in different places, firstly, the difference of time zones affects us. And due to free schedule of work, people

can leave at the moment when I need them. But here is nothing to do with. I have to solve it somehow myself."

At the same time, career opportunities, according to managers, are not so attractive for IT professionals. Firstly, in this profession, professional skills and achievements are valued, not administrative statuses, and secondly, the structure of the market itself does not imply hierarchies.

"We do not have such a high hierarchy. How is it in typical offices? There are managers, there is a director, and there is a deputy director. There is a high ladder and you can go a long way up. For IT developers, the structure is flat rather than pyramid-shaped."

On the other hand, an organization does not always have an opportunity to promise an employee career growth for a good job.

"This motivation works probably when an organization has an opportunity to provide with such growth, the staff list allows to do it."

It can be assumed that the profession of a programmer is not very attractive to people who have a learned need for power. The work in this field does not involve aggression, building vertical relationships, manipulating colleagues. This profession attracts people having needs for achievement and membership.

Managers made contradictory statements of the role of material motivators for motivating and retaining employees. On the one hand, experts admitted that in some cases, material motivators are used, and it works.

"I made a progressive scale of pay-out for the employees. It means, the more hours one works, the higher percent of pay-out for the hour he gets. Let's assume, there are people who are good with 70 hours a month, but some are ready to take 200."

On the other hand, experts say that material motivators hardly seem to matter for attracting and retaining a specialist. Firstly, this is due to the fact that the salary of IT professionals in Latvia is already quite high, the company's leaders cannot raise it constantly.

"Our employees have very decent salaries. Of course, they are constantly growing in the market. 1,500 euros was a good salary once, now it's not a very good one. But they get 2000 euros now."

Secondly, not all managers have such a tool to increase motivation. The bonus budget is limited, salaries are regulated by the staff list.

Thirdly, under conditions when interest to work is stronger than material motivators, it is quite unreasonable to use material resources.

"For us talks about an interesting task and self-development help more. How exactly this task, he is doing now, can help him in self-development and in the development of the industry in general."

An important result of the expert survey of companies' managers where IT professionals work is the identification of generational differences connected with strategies to increase loyalty to the company. These differences are explained by life goals of specialists of different ages.

"Young, under 30, – they are ambitious, they still know little, that's why they are ready to take on everything, solve complex interesting tasks. They are ready to change the world."

At the same time, as experts say, the older generation has its own advantages connected with the fact that they are better able to maintain interpersonal relationships, do not create conflicts, do not build intrigues. They just work, create a product and take responsibility for their result.

Middle-aged people, especially those who have a family, are interested in a balance between family and work, and do not really want additional obligations related to management. However, sometimes they need the stability of their position in the company; they cannot afford to lose their job even for a while, so they can be attracted by the promise of a stable career position.

Older people have very great professional experience, they are valued, they know their own worth, and a career position can be one of the confirmations of this assessment. In addition to this, experts note that there is some contradiction when a very young person occupies a leading position, and his subordinate is a person of age. Therefore, for older employees, an opportunity to become a team leader may be a better motivator than for middle-aged employees.

Conclusion

The results of the research demonstrate that IT professionals are a group of people, whose needs for achievements and needs for belonging, dominate in value setting pattern. According to McCleland's theory, these needs are shaped during socialization. This can explain the differences in needs among representatives of different generations that were identified by the results of the research. Needs for power are present to some extent, especially for the millennial generation and the younger generation. Similar results were obtained in studies conducted in other countries (Rybnicek, et al., 2017; Vetrakova, et. al, 2014; Zaborova & Markova, 2017). For effective management of this professional group, managers should create comfortable

conditions for them. In addition, the main task of managers is to understand what conditions are comfortable for IT professionals. The research results show that for IT specialists in Latvia this means minimized control, focus on what people do, not how they do it. It is very important for them to get accurate information about the goals, limitations, stages and terms of the project. Clearly formulate expectations of labour productivity and obtained results, minimize routine connected with reports. The factors identified confirm the theory of learned needs. Studies on the motivation of creative employees conducted in countries such as South Korea, Turkey, and Slovakia revealed similar factors (Sung, at. el., 2015; Aydin & Tiryaki, 2018).

In addition to this, for IT professionals to work as efficiently as possible, managers should constantly challenge them by offering complex projects that require from employees skills they do not have. It is important to help employees understand and evaluate the impact of their work on the result of the company, to recognize the efforts of each person in a successful result.

Improvement of professional skills plays a special role in the work of IT professionals. Managers should provide all opportunities (formal and informal) for studying and knowledge exchange. This may include training courses, branch conferences, and participation in technical associations. It is significant to encourage the desire to experiment with new ideas and methods.

As the results of this study reveal, managers do not always adequately understand the needs of IT professionals. They overestimate the importance of material incentives and underestimate the role of incentives associated with professional achievement. For effective management of IT professionals it is important to properly understand and satisfy the learned needs of IT professionals.

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ANALYSIS OF LITHUANIAN REGIONAL DEMOCRACY ACCORDING TO THE ARTICLES OF EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

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Abstract

The poorly addressed problem of motivation of self-government democracy may hinder direct involvement of inhabitants in the process of public affairs management and decision-making on social, political, cultural, economic and other issues of self-government. The right of citizens to participate in public affairs is defined in the preamble to the Charter as one of the fundamental principles of democracy. Moreover, Lithuania has ratified the European Charter of Local Self-Government (1999), while committing itself to implement its provisions in the national legal system. As with all Council of Europe multilateral treaties, there is a certain monitoring system for the proper implementation of the Charter of Local Self-Government, which is one of the institutional tools for enforcement is Group of independent experts.

Therefore, the research aims to determine the level of expression of the principles enshrined in the European Charter of Local Self-Government in Lithuanian national law; to reveal the influence of the principles enshrined in the European Charter of Local Self-Government on the democratic processes in Lithuanian self-government; to put forward solutions for the Lithuanian legislator on issues identified related to questions analysed in order to improve national legal regulation. The research will use theoretical, historical, empirical, comparative and analytical methods.

Keywords: *European Charter of Local Self-Government,* municipal council, political minority rights, opposition

DOI: 10.37804/1691-6077-2020-11-72-91

Introduction

First of all, it may be recalled that the *European Charter of Local Self-Government* was signed in Strasbourg[1] in 1985 as an international treaty of the *Council of Europe*. To date, all 47 Council of Europe member states have acceded to this international treaty, which aims to promote local democracy. Lithuania ratified the European Charter on Local Self-Government in 1999[2]. According to Article 138 of *the Constitution of the Republic of Lithuania*[3], ratified international treaties are part of the Lithuanian legal system. Although it can be said that the main provisions of the Charter have been transposed into the Law on Local Self-Government of the Republic of Lithuania, however, in the event of competition between this law and the Charter, the Lithuanian courts must apply the provisions of the Charter.

As with all Council of Europe multilateral treaties, there is a certain monitoring system for the proper implementation of the Charter of Local Self-Government, one of the institutional tools for enforcement of which is the *Group of independent experts*. This group is made up of a lead expert and several deputies from each member state of the Council of Europe. They are assisted by a secretariat appointed by the *Congress of Local and Regional Authorities* of the Council of Europe (CoE), consisting of all 648 members representing more than 200,000 municipalities and regions of member states of the Council of Europe. Experts are usually chosen from higher education institutions or NGOs working in the field of local government. They are appointed by several secretary-generals to the Congress of Local Government. The Group of Independent Experts is assisted by the Council of Europe Secretariat. The Independent Expert Group, assisted by local experts, prepares reports on the implementation of the Charter in the CoE Member States and makes recommendations. In addition, at the invitation of the States, experts carry out the monitoring of local government elections. In order to discuss all these issues and to coordinate future work, a group of independent experts meets once a year for an annual meeting of several days, usually in Strasbourg, at the CoE headquarters, in the so-called European Palace (in French – *Palais de l'Europe*).

Relevance of the topic: The poorly addressed problem of motivation of self-government democracy may hinder direct involvement of inhabitants in the process of public affairs management and decision-making on social, political, cultural, economic and other issues of self-government. The right of citizens to participate in public affairs is defined in the preamble to the

Charter as one of the fundamental principles of democracy. The relevance of the chosen topic is also demonstrated by the fact that even before the introduction of the direct elections of mayors in Lithuania in 2011, Lithuanian researchers who have studied the peculiarities of the implementation of the principles enshrined in the European Charter of Local Self-Government in the field of local self-government and incorporation law concluded that the provisions of the Charter were incorporated into national law differently[4]. Therefore, **the purpose of this research** is *to analyse* the content of the principles enshrined in the European Charter of Local Self-Government and *to reveal* relevant practices and problems in the implementation of these principles in local government.

The object of the research: Implementation of the principles enshrined in the European Charter of Local Self-Government in the Lithuanian local self-government and their incorporation into national law.

The tasks of the researches: 1. *To determine* the level of expression of the principles enshrined in the European Charter of Local Self-Government in Lithuanian national law; 2. *To reveal* the influence of the principles enshrined in the European Charter of Local Self-Government on the democratic processes in Lithuanian self-government; 3. *To put forward some solutions* for the Lithuanian legislator on issues identified related to questions analysed in order to improve national legal regulation.

The methods of the research: The research was carried out by employing logical, comparative legal methods, system analysis, linguistic, empirical, synthesising methods and analysis of legal documents. The generalization method was used to summarize the collected (analysed) research data and formulate conclusions and suggestions.

Abbreviations: NGO – non-governmental organization; CoE – Council of Europe; Charter – European Charter of Local Self-Government.

The manifestation of the principles enshrined in the Charter of Local Self-Government in the Lithuanian national law

Article 2 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognized in domestic legislation, and where practicable in the constitution.

The territorial administrative units of the Republic of Lithuania are counties and municipalities. Counties are formed from the territories of the municipalities characterized by common social, economic and ethno-cultural interests.

The Constitution of the Republic of Lithuania has a separate section on local government and its management – "Local self-government and governance" (Section X), which not only shows the importance of local self-government in the State context, but that the principles of local self-government mentioned in the Constitution of the Republic of Lithuania also gain constitutional protection. The constitutional foundations of Lithuanian local self-government are also established in articles 10, 11 and 67 (17 p.) of the Lithuanian Constitution.

There are 60 separate territorial administrative units (municipalities) in Lithuania, which are guaranteed by municipal law and implemented through municipal councils elected by secret elections. Under the Constitution of the Republic of Lithuania, the right of self-government is guaranteed only to municipalities – lower territorial administrative units, therefore Lithuania is classified as one-tier type self-government country. However, in addition to the lower (i.e. first-tier) units, there are higher (i.e. second-tier) administrative units where the government organizes the management. The fact that Section X of the Constitution enshrines at least two tiers (units) of administrative units, which the Constitutional Court has also held.[5]

The first article of the Law on Territorial Administrative Units and their Borders[6] states that administrative units of the territory of the Republic of Lithuania are counties and municipalities. The county is a higher administrative unit of the territory of the Republic of Lithuania, where management is organized by the Government of the Republic of Lithuania in the manner prescribed by law (the second article of the same law).

The Constitution of the Republic of Lithuania does not enshrine the procedure for the designation of county administrative institutions or positions, their formation or the appointment and organization of their activities, therefore the legislator has a sufficiently wide discretion in formulating the county management policy.

The territory of the Republic of Lithuania currently comprises 10 counties and 60 municipalities. The majority of municipalities are divided into smaller territorial units – wards.

Based on the data of the Lithuanians enterprise Centre of Registers, on 1 February 2019, there were 103 cities/towns, 252 townships, 19 075 villages.

Article 3 – Concept of local self-government

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

The wording of Article 3 (1) of the Charter on the right of self-government to conduct its public affairs under its full responsibility is enshrined in Article 120 of the Constitution of the Republic of Lithuania, which establishes, that "Municipalities shall act freely and independently within the limits of the competence defined by the Constitution and laws". This provision is also enshrined in Article 4 (2) of the Law on Local Self-Government. Together with Article 3 of the Charter, which stipulates that the local government shall have the right and ability to handle and manage the major part of public affairs represented by freely elected councils, Article 120 of the Constitution provides for the election of local government decision-making bodies and the right to vote for citizens and other permanent residents of the administrative unit.

Article 19 (1) of the Law on Local Self-Government stipulates that the Mayor shall be elected directly for the duration of the term of the Municipal Council. Paragraph 1 of Article 22 of the Law on Local Self-Government establishes that a member of the Municipal Council shall be a representative of the municipal community elected by permanent residents of the municipality in accordance with the procedure established by the Law on Elections to Municipal Councils.

In the 2019 municipal council elections in Lithuania, 1502 council members was elected in all sixty municipalities, the number of council members in each municipality was proportional to the population shown in the table.

Table 1

Population	Number of municipal council members
Less than 5000 residents	15 members of the municipal council
Between 5000 and 10 000 residents	17 members of the municipal council
Between 10 000 and 20 000 residents	21 members of the municipal council
Between 20 000 and 50 000 residents	25 members of the municipal council
Between 50 000 and 100 000 residents	27 members of the municipal council
Between 100 000 and 300 000 residents	31 members of the municipal council
Between 300 000 and 500 000 residents	41 members of the municipal council
More than 500 000 residents	51 members of the municipal council

It is important to note, that after 2015 the first direct elections of mayors held in Lithuania on March 1 – even at sixteen municipalities (Birštonas municipality, Druskininkai municipality, Ignalina district municipality, Jonava district municipality, Kaunas district municipality, Lazdijai district municipality, Marijampolė municipality, Neringa municipality, Pagėgiai municipality, Palanga municipality, Pasvalys district municipality, Rietavas municipality, Šakiai municipality, Šalčininkai municipality, Vilkaviškis district municipality, Vilnius district municipality)[7] one of the political parties or political organizations (movements) in the municipalities of Lithuania won an absolute majority, which further emphasizes the importance of securing the rights of the minority (opposition). Moreover, after 2019 on March 3, the number of "one-party" municipalities in municipal elections increased to seventeen.[8]

Article 4 – Scope of local self-government

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.

2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.

3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.

4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.

5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.

6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

The Constitution of the Republic of Lithuania does not directly define the powers and duties of local self-government bodies, thus leaving them to be established by law. The law defines in detail what functions each level of government should perform. Article 6 of the Law on Local Self-Government lists autonomous functions of municipalities, such as: preparation and approval of the municipal budget; setting local tolls; management, use and disposal of land and other property owned by the municipality; maintenance, repair and construction of municipal roads and streets of local importance; the organization of road safety and many others (45 points in total). It should be noted that the list is not exhaustive, as Article 6 (46) of the Law on Local Self-Government provides that other functions of autonomous municipalities not attributed to public authorities may also be included.

Article 7 of the Law on Local Self-Government specifies the functions delegated by the State to municipalities, such as: registration of acts of civil status; fire safety; involvement in managing state parks; setting up social benefits and compensation; providing free meals to students, and many others (38 items in total). It should also be noted that the list is not exhaustive, as Article 7 (39) of the Law on Local Self-Government provides that functions delegated by the State may include other functions delegated by law.

Article 8 (1) of the Law on Local Self-Government states that the Municipality is responsible for the provision of public services to the population. Municipal institutions and administration do not provide public services, except as provided by law. They are provided by budgetary and public institutions, municipal companies, joint stock companies and other entities.

Paragraph 1 of Article 9 of the Law on Local Self-Government stipulates that the Municipality shall administer and ensure the provision of public services to residents, however, the Municipality shall establish new public service providers only in cases where other providers do not provide public

services or they cannot provide them with good quality and at lower cost to the population. (Article 9 (2) of the Law on Local Self-Government)

According to Article 9–1 (1) of the Law on Local Self-Government, a new economic activity may be carried out when: 1) it is necessary to satisfy the general interest of the municipal community (and) 2) in the light of their commercial interests, other economic operators would not carry out, or would not carry out, such activities to the extent necessary to meet the general interest of the municipal community (and only) 3) unless such a decision favours or discriminates against individual entities or groups of entities.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

The European Charter of Local Self-Government stipulates that changes in local authority boundaries should not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

In line with this, the Law on Territorial Administrative Units and their Borders 1999, provides that, in determining the boundaries of a local authority, the Minister of the Interior must follow a strict procedure, including eliciting the views of the relevant local councils and conducting an opinion poll. This was made clear in the instructive Constitutional Court Case[9] No. 9/2000, of 28 June 2001, in which the Constitutional Court of Lithuania ruled, that the Government had failed to follow this procedure.

In conclusion on this point, the laws of Lithuania are in accord with the Charter, but the responsible organ of the government had failed to follow the laws.

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.

2. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

These provisions are enshrined in Chapter Four of the Law on Local Self-Government, Municipal Authorities, their Formation and Powers (Articles 11–21), in which state that the structure of municipal administration, regulation of activities and financing are approved by the municipal council.

Under the Local Self-Government Law, a municipality may set up committees, commissions and other bodies itself, although some committees, such as control, budget and finance committees, are mandatory. There is no unified structure of municipal council committees – each municipality establishes a separate number of committees. For example, in Vilnius, the largest municipality with 51 members of council, there are seven committees in the following areas: economic and financial affairs; social issues; urban development; health, hygiene and the environment; services and urban economy; culture, sports and education; municipal development and public security. Other smaller municipalities have only three or four committees.

Each municipal council shall, for the duration of its term of office, approve the Reglament of Procedure of the Municipal Council – the main internal legal act of the municipal council, which establishes the procedure and forms of activities of the municipal council, mayor, vice – mayor, council committees, commissions and individual council members in accordance with the Law on Local Self-Government of the Republic of Lithuania. It also establishes the procedure for reporting to the mayor, the director of the municipal administration, the municipal ombudsman for the billing council and residents, as well as the main forms and methods of communication with the residents.

Articles 14 and 15 of the Law on Local Self-Government of the Republic of Lithuania provide for exclusive minority (opposition) rights in order to ensure political democracy – freedom of opposition. For the duration of its term, the Municipal Council shall set up Ethics, Anti-Corruption Commissions and a Control Committee, whose Chairman's candidates are delegated by the opposition.

Article 15 (1) of the Law on Local Self-Government stipulates, that the Municipal Council must form an Ethics Commission and an Anti-Corruption Commission for the duration of its mandate. The municipal council appoints the chairmen of these commissions from the members of the council on the recommendation of the mayor. If a minority council (opposition) is declared,

mayor shall nominate the chairmen of the Ethics and Anti-Corruption Commissions on the proposal of the minority (opposition) of the municipal council in accordance with the procedure established by the regulation.

Furthermore, the Law on Local Self-Government of the Republic of Lithuania provides for an exceptional procedure for the formation of the Control Committee, irrespective of the proportionality of the number of members of the council factions or council groups. It should be noted that Paragraph 2 of Article 14 of the Law on Local Self-Government establishes the principle of equal representation of all groups and factions of the Council (irrespective of the majority or minority). While explaining the principle of proportional majority and minority representation in Paragraph 2 of Article 14 of the Law on Local Self-Government, the College of Judges of the Supreme Administrative Court of Lithuania has noted, that its main objective is to secure the minority interests of the Council[10]. The Law on Local Self – Government of the Republic of Lithuania provides that – the Control Committee shall consist of an equal number of delegated representatives of all factions of the Municipal Council and the group of Municipal Council members, if it consists of at least 3 Municipal Council members. At the same time, the legislator has enshrined in Article 14 (3) of the Law on Local Self-Government the right of the opposition to nominate a candidate as Chairman of the Control Committee.

A systematic assessment of the above-mentioned legislation and relevant case-law, which include theoretical minority (opposition) rights, would suggest that there is a system of balancing between the majority of the council and the minority. However, it should be noted, that the legislature left the need for majority approval for each candidate proposed by a group or group of councillors. It is clear that the majority of the Council's opposing minority, without the support of their political opponents, are deprived of the opportunity to prove their candidacy, which, according to settled case-law, is the duty of the majority of the Council to approve. Such a gap in legal regulation not only creates a conflict situation between the principle of the free mandate of a municipal council member and the performance of his duties, but also leaves the legal uncertainty of the system of leverage and balance between the majority and minority of municipal councils. Such uncertainty provides a practical opportunity for the majority of councils to eliminate minority from the composition of the control committee, so the legislature's requirement for the municipal council to approve the opposition's nomination is restrictive and redundant of minority rights.

Existing regulatory issues need to be addressed by eliminating the need for majority approval of delegated representatives of council member groups or factions to the control committee, leaving it up to them to decide which member is best suited to fill the statutory posts on the control committee. In this case, the principle of separation of powers could also be followed, with different functions being delegated to different authorities, prohibiting the exercise of foreign functions.

Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.

2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.

3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Article 120 of the Constitution states that municipalities shall act freely and independently within the limits of the competence defined by the Constitution and laws. This principle is also found in the Law on Local Self-Government, for example: Article 3 (1).

Article 26 of the Law on Local Self-Government stipulates that the members of the Council shall be remunerated (paid) for their working time during the performance of the duties of a member of the Municipal Council. This salary shall be calculated on the basis of the published amount of the country average salary level, taking into account the time actually worked, the duration of which shall be fixed in accordance with the Regulation. The amount of remuneration for working time as a member of a municipal council shall be determined by the municipal council. Accordingly, remuneration for the activities of the Mayor and Deputy Mayor is enshrined in Article 19 of the Local Government law.

As regards the holding of functions deemed incompatible with elected office, the law prevents a person from being both a councillor and a member of the Seimas at the same time.

Article 8 – Administrative supervision of local authorities' activities

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.

2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.

3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

The constitutional principle of a state under the rule of law involves many different interrelated imperatives, including the requirement of a hierarchy of legislation, from whence arises the rule of law over the secondary legislation[11]. It means that the constitutional principle does not allow sub-statutory legal acts to establish such legal regulation that would compete with the one provided by the law. Sub-statutory legal acts may not change the law or create new general legal norms that compete with one another, as this would violate the supremacy of the laws enshrined in the Constitution of the Republic of Lithuania over sub-statutory legal acts[12]. A sub-statutory legal act must implement the norms of the law, therefore it must be adopted on the basis of law. A sub-statutory act is an act of application of the rules of the law, whether it is of one-time application or of permanent validity.[13]

The principle of municipal autonomy is not absolute and it does not relieve public administration entity (municipal councils) from the obligation to comply with all the principles of public law, including the principle of legality. Municipal councils, implementing the functions entrusted to them, have no discretion to establish legal regulation that does not comply with the provisions of higher-ranking legal acts.[14]

Under Article 123 (1 p.) of the Constitution of the Republic of Lithuania: "In higher administrative units, the government shall organize the management in accordance with the procedure established by law." In accordance with the provisions of the second and third paragraphs of Article 123 of the

Constitution of the Republic of Lithuania and Municipal Administrative Supervision law[15] – administrative supervision of municipalities is performed by state officials appointed by the Government – representatives of the Government. They supervise the compliance of municipalities with the Constitution and laws of the Republic of Lithuania or the implementation of Government decisions.

This way the control of the legality of administrative acts adopted by municipal administration entities is within the competence of the Government representative.[16] The Government representative oversees the municipalities' compliance with the Constitution and laws, or enforces government decisions, proposes (must propose) to repeal or amend unlawful legal acts of municipal administrative entities, and when the entities of municipal administration do not agree to repeal or amend the disputed legal act, refuse to implement the law or execute the decision of the Government, the representative addresses the issue (must apply) to the court.

Article 4 of the new version of the Law on Administrative Supervision of Local Governments of the Republic of Lithuania, which came into force on 01-07-2011, provides that representatives of the Government of the Republic of Lithuania shall be appointed on the recommendation of the Prime Minister of the Republic of Lithuania. In this way, the tender procedure established for the position of the representative of the Government of the Republic of Lithuania was waived. The representative of the Government of the Republic of Lithuania has become a state of political trust, subordinate and accountable to the Government of the Republic of Lithuania. Because the Government itself is a political entity in which political parties play a major role[17] – there is a clear risk that decisions related to administrative control in individual municipalities will be taken selectively, not by law-based arguments, but by political agreements. After the Seimas of the Republic of Lithuania adopted amendments to the Law on Administrative Supervision of Municipalities of the Republic of Lithuania, also in the public space there are many fears that administrative supervision will be carried out in accordance with political decisions[18], which could undoubtedly complicate the democratic process in the future.

Article 123 of the Constitution states that – in cases and according to the procedure provided by law, Seimas may temporarily introduce direct administration in the territory of the municipality. In implementing that provision, Article 2 (3) of the Law on Temporary Direct Management in the Municipality[19] lists six rather narrowly defined situations in which temporary direct management may be introduced. These situations include

cases where the integrity of the constitutional order is threatened by the local authorities, when no council meetings are convened, the relevant authorities are not formed or the results of the re-election to the municipal council or councils are invalidated. It should be noted, that in the history of independent Lithuania, temporary direct management has never been introduced, despite the fact, that in practice there have been several situations where the requirements of Article 2 (3) of the Temporary Local Government law have not been properly implemented.

Article 9 – Financial resources of local authorities

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.

2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.

3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.

4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.

5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.

6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.

7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.

8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Each municipality has a formally autonomous budget, which is drawn up and approved. The laws establishing budget financing and the tax system govern both the state budget and municipal budgets. Revenue from an approved municipal budget is intended for both autonomous and delegated functions, unless otherwise specified in the individual programs.

Granting of state budget grants is regulated by the Law on Methodology for Determining Municipal Budgets Revenue. Grants may be targeted or general[20]. Targeted grants are awarded for the performance of state functions delegated to municipalities and for programs approved by the Seimas and the Government. General government budget grants are intended to compensate differences in the revenue and expenditure structure of municipal budgets due to factors beyond local authority control. State budget grants, in particular targeted grants, are conditional on the realization of specific responsibilities and therefore constitute a means of controlling local governments. The volume of state budget grants – more than half – reflects the low degree of fiscal decentralization in the country.

Article 2 (1) (1) of the Law on Methodology for Determining Municipal Budgets Revenue states that part of the revenue of the local government budget should consist of revenue from local taxes. However, only a very limited part, about 10% to 15%, comes from local taxes set by local authorities, while central government grants and tax revenues account for the bulk.

Sources of revenue for municipal budgets: 1) State budget grants 55%; 2) tax revenue (mainly income tax) 33%; 3) municipal income 12%.[21]

It should be noted that different municipalities have a different share of the personal income tax collected. This figure is adjusted by a factor taking into account nine relevant indicators. Lithuania applies the principle of equalization of revenues between municipalities and implements it according to the formula established in the Law on Methodology for Determining Municipal Budgets Revenue.

Another aggravated problem relates to limiting the growth of municipal budgets' independent income. Lithuania has obligations to return any excess of own income to the state budget. Such income growth restrictions reduce the preconditions for municipalities to promote economic development, entrepreneurship, opportunities to meet growing economic needs and the need for co-financing of projects supported by EU funds.

Therefore, there is a need for a clear, transparent and agreed-upon policy of sharing taxes set and collected by the state with municipalities. This situation has also been criticized in independent expert monitoring reports[22],

expressing concern that new tasks are sometimes assigned to local authorities without adequate resources to implement them and recommending that the principle of accompanying funding be recognized by the Lithuanian authorities in their legislation. This principle states that, in order to maintain a balance between duties and the corresponding resources for their execution, each newly delegated function should be clearly linked to the corresponding financial resources. This should not hinder the progress of the Charter in Lithuania.

Article 10 – Local authorities' right to associate

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.

2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.

3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

Although the Law on Associations of the Republic of Lithuania[23] does not directly provide for the right to join international self-government associations as required by Article 10 (2) of the Charter. However, this possibility is provided in the European outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities (Madrid, 1980), ratified by Lithuania in 1997[24]. This is also mentioned in the Law on Local Self-Government and in the documents of the associations themselves.

Pursuant to Article 2 of the Law on the Basic Provisions of the Association of Local Authorities[25], the Lithuanian Association of Local Authorities was established in 1995 as a national association representing the common interests of its members – municipalities in all state authorities. Registered as a non-profit organization, today LSA has established itself as an active organization whose right to represent all 60 Lithuanian municipalities is respected by the Government and the Seimas.

Its main functions include representing the interests of all 60 municipalities in the Government and the Seimas. The Law on Local Self-Government stipulates that draft laws relating to municipal activities shall be co-ordinated with the Association. The most important committee (in parliament) for the

local government is the Seimas Committee on Public Administration and Municipalities consisting of 11 members. The experience of the Association of Municipalities shows that the usefulness and results of the Committee vary according to its members at the relevant time and their attitudes towards self-government.

Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as areenshrined in the constitution or domestic legislation.

Local authorities shall have the right to use judicial means to safeguard the right to exercise their powers unrestrictedly and to ensure respect for the principles of local self-government enshrined in the Constitution and in domestic law. Accordingly, Article 122 of the Constitution provides that municipal councils shall have the right to apply to the courts for violation of their rights.

The second important practical issue is that LSA does not represent all municipalities in court proceedings. In order for the LSA to represent a particular municipality, the cooperation of that municipality with the LSA in each individual situation is necessary and a further decision of the municipal council is required. The real question of the representation of all sixty municipalities in the courts through the association remains open.

Conclusions and recommendations

1. Although the fundamental principles of local self-government enshrined in the Charter have been incorporated into the national legal system of Lithuania in different ways, it could be argued that the incorporation (manifestation) of the provisions of the Charter into the national legal system is high, however the problem is noticeable in the practical application of the law, not all national legislation works (imperfection of laws).
2. As the Government itself is a political entity in which political parties play a major role, there is a clear risk that decisions relating to administrative control in individual municipalities may (in the author's opinion is) be taken selectively, not through legitimate arguments, but through political agreements, it is therefore necessary to depoliticize the procedure for appointing Government representatives to address the current problem.

3. Clearer legal regulation of the exercise of political minority rights and the establishment of a counterweight mechanism between municipal political majority and minority in national law is becoming increasingly relevant and necessary to maintain a democratic model of governance.
4. Existing issues need to be addressed by eliminating the need for majority approval of delegated representatives of council member groups or factions to the control committee, leaving it to them to decide which member is best suited to fill statutory positions on the control committee (as well as with ethics and anti-corruption commissions). In this case, the principle of separation of powers could also be followed, with different functions being delegated to different authorities, prohibiting the exercise of foreign functions.
5. As there are 60 separate territorial administrative units (municipalities) in the Republic of Lithuania, in which there are different demographic and political situations, different regulation of municipal councils, composition of municipal councils, therefore different management traditions are formed in them. In the absence of a sufficient definition of political minority rights of municipal councils, which ensure the possibilities of opposition activities, the medium develops into oligarchic tendencies. The poor control of decisions taken by municipal councils and administrative actions as well as a flawed legislative framework make it possible to form situations in which the democratic values and the protection of individual rights and freedoms are threatened.

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THE DEVELOPMENT OF ANTI-CORRUPTION ENVIRONMENT IN LITHUANIAN PUBLIC SECTOR: BEST PRACTICE AND EXPERIENCE

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Abstract

The article analyses the preconditions for the establishment of an anti-corruption environment in the public sector organization and demonstrates Lithuania's best practices in this area. Corruption as a multi – structured global phenomenon undermines good governance, public trust in public sector organizations and causes serious damage to the functioning of those organizations. One of the essential aspirations of the Lithuanian Government is to reduce the extent of corruption, increase transparency, fairness and openness in the public sector.

This research focuses on the justification the hypothesis, that the public sector organizations must play an active role in the field of combating corruption, creating an unfavourable environment for the prevalence of corruption. The purpose of the research is to show the added value for the development of anti-corruption environment in the public sector as one of the effective tools for minimizing the extent of corruption. Research results show that legislation alone is not sufficient to solve corruption problems. Public sector organizations usually do not have effective anti-corruption tools to prevent and manage various forms of corruption (bribery, nepotism, conflicts of interest, etc.). By conveying best practice, the author presented a new initiative of Lithuanian public sector organizations to develop anti-corruption environment aimed at minimizing the likelihood of manifestation of corruption.

Logical and comparative analysis, document analysis, problem analysis and systematic approach research methods are used for analysing issues related with boosting the effectiveness of combating

corruption in the public sector. The author posits and concludes, that the development of an anti-corruption environment should become a strategic priority of the public sector organization, which requires the establishment of an effective management system for corruption prevention and the commitment shown by top management to ensure its functioning in a realistic rather than formal manner.

Keywords: prevention of corruption, anti-corruption environment, public sector

DOI: 10.37804/1691-6077-2020-11-92-115

Introduction

Relevance of the subject. The democratic state's aspiration to become a modern, progressive, transparent state governed by the rule of law is still hampered by the phenomenon of corruption. The root causes of corruption in almost all areas of public life are threatening human rights, democracy and the rule of law, distorting social justice, fair competition, business conditions, slowing down economic growth and posing a threat to state governance, the stability of state or municipal bodies and public morality (Council of Europe, 2020). Although the internationally recognized approach is that corruption is equally manifested in the public and private sectors (Sartor, et al., 2020), the phenomenon of corruption does more harm to the public sector. This can be seen in the results of different empirical studies (Transparency International, 2020; Eurobarometer, 2017).

The novelty of research is reflected in the author's differing approach to finding an effective model for ensuring the integrity of public sector organizations as a sustainable response to corruption. The Lithuanian Government have made progress in addressing corruption in the public sector. It is a long-term strategic goal of the welfare of the state inscribed in the National Anti-Corruption Programme of the Republic of Lithuania for 2015–2025. Accordingly, the regulatory framework has changed, setting the new requirements for public sector organizations for fighting corruption. **The purpose of the research** is to disclose the advantages of creating an anti-corruption environment within public sector organizations by demonstrating good practice of improving the effectiveness in the area of combating corruption. To achieve the purpose of the research, the author in this article sets two interrelated **research tasks:** 1) to identify the impact

of corruption on public sector organizations due to not proper selection and application of anti-corruption tools, and 2) to reveal the peculiarities of establishment of an anti-corruption environment in order to justify its benefits in increasing the resistance of public sector organizations to corruption.

Measuring the implementation of corruption prevention policy in Lithuania shows that nearly 90% of public administration institutions, especially municipalities, ministries and institutions under the ministries, have followed the formal path of complying with regulatory requirements, other public administration institutions are aware of corruption risk factors with which organizations are confronted in their everyday activities (Kalesnykas, 2017). In anti-corruption terms, such public sector organizations are considered highly trustworthy organizations, which, in addition to legal measures, also take the initiative in creating a secure anti-corruption environment. This article explores **the research problem** related with validation of standardized regulatory requirements of extending the scope of anti-corruption measures creating a corruption-resistant environment in the public sector. Research studies and legal analysis shows that there are perceptual gaps in knowledge among top managers of public sector organizations on the benefits of integrating anti-corruption tools in business processes. This is explained by the fact that very often top managers of public sector organizations do not know where to begin in creating an anti-corruption environment, how to identify corruption risks and what components of the anti-corruption environment to choose first. This is the **research hypothesis** and in order to substantiate it, the author uses the following **research methods:** logical and comparative analysis, document analysis, problem analysis and systematic approach. This may serve as the outcome of the research for seeking alternative, but standardized tools for development of a sustainable anti-corruption environment in public sector organizations, covering legal instruments and institutional framework, management and ethical requirements.

Impact of corruption on the public sector

Various empirical studies show that corruption undermines good governance, transparency, openness and publicity of public administration, public trust in public sector organizations and causes serious damage to the functioning of those organizations (Roelofs, 2019; Pillay, 2004; Mendilow, et al. 2014; Scott, et al. 2018). Excessive bureaucracy, unclear, abstractly defined and not accessible to all rules and procedures, discretion in decision-making and imbalances in accountability are the grey areas where

corruption in public sector organizations is born. At least three elements are required for the existence of corruption in public sector: first, a party willing to circumvent the law illicitly (a bribe giver); second, the party having administrative or political powers that has agreed to help the first party to circumvent the law in return for a compensation (corrupt politicians or civil servants); and third, a passive majority that does not wish to resist the corruption phenomenon (an indifferent society).

Assessing the attitudes of Lithuanian residents, business managers and civil servants towards corruption and its prevalence, since 2001 the national anti-corruption agency – Special Investigation Service (SIS) – has initiated public surveys – "Corruption Map of Lithuania". According to the findings of the survey of the Lithuanian Map of Corruption 2019, municipalities and government institutions are considered among the most corrupt institutions in Lithuania (see Table 1).

Table 1

Prevalence of corruption in municipalities and governmental institutions (in %)*

	2007	2011	2014	2016	2018	2019
Lithuanian residents						
Municipalities (city and regional)	88%	87%	75%	78%	79%	74%
Government institutions	90%	91%	73%	83%	73%	69%
Business managers						
Municipalities (city and regional)	91%	92%	64%	74%	74%	74%
Government institutions	90%	81%	51%	68%	64%	69%
	% means very corrupt + partially corrupt					

** Source. Compiled by the author based on the Lithuanian Map of Corruption 2019 (Special Investigation Service, 2019)*

When assessing the proneness to corruption of Lithuanian governmental institutions, it was found that the most corrupted are institutions under the regulation of Ministry of Health Security, Ministry of Justice, Ministry of Interior, Ministry of Agriculture, Ministry of Environment and Ministry of Transport and Communication (see Table 2).

Table 2

The most corrupted public sector organizations 2019 (in %)

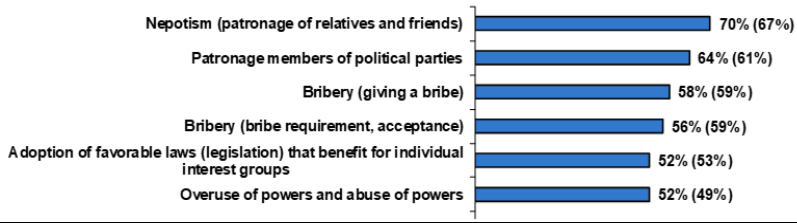
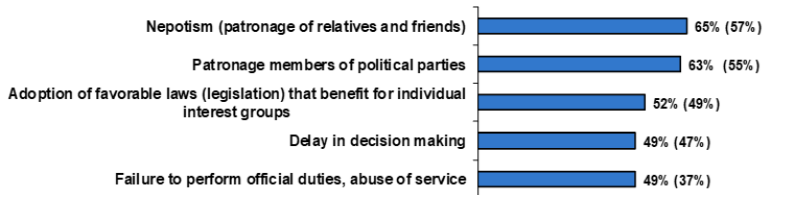
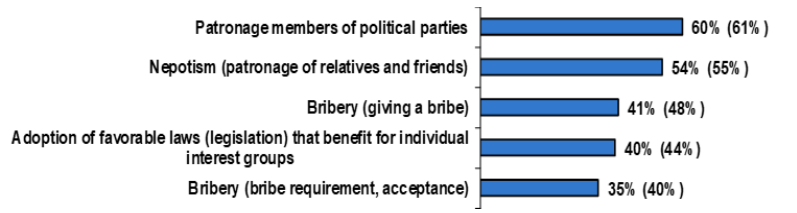
	Residents	Business managers	Civil servants
Ministry of Health Security	**69%**	**66%**	**59%**
Republican hospitals / clinics	92%	92%	93%
City and regional hospitals	92%	92%	93%
State Medicines Control Agency	64%	68%	67%
Ministry of Interior	**47%**	**52%**	**44%**
Traffic police service	81%	78%	78%
Territorial police units	71%	69%	80%
State Enterprise "Regitra"	59%	60%	68%
Ministry of Environment	**46%**	**55%**	**54%**
State Forest Enterprise	85%	82%	83%
State Territorial Planning and Construction Inspectorate	79%	81%	89%
State Service for Protected Areas	72%	70%	72%
Ministry of Agriculture	**45%**	**50%**	**53%**
National Land Service	80%	83%	89%
National Paying Agency	77%	76%	83%
State Enterprise "State Land Fund"	57%	53%	59%
Ministry of Transport and Communication	**39%**	**42%**	**46%**
Lithuanian Road Administration	81%	82%	78%
JSC "Lithuanian Railways"	77%	77%	81%
State Enterprises "Klaipėda State Seaport"	54%	45%	63%
Government agencies			
Public Procurement Office	60%	66%	36%
State Food and Veterinary Service	57%	67%	50%
Drug, Tobacco and Alcohol Control Department	52%	49%	25%
Municipal institution			
Public procurement divisions / commissions	60%	61%	54%
Municipal enterprises	56%	55%	60%
Construction divisions	51%	57%	61%
	% means very corrupt + partially corrupt		

** Source. Compiled by the author based on the Lithuanian Map of Corruption 2019 (Special Investigation Service, 2019)*

Findings of a number of sociological surveys and assessments exercised by the Special Investigation Service of the Republic of Lithuania confirms insights that the prevalence of corruption in the public sector is influenced by these factors (Lithuanian map of corruption, 2019): nepotism, politicisation (state governance or decision-making, where party and biased criteria are used instead of professionalism and merit), bribery and conflicts of interests (see Table 3).

Table 3

The most widespread forms of corruption in Lithuanian public sector 2019 (in brackets survey data of 2018)

Residents	
Business managers	
Civil servants	
	% means very common + common

** Source. Compiled by the author based on the Lithuanian Map of Corruption 2019 (Special Investigation Service, 2019)*

When comparing answers of the three target groups (residents, business managers and civil servants) on the most prevalent forms of corruption in public sector organizations it can be seen that the overall attitude towards the threats of corruption to state governance overlap. The determinants of corruption prevalence in public sector are diverse, covering economic, social, cultural, technological, political, administrative (management) and legal factors (Kalesnykas, 2014; Rose-Ackerman, et al., 2016).

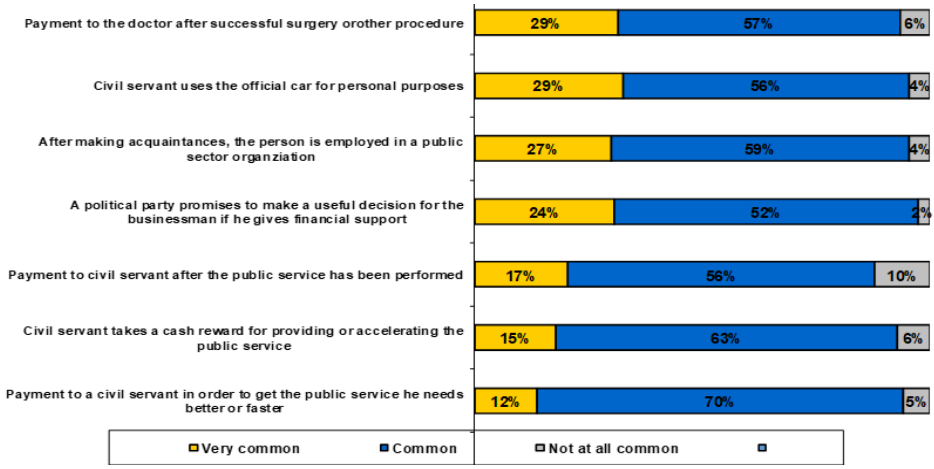
J. Palidauskaitė distinguishes *micro-, mezo- and macro-level* factors affecting the prevalence of corruption phenomenon in public sector organizations (Palidauskaitė, 2005, 31). At the lowest level *(micro-),* the factors that determine corruption are the individual (his principles, values, personal qualities) and the work he does (nature of work, colleagues influence, contacts available).

The mezo level is important for the public sector organization, i.e. to its leadership, the size, nature, structure and delegated decision-making authority of the organization, complexity of the organization's activities and operations, the organizational culture (goals and mission, values and norms, code of conduct), personnel policy (selection, employment and training, rewards).

At the macro level, the legislative process, the administrative – political system and the social environment (norms of social behaviour, criminality) are important. These factors are best reflected in the assessment of the residents' corruption experience in relation with the public sector. The most common situation of corrupt practices mentioned by the residents are payment to the doctor after successful surgery (86%), gaining employment into public administration institutions through acquaintances (86%), the use of the official car by a civil servant for personal purposes (85%) (see Table 4).

Table 4

The most common situations of corrupt practices in the public sector organizations 2019



** Source. Lithuanian Map of Corruption 2019 (Special Investigation Service, 2019)*

The problem faced is that the public sometimes justifies the prevalence of corruption in public sector, and this is best illustrated by the bribery index according to which residents believe that a bribe helps to solve their problems (it pointed around 2/3 of Lithuanian residents). Despite the fact that this indicator has consistently decline since 2007, i.e. the problem of bribery (as it is perceived in the broad sense) has continued to diminish, it has affected the functioning of the public sector.

As a result, the current Lithuanian Government is paying particular attention to searching for ways to stem the growing impact of corruption on the public sector. The 17th Government of the Republic of Lithuania set out an ambitious purpose in Chapter III "Effective and universal fight against corruption" of the Programme of the Government of the Republic of Lithuania for 2016–2020, i.e. to achieve transparency and efficiency of the public sector increasing the competencies in operations of the state institutions (Programme of the Government of the Republic of Lithuania for 2016–2020). The current National Anti-Corruption Programme of the Republic of Lithuania for 2015–2025 also points out to increasing transparency and openness, reducing and eliminating possibilities of manifestations of corruption in the public sector. The above-mentioned documents highlighted that corruption has an enormous impact and poses the high risk in these priority public sector areas: political activities and legislation, activities of the judiciary and law enforcement institutions, public procurement, healthcare and social security, special planning, state supervision of construction and waste management, supervision of activities of economic entities, public administration, civil service and asset management.

So far, the Lithuanian Government has used a considerable amount of administrative and financial resources to improve the image of the public sector. This is also determined by the way Lithuania has chosen – to measure progress in the fight against corruption through the results of the Corruption Perceptions Index (CPI) survey carried out by Transparency International. It is predicted that in 2025, the CPI of Lithuania would be at least 70 points (on a scale out of 100 points) and in 2019 – 65 points (in 2014, the initial value of the CPI of Lithuania was 58). However, in 2019 Lithuania received a score of 60 on a 100-point scale at the CPI and today ranks 35th out of 180 countries. Lithuania's score has changed for the first time in five years – in 2015–2018 it scored 59 points (Transparency International: Lithuanian Branch, 2020). Despite the fact that Lithuania has made slightly better progress, it is still not a breakthrough in achieving its strategic objective – to reduce the prevalence of various corruption forms

in the high risk public sector fields. Lithuania has achieved positive results in the fight against bribery of public sector officials, however the Government's limited efforts to curb nepotism, grand and political corruption have been noted.

In spite of some improvements, corruption in Lithuanian public sector remains a concern. It is merely proof that traditional anticorruption measures based on mandatory regulatory requirements are not sufficient. Public administration institutions formally accept and apply legal requirements in the area of corruption prevention. However, whether the anticorruption measures applied in public sector organizations have an effect and the environment in which the organization operates is safe from an anti-corruption point of view is not assessed. There are various reasons for this, but the key is that public sector organizations misinterprets corruption management tools when directing all efforts to control corruption through the use of a variety of criminal prosecution methods (active activity focused on the consequences), but not by applying mechanisms, which support to pre-empt the spread of the manifestations of corruption and the ensuing negative consequences of this in advance (pro-active activity). It can be concluded, that public sector integrity is a challenge to all organizations and the best way to ensure that is that public sector organizations consistently act and design an anti-corruption environment that reduces the risk of corruption prevalence and strengthens its employee's intolerance for corruption.

Anti-corruption environment in the Lithuanian public sector

Public sector worldwide are increasingly taking steps to prevent and combat corruption effectively. This requires a comprehensive and multidisciplinary approach, focused on the performance of complex actions: legal, management, financial, promoting organizational culture and ethical behaviour of employees and awareness, why this is necessary (Kalesnykas, 2014). The United Nation Convention against Corruption (2005) defines main international standards in the area of prevention of corruption, also indicates the main directions for developing and implementing effective and coordinated anticorruption policies in public sector. As recognized by articles 7 and 8 of UNCAC, the States should put in place specific preventive measures, including adopting merit-based systems for the recruitment and promotion of civil servants, prescribing criteria for election to public office, enhancing transparency in the funding of political parties, preventing conflicts of

interest, promoting codes of conduct for the public sector, and establishing systems for the declaration of assets (The United Nation Convention against Corruption, 2005). It should be noted that a number of other binding and non-binding international standards set up recommendations for developing an effective system for corruption prevention[1].

Lithuania takes an active role in anti-corruption efforts, most notably by adhering to and implementing relevant recommendations of international organizations in the field of strengthening public sector resistance to corruption. The latest achievements are that in 2017 Lithuania acceded to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Law on Ratification the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 2017), and that the Law on whistle-blowers protection (Law on whistleblowers protection, 2019) entered into force from 2019. In 2015, Lithuanian Government demonstrated political will and paid due attention to building an effective mechanism on corruption prevention in the public sector. The principle that the responsibility for preventing corruption lies not with an abstract "government', but with every public sector organization where corruption may occur, was taken into account in the improvement of the corruption prevention system.

The strategic impetus to create an anti-corruption environment is stated in the National Anti-Corruption Programme of the Republic of Lithuania for 2015–2025, wherein paragraph 29.1.2 promotes the creation of the anti-corruption environment in the public sector (National Anti-Corruption Programme of the Republic of Lithuania for 2015–2025). The grounds for creating an anti-corruption environment in the public sector are diverse.

First, currently there are a number of different mandatory regulatory provisions applicable to public sector organisations in the field of prevention of

[1] Report of OECD Anti-Corruption Network for Eastern Europe and Central Asia "Prevention of corruption in the public sector in Eastern Europe and Central Asia" (OECD, 2015); Report of OECD Anti-Corruption Network for Eastern Europe and Central Asia "Anti-Corruption Reforms in Eastern Europe and Central Asia: Progress and Challenges, 2013–2015" (OECD, 2016); OECD Recommendation on Public Integrity: a Strategy against Corruption (OECD, 2017); OSCE Handbook on Combating Corruption (OSCE, 2016), Committee of Ministers of the Council of Europe Resolution (97)24 on the Twenty guiding principles for the fight against corruption (CoE, 1997); "Quality of Public Administration - A Toolbox for Practitioners", developed by the European Commission's Inter-service group on Public Administration Quality and Innovation (EC, 2017) and etc.

corruption. Mandatory legal requirements have not been systematized and the managers of public sector organizations often do not know where to begin, and what to do in preventing the manifestation of corruption (Kalesnykas, 2017).

Second, the effectiveness of public sector organization performance in preventing corruption and measurement of its achievements in such area is lacking due to the prevailing attitude of avoiding personal liability, in case the anti-corruption goals are not achieved. Only rare public sector organizations periodically perform self-evaluation to assess the effectiveness of applying corruption prevention measures. Most public sector organizations do not take the initiative and leave the right to deal issues related with the implementation of corruption prevention to a specialized anti-corruption agency. T. Hoope highlighted, that a well-functioning monitoring mechanism helps to ensure collection and analysis of data needed to track progress and assess results of corruption prevention, as well as the involvement of civil society in the process (Hoope, 2015, 41).

Third, the anti-corruption awareness of the leadership of public sector organizations and their support for anti-corruption initiatives is weak. Commitment to create a corruption-resistant environment should be the duty of a "leader" of the public sector organization. Such a "leader" should be aware of corruption risk factors with which employees are confronted in their everyday activities, support employees with real actions and advice and promote an appropriate anti-corruption culture within the public sector organization. A. Van der Merwe argues that effective anti-corruption measures should consider both the nature and causes of public sector corruption (Van der Merwe, 2006, 32). The lack of solid evidentiary bases for effective implementation of corruption prevention measures (including the failure to assess the feasibility of proposed anti-corruption measures), the absence of specific timelines and measurable indicators to assess the level and impact of corruption on the public sector remain the main challenges for Lithuania. This is particularly evident in the health care sector (Buinickienė, 2017).

In 2016, Special Investigation Service of the Republic of Lithuania initiated and developed Guide for creation and implementation of an anti-corruption environment in the public sector, which were updated in 2018 (Special Investigation Service, 2018). It is like a national anti-corruption standard and first structured document in Lithuania aimed at creating a sustainable anti-corruption environment in the public sector. While this document provides recommendations to public sector organizations on how to

identify and properly manage corruption risks, strengthen its employees intolerance to corruption, build transparent and fair standards of behaviour, not all objectives of such document are clearly understood by heads of organizations.

Currently, managers of public sector organizations face challenges when it comes to defining what we consider an anti-corruption environment, what its components are and what real benefits it can bring to an organization. It is necessary to be aware that the development of an anti-corruption environment should be one of the strategic goals of the public sector organization and the setting of a regulatory and management mechanism, which would help an organization to prevent, detect and respond to corruption and comply with anti-corruption laws and commitments applicable to its activities is required in order to achieve it.

Regulatory framework

Lithuania has already developed legal framework that would allow public sector organizations to ensure adequate resistance of corruption and to create an anti-corruption environment. Since 1997, there have been anti-corruption laws of various kinds in Lithuania, mostly dedicated to the issues of public sector integrity, corruption prevention and conflict of interest prevention. In Lithuania, separate laws cover a variety of anti-corruption measures, such as rules on the prevention of conflict of interest, declarations of assets and incomes of public officials, mandate of the specialized anti-corruption agency, reporting of corruption and protection of whistleblowers, anti-corruption expertise of legal acts, corruption risk analysis in public administration institutions, principles and obligations for the developing of the programmes on corruption prevention etc. National anti-corruption laws were adopted within the framework of Lithuania's commitments under the ratified main international conventions on the fight against corruption, i.e. UN Convention against Corruption (Lithuania ratified in 2006), Criminal Law Convention on Corruption (Lithuania ratified in 2002), Civil Law Convention on Corruption (Lithuania ratified in 2002), OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Lithuania ratified in 2017).

National anti-corruption regulatory framework consists of two groups of legal acts: *primary legislative acts* and *secondary legislative acts.* Primary anti-corruption legislative acts include:

1) Law on Prevention of Corruption of the Republic of Lithuania (adopted in 2002), which lays down the main principles, aims and tasks of corruption prevention in the public and private sector, corruption prevention measures and a legal framework thereof, and corruption prevention bodies as well as their rights and duties in the field of corruption prevention. Based on Article 5 of the Law on the Prevention of Corruption, public sector organizations should apply the following corruption prevention measures: analysis of the risk of corruption, development of anti-corruption programmes, anti-corruption assessment of the legal acts, provision of information about a person applying for or holding a position in the public sector organization; provision of information to the Registers of civil servants and legal entities, anti-corruption education and information to the public; public disclosure of the detected acts of corruption; reporting on corruption-related offenses (Law on Prevention of Corruption, 2002);
2) Law on the Adjustment of Public and Private Interests in the Civil Service of the Republic of Lithuania (adopted in 1997, amended in 2020) sets-up anti-corruption measures to prevent conflicts of interest such as declaration of private interests, self-exclusion in procedures related with decision-making, restriction of the right of representation, restrictions on the acceptance gifts or services and other limitations after expiration in the civil service;
3) Laws, regulating status, legal basis of activities, procedure for setting up, competence and organisational structure of the specialized anti-corruption agencies, such as Law on the Special Investigation Service of the Republic of Lithuania (adopted in 2000, amended in 2018) and Law on the Chief Official Ethics Commission of the Republic of Lithuania (adopted in 2008, amended in 2020). The role of these institutions is very important in that they provide recommendations and methodological assistance on the improvement and implementation of the provisions of anti-corruption laws.

Secondary anti-corruption legislative acts include specific anticorruption measures, embedded in the Law on Lobbying Activities (adopted in 2000, amended in 2017), Law on Protection of Whistleblowers (adopted in 2017, entered into force 2019), Law on Funding of and Control over Funding of Political Parties and Political Campaigns (adopted in 2004, amended in 2013), Law on Civil Service (adopted in 2000, amended in 2019) and the Law on Public Administration (adopted in 1999, amended in 2014).

The analysis of anti-corruption laws shows, that in the process of creating an anti-corruption environment it is important for the public sector organization to evaluate and properly select the anti-corruption measures enshrined in the legislation. On the other hand, the anti-corruption measures contained in the above-mentioned legislation are not always presented as being reasonable and proportionate in practice. In this situation, public sector organizations do not fully apply the regulatory requirements on a full-scale basis, and even if they apply, do not feel the real and measurable benefits of such enforcement. Creation of anti-corruption environment based on legal requirements should become the initial direction for further actions in the public sector organization's management system.

The definition of anti-corruption environment and its perception

The term "anti-corruption environment" is a new concept that is rarely found in empirical research. Only in some several studies, we can find out an interpretive analysis of such concept (Kalesnykas, 2017). Quite often, the concept "anti-corruption environment" is used as synonymous with other similar categories such as "zero tolerance for corruption", "environment unfavourable to corruption", "corruption-resistant environment" (Guide for creation and implementation of an anti-corruption environment in the public sector, 2018).

The most common perception of the anti-corruption environment is its association with the term "corruption prevention". Corruption prevention as a legal category is enshrined in Art. 2 of the Law on Prevention of Corruption of the Republic of Lithuania, and defined as detection and elimination of the causes of and conditions for corruption through development and implementation of a system of appropriate measures, as well as deterrence against corruption-related criminal acts (Law on Prevention of Corruption, 2002). A comparison of the content of above – mentioned terms indicated, that the term "corruption prevention" is a much narrower than the concept "anti-corruption environment". From the legal definition of the term "corruption prevention", three essential elements could be distinguished, which could only partially form the anti-corruption environment, i.e. corruption risk assessment and analysis, development and implementation anti-corruption programmes and imposition of sanctions for corruption – related offences. The concept "anti-corruption environment" covers a much wider spectrum of measures to reduce the prevalence of corruption in

public sector organizations and these measures are not always based solely on legal requirements.

Assessing the ongoing Lithuania's corruption prevention policy over the last 15 years, it can be seen that there is a tendency that some anti-corruption measures have become ineffective and applied formally without assessing their impact to the public sector organization's performance. Realizing this, in 2018 the Special Investigation Service of the Republic of Lithuania drafted the Outline of Corruption Prevention (Corruption Resilience), which presented a comprehensive system for the creation of a corruption resilient environment (Outline of Corruption Prevention (Corruption Resilience, 2018). The main purpose listed in this document is to provide direction for updating the corruption prevention system and creating a new resilience to corruption model in Lithuania. Also, the Outline of Corruption Prevention (Corruption Resilience) proposes to change the term "corruption prevention" to the term "resistance to corruption (or integrity)", as it more closely reflects the purpose of the objective, i.e. not only to strive to prevent corruption, but also real resistance to corruption. As can be seen, the Outline of Corruption Prevention (Corruption Resilience) has drawn guidelines for the transition from preventing corruption to a broader concept of corruption resistance, which is perceived as a model of the anti-corruption environment. Consequently, the term "anti-corruption environment" gradually acquires the meaning as a legal category, which is characterized by a holistic approach that encompasses a complex system using pro-active and re-active corruption prevention measures in public sector organizations.

To sum, the term "anti-corruption environment" could be defined as follows: *anti-corruption environment* is a regulatory-based environment in the public sector organization with a constantly functioning set of complex measures (pro-active and re-active) designed to ensure resistance (integrity) to corruption by reducing the scope of its prevalence in the organization. When designing the anti-corruption environment, the organization should prioritize activities that oppose or inhibit corruption and its efforts or commitments should be reflected in the organizations' strategy or anti-corruption policy.

Components of anti-corruption environment

The components composing the anti-corruption environment in public sector organizations are diverse (Handbook on Combating Corruption, 2016). In many cases, public sector organizations have integrated mandatory regulatory measures into the anti-corruption environment. However, the regulatory

measures are not always sufficient to solve issues related with the prevalence of corruption in those public sector organizations that pose high risk, for example, healthcare and medicine sector, municipalities, etc. (EU Anti-Corruption Report, 2014). Such type of organizations must search for additional anti-corruption tools by which it would be easier prevent, detect and respond to corruption – related cases. These tools should be combined, encompassing preventive (normative frameworks, risk assessment, recruitment and training of personnel) or reactive (detection and investigation, disciplinary actions, penalties) measures. Some scholars also support this position as well and recommend the adoption of a holistic anti-corruption approach that addresses systematic aspects of corruption through a combination of measures: clear guidelines and policies, training, operational and HR management measures, risk analysis and monitoring, internal and external oversight, prosecution and penalties (Klitgaard, 2008; Andersson, et al., 2019).

As noted before, Lithuania is trying to unify the creation of an anti-corruption environment by setting guidelines for the public and private sectors. Guide of anti-corruption environment in the public sector (Special Investigation Service, 2018) is the first structured document in Lithuania, which provides detailed information on how to develop and implement an anti-corruption environment in public sector organizations. Although the drafters of the guidelines stated, that components forming an anti-corruption environment may be different and that there is no single universal model for creating anti-corruption environment in public sector organisations, but such a position is debatable. International good practice shows, that irrespective of the size and organizational structure of the public sector organization, the location in which the organization operates, the nature, scale and complexity of the organization's activities, the constituent components of an anti-corruption environment have to be uniform.

Components of anti-corruption environment that need to be implemented are well recognized by international organizations (UN, OECD, OSCE, Transparency International GRECO, EPAC, European Commission and others), but the detail of the measures, incorporated in a separate component, to be used differ widely according to the relevant circumstances. Then, it is difficult or sometimes impossible to prescribe in detail what kind of anticorruption measures the public sector organization should apply in any particular situation. Then, the public sector organization is free to choose any anticorruption measures at its discretion, but such measures should be appropriate to corruption risk and their aim of preventing corruption. It should be noted that selected anticorruption measures should not be so

expensive, burdensome and bureaucratic that they bring the public sector organizations' activities to a halt, nor can they be so simple and ineffective that corruption can easily occur in the public sector organization. In the process of developing an anti-corruption environment, attention should be paid not only to measures set out in the legislation but also follow recognized international standards that prescribe a system of establishing, implementing, maintaining, reviewing and improving such measures. In other words, the anti-corruption environment is created by using a standardized model of anti-corruption management systems (ISO 37001: Anti-Bribery Management Systems, 2016; ISO 19600: Compliance management systems, 2014).

Currently, it is useful to set up a uniform standard for building a system of anti-corruption measures in the public sector organization. In the Lithuanian public sector, there is a specific model of the anti-corruption environment, the implementation of which is based on the set of the components comprising the anti-corruption environment (see Figure 1).

Figure 1. **Components creating an anti-corruption environment in the Lithuanian public sector**

The anti-corruption environment is being created with the purpose of ensuring a long-term and effective control system of the prevention of corruption in the public sector. Public sector organizations should define the directions for creating the anti-corruption environment, i.e. directions

might be: a) political, consolidating the fundamental values of the organization (integrity, good governance, openness, precedence of public interests over the private interests); b) legal, defining the legal framework for creating the anti-corruption environment; c) organizational, defining the management of the organization's business processes in order to reduce the corruption risks and prevalence of corruption; d) economic, providing the resources (financial, human) needed for ensuring the establishment of the anti-corruption environment; e) cultural, encouraging personnel behaviour to comply with the code of conduct; f) education, ensuring appropriate anti-corruption awareness and training to personnel. Clearly defining the directions for creating the anti-corruption environment would allow the public sector organization to choose and properly implement corruption prevention mechanism.

Benefit and good practice of creating an anti-corruption environment in the public sector organization

During the past three years, some Lithuanian public sector organizations have made rapid progress in creating an environment unfavourable to corruption. Examples of good practice show, how various components composing the anticorruption environment are perfectly integrated into the public sector organization's business processes[2]. Positive results and benefits are observed, as public sector organizations really perceive the impact of created anti-corruption environment in their daily activities. This is evident through the following features: improved quality of administrative and public service, increased transparency and openness of administrative procedures and decision-making, public trust to organizations' activities, enhanced intolerance for and resistance to corruption, encouraged ethical behaviour, responsibility and accountability.

Some researchers argue that before creating an anti-corruption environment, it is important for the public sector organization to appreciate the benefits of implementing such an environment (Hanna, et al., 2011; Spector, 2016).

[2] For more information about current status of development of anti-corruption environment in public sector organizations, please see: "Lietuvos energija" Group, state-owned JSC, https://www.ignitisgrupe.lt/en/prevention-corruption; State Enterprise "Oro navigacija (ON)", https://www.ans.lt/en/anti-corruption/; The National Land Service under the under the Ministry of Agriculture of the Republic of Lithuania, http://www.nzt.lt/go.php/lit/Korupcijos-prevencija; Elektrėnai municipality, https://www.elektrenai.lt/go.php/lit/Antikorupcine-politika

Of course, strong and sustained political will from top management is required for its effective implementation (OECD: Istanbul Anti-Corruption Action Plan, 2008, 19). The drive for anti-corruption commitments and practices invariably demands leadership: the willingness to seek long-term and widely-shared benefits form from the created anti-corruption environment.

Anti-corruption commitments should be formalized in the anti-corruption policy of the public sector organization. Anti-corruption policy is a key, publicly available and binding document, stating main principles and basic provisions for implementing the anti-corruption environment. By this document the public sector organization states what preventive action it will take for strengthening intolerance to corruption (for example, unethical behaviour, nepotism, conflict of interest, bribery, trading in influence and other corrupt-related offences and less dangerous forms of corruption) and that it complies with the requirements of the international and national legal acts in the field of corruption prevention. Anti-corruption policy is intended to ensure that the performance and behaviour of the public sector organization comply with the highest standards of reliability, integrity, transparency, accountability, openness and professional ethics acceptable to the society. Usually, the main objectives of the anti-corruption policy implemented by the public sector organization are oriented: a) to reduce the risk of corruption in the organization‘s activities and properly manage it; b) to ensure proper and timely implementation of anti-corruption measures set out by the laws and other legal acts; c) to set requirements for employee behaviour in the field of corruption prevention and to make these requirements become recognized and voluntarily implemented not only by the employees but also by all stakeholders and interested parties.

Analyzing the implementation practice of corruption prevention measures in some public sector organizations it can be seen that development of an anti-corruption environment usually is based on two models:

1) Basic model of anti-corruption environment, which is based on the methods of correcting the behaviour of the public sector organization staff at the process of creating the anti-corruption environment. The main purpose of this model is to create and maintain an organisation’s micro-climate, which would encourage the employees to be fair, responsible, transparent and loyal in performing the duties assigned to them, as well as adhere to the rules of conduct, avoid any conflict of interests, etc. (Handbook for the Creation and Implementation of Anti-Corruption Environment in the Private Sector, 2018, 30);

2) Advanced model of anti-corruption environment, which refers to the formation of an anti-corruption environment based on behaviour correction and organisational-regulatory methods focused on elimination of the key corruption problems, reasons and preconditions for the prevalence of corruption at the public sector organisation. Its purpose is to create and maintain an organisation's micro-climate by using regulatory and organisational measures to withdraw or markedly restrict the opportunity to act not in compliance with behavioural standards, and to enhance the probability of being caught upon violating them (Handbook for the Creation and Implementation of Anti-Corruption Environment in the Private Sector, 2018, 30).

Summing up the benefit that the public sector organization can gain from creating an anti-corruption environment, it can be seen that it allows for public sector organizations to improve effectiveness of administration procedures, transparency and openness of decision making, accountability to the public and higher resilience to corruption (strategic outcome). Also, it helps public sector organizations in a timely manner to manage reputational, operational, legal and financial risks related to corruption (management outcome). As well, it allows to set up conditions for timely identification of corruption risks occurring in the organization's public administration processes and, after evaluating them, to select proportionate and effective preventive measures to manage them (legal outcome). Managers are responsible for the full implementation of the prevention of corruption in the public sector organization and they must take various measures to achieve positive results. Creation of an anti-corruption environment is a management tool based on legal instruments, which should be regularly reviewed and updated if the public sector organization wants to achieve success in in the field of tackling corruption.

Conclusions and recommendations

1. The findings of the author of the article highlight the impact of corruption on various types of public sector organizations, especially on those which are at high risk due to the nature of their activities, i.e. heath care and pharmaceutical organizations, state-owned enterprises, municipalities, organizations working in the field of environmental protection, providing construction services, tax and land use planning services. Corruption particularly affects the reputation and image of public sector

organizations, employees' morale, financial situation, public and stakeholders trust, quality of providing services and public integrity.

2. The main reasons for corruption in public sector organizations are various (bureaucratic administrative procedures and their insufficient openness, dishonesty of public sector employees, not enough transparency and openness in public decision-making process, not managed or poorly managed conflicts of interest, nepotism, unlawful lobbying, insufficient public control mechanism and others). But one of the most important perquisites is that public sector organizations mistakenly perceive corruption management tools as directing all efforts to control corruption through the use of a variety of criminal prosecution methods (consequence-oriented activities), but not by applying mechanisms, which support to pre-empt the spread of the manifestations of corruption in advance (pro-active activity).
3. The creation of an anti-corruption environment is a new concept and policy against corruption of Lithuanian state governance focused on reducing the prevalence of corruption, management of corruption risk, strengthening resilience and intolerance for corruption in public sector organizations. The practice of creating an anti-corruption environment is based on the regulatory framework that sets binding rules for the application of preventive measures against corruption.
4. Research indicates that an anti-corruption environment in the public sector organization consists of a package of comprehensive measures covering areas such as leadership and compliance with anti-corruption commitments, prevention and management of conflicts of interests, application of binding legislative preventive measures, corruption risk assessment and management, establishment of anti-corruption compliance units, standards of professional behaviour and code of conducts, personnel recruitment, anti-corruption awareness raising and training, investigating of corruption related offences and whistleblowers protection. These are universal and standardized tools, which can be used if public sector organizations would like to make progress in reducing manifestations of corruption, otherwise, one would be ineffective in completely isolating anti-corruption activities.
5. The author takes the stance that regardless of the size of the public sector organization, the type of public sector in which the organization operates, the nature, scale and complexity of the organization's activities, its anti-corruption efforts must be obvious and realistic. Creating an anti-corruption environment will not provide a comprehensive guarantee

that there will be no corruption associated with the activities of public sector organizations, because it is not possible to eliminate all risks of corruption. The presence of the anti-corruption environment essentially creates the conditions and helps the public sector organization to implement measures designed to prevent, detect and respond to corruption.

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PROBLEMS OF APPLICATION OF THE RIGHT TO DATA PORTABILITY

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Abstract

The aim of the publication is to analyze the advantages and disadvantages of the right to data portability, as well as to look at them in the context of development of a legal framework for the protection of personal data. The General Data Protection Regulation entered into force on 25 May 2018 and introduced a new legal framework for the protection of personal data in the European Union, and also included several new rights, including the right to data portability. These are rights of the data subject to receive personal data concerning himself, which he has provided to the controller, in a structured, widely used and machine-readable format, and transmit this information to another controller, if it is possible.

The right to data portability applies only to personal data provided by the controller to the data subject himself, and only if the processing was initially based on the consent of the user or on the basis of a contract. This means that the right to data portability is not feasible when data processing is based on another legal basis.

In the context of the right to data portability, data subjects directly transmit data from one data controller to another where technically possible. The regulation does not specify what is meant by "technically feasible". The wording indicates that this should be addressed on a case-by-case basis and a dynamic interpretation of the term "technically feasible" should be ensured. This is limited because the Regulation does not oblige data controllers to accept or maintain compatible processing systems.

Keywords: General Data Protection Regulation, data portability, data subject, data controller

DOI: 10.37804/1691-6077-2020-11-116-127

Introduction

On 25 May 2018, new regulatory requirements for the protection of personal data entered into force in the European Union in order to provide data subjects with greater control over their personal data and to increase security both online and offline – the General Data Protection Regulation (hereinafter – the GDPR). With its entry into force, citizens of the European Union have a number of new rights: the right to receive clear and comprehensible information about who processes their personal data, what data is processed and why it is processed; the right to request access to their personal data held by an organization; the right to request the service provider to send personal data to another service provider when transferring from one service provider to another or the right to data portability; the right to be forgotten or the right to request that personal data be deleted if individuals do not want them to be processed and if the company has no legitimate reason to keep them.

The right to data portability is one of the most controversial rights in the GDPR. This is the data subject's right to receive personal data relating to himself which he has provided to the controller in a structured, widely used and machine-readable format and to transmit that data to another controller (Regulation 2016/679 of the European Parliament and of the Council). It is precisely the right to request the transfer of portable data directly between data controllers of the data subject's choice, provided that this is technically possible, is a new aspect, as an access right already existed before the GDPR that allowed the data subject to access information about him held by the data controller.

The right to data portability allows the data subject to request the transfer of his or her personal data from one data controller to another, thus allowing consumers to re-use their information, while on the other hand encouraging data controllers to put in place systems with exporting capabilities. The purpose of the right to data portability is to empower consumers to control their personal data. In addition, the right to data portability also increases competition between service providers.

The right to data portability is relatively new and therefore poses a number of problems, as the GDPR defines that this right only applies to processing

by automated means, so it does not apply to most paper-based processing cases (Regulation 2016/679 of the European Parliament and of the Council). The right to data portability is only exercised if the processing is carried out electronically, in a structured way and in a widely used format – structured and widely used are two different requirements that must be met in order for consumers to exercise their data portability rights. In reality, these two requirements will not always be met, as the Regulation does not specify the format in which the data are to be submitted. The conditions for the exercise of the right exclude cases where the data are not structured or in a widely used format, despite the fact that one of the conditions is met.

Within the framework of the right to data portability, data subjects may transfer data directly from one controller to another, where technically feasible. GDPR does not specify what is meant by "technically feasible". The wording indicates that this must be addressed on a case-by-case basis and that a dynamic interpretation of the term "technically feasible" must be ensured. This is limited because the Regulation does not oblige data controllers to adopt or maintain compatible processing systems.

The right to data portability applies only if the processing was originally based on the user's consent or on a contractual basis. This means that the right to data portability is not enforceable in cases where data processing takes place on another legal basis. In addition, this right only applies to data provided by the data subject himself. The problem of enforcing the right to data portability may also arise in cases where the personal data to be transferred contain valuable proprietary information and intellectual property.

Given the rapid growth of personal data circulation, data subjects need to gain more control over their data, the right to be informed about what data are processed by the controller, for what purposes and, if necessary, to transfer their data to another controller. The GDPR provides for such rights, but it is necessary to examine whether the problems of their application do not make them too complex, incomprehensible and unsuitable for the everyday user, which would mean that these rights are applicable only in a very narrow range of cases.

The concept of data portability rights

Today, there are a number of e-merchants or online service providers whose services require the customer to provide their personal information, such as registering in an online store to purchase goods or submitting their data to a telecommunications company to receive its services. This personal

data received by the service providers is very valuable as it offers significant advantages over competitors, allowing them to better respond to the needs of their customers and thus offer better quality services. Customer data analysis is being used more and more nowadays, and it also has a monetary value, as it allows creating targeted advertising. For example, by selecting customers by a specific address, a company may invite them to visit a new branch that has opened nearby, and so on. Due to this value, some companies tended to store data and use it for various, mostly commercial purposes. This, in turn, led to dissatisfaction among data subjects, often receiving commercial offers not only for the services they already use, but also for similar ones. As far as the data subject is concerned, it is important to mention that the data makes the transition to a new service more expensive or difficult for the user, so a solution for data portability was needed.

Article 20 of the GDPR introduces an innovative legal aspect: the right to request the transfer of portable data directly between data controllers of the data subject's choice, provided that this is possible. This norm grants rights to natural persons, thus excluding data portability in business-to-business relationships that are not covered by the GDPR (Somaini, 2018). The aspect of that right "if it is possible" indicates that that right is not general.

The right to data portability is one of the most innovative aspects of GDPR, as it allows the data subject to request the transfer of his or her personal data from one data controller to another, thus allowing consumers to re-use their information, while on the other hand encouraging data controllers to put in place systems with exporting capabilities. The purpose of the right to data portability is to empower consumers to control their personal data. In addition, the right to data portability also increases competition by reducing the foreclosure effect and allowing interoperability to be promoted (Carolina & Cartuche, 2019). Given the large amount of personal data that is being entered into online environments today, the right of users not only to request access to their information, but also to have real opportunities to control and reuse their data, is becoming increasingly important. Prior to the entry into force of the GDPR, users had to face additional costs if they wanted to change service providers. This was one of the reasons for the development of data portability rights to enable users to control their data and transfer it without hindrance between service providers.

The right to data portability strengthens online data protection, thus contributing to the development of the digital economy and data-driven technologies. Raw data has less value, it is created by the context of the data,

when it, together with other data sets, creates new information that becomes commercially viable (Somaini, 2018). Data portability is expected to foster the development of data-driven innovation in the digital single market by encouraging digital service developers to offer additional capabilities and applications to users. Data portability should also facilitate the controlled exchange of data between organizations and thus help enrich services and the customer experience online.

The data portability right only applies to personal data, so any data that is anonymous or not related to the data subject will not be subject to this right. However, they are applicable to pseudonomized data that are clearly linked to the data subject (Bussche & Voigt, 2017). The second condition narrows the scope of the right to data portability to data provided by the data subject. The main idea of data portability is to enable data subjects to retain control over, transfer and share their data. *Chris Saad,* co-founder of the data portability project, describes this right as "an experience without borders where people can easily move between network services, re-use the data they provide while controlling their privacy and respecting the privacy of others" (Van der Auwermeulen, 2017). At the same time, greater rights for data subjects also mean higher requirements for data controllers, who must be able to transfer data.

Advantages of the right to data portability

The right to data portability means that there are no additional circumstances for the client or the user that would force him to remain with a service provider that is not satisfactory in his opinion. In sectors such as medicine or telecommunications, where there may be large amounts of information that also contain sensitive data, customers are often reluctant to switch providers precisely because they do not want to start the complex process of receiving and transmitting information.

Other benefits of data portability include the fact that data users will have the opportunity to back up key data such as medical records and information, tax returns and other financial information, and will reduce the risk of consequences if the service provider suddenly decides to discontinue its activities (Macgillivray & Shambaugh, 2016). In general, the right to data portability will also increase the sense of responsibility of data providers and storers, as well as promote transparency as to what information is held by the service provider.

Given that the right to data portability will facilitate the transition of customers from one service provider to another, it will promote competition between service providers, accordingly. The beneficiary will be the recipient of the service, because here there are opportunities for certain benefits in terms of service quality, price, etc. However, an easier transition from one service provider to another, which also means lower costs, may make companies want to choose other business models, such as becoming more selective towards the customer at the beginning of the collaboration, or investing less resources in the customer relationship.

Disadvantages of the right to data portability

The right to data portability can be costly for users – they have been created thinking also about how to reduce monopolies of companies and promote competition, therefore, companies will certainly look for solutions to prevent users from switching to another service provider, and one of the tools could be additional costs in the event of changing service providers.

Another disadvantage, which could even be defined as a complexity caused by the right to data portability, is the separation of data portability from other rights, such as the right of access. Data controllers need to explain very carefully the differences between the types of data that a data subject can receive in exercising his or her right of access and data portability. Data subjects must also be aware that the right to data portability does not apply in all cases. In order to reduce complications in cases where the recipient terminates the contract and wishes to transfer his data to another service provider, data controllers should be reminded that the data needs to be evaluated before the conclusion of the contract.

Admittedly, the fact that data portability rights also provide for a specific period within which they must be exercised could also be a problem for a number of institutions or companies. Article 12(3) of the General Data Protection Regulation states that "the controller" shall, "without undue delay" and in any case "within one month of receipt of the request" "inform the data subject of the action taken". In complex cases, this one-month period may be extended to a maximum of three months, provided that the data subject is informed of the reasons for such a delay within one month of the initial request (Regulation 2016/679 of the European Parliament and of the Council). Increasing the data subject's control over his or her data is one of the aims of the right to data portability. At the same time, data portability facilitates data circulation and sharing. Over time, the concept of data portability could

contribute to the idea that personal data do not belong only to individuals, but can be seen as a common resource and a basis for innovation.

Application of the right to data portability

The GDPR does not establish a right to data portability in cases where the processing of personal data is based on consent or contract. For example, financial institutions are not obliged to exercise data portability rights with regard to personal data processed in the course of their duties, such as the obligation to prevent and detect money laundering and other financial crimes; nor does the data portability right apply to professional contact information. The right to data portability is only exercised if the data processing is carried out electronically, in a structured way and in a widely used format (Lagos & Swire, 2013). The preconditions of structured, widely used and machine-readable are a set of minimum requirements that must all be met at the same time. These are the technical specifications of the data, which must also have interoperability.

GDPR Article 12 states that "the controller" shall, "without undue delay" and in any case "within one month of receipt of the request" "inform the data subject of the action taken" (Regulation 2016/679 of the European Parliament and of the Council). In complex cases, this one-month period may be extended to a maximum of three months, provided that the data subject is informed of the reasons for such a delay within one month of the initial request.

If the data controller refuses to respond to the data subject's request for data portability, he is obliged to inform the data subject within one month of the reasons for not complying with the data portability request (Gijrath, et al., 2018). In addition, he must also inform the data subject concerned of his right to lodge a complaint with the supervisory authority or to bring an action before a court. The GDPR does not explain how to deal with large amounts of data, complex data structures or other technical issues that could cause difficulties for data controllers or data subjects. However, in all cases, it is very important that the person can fully understand the definition, scheme and structure of the personal data that can be provided by the data controller (Article 29 Data Protection Working Party Guidelines on the right to data portability, 2016). For example, the data could first be provided in summary form through dashboards that allow the data subject to transfer subsets of personal data rather than the entire.

Problems of application of the right to data portability

The right to data portability applies only to data provided by the data subject himself. Too narrow an interpretation of personal data would be of less benefit to individuals, but too broad would be a problem for the data controller. Article 20 of the GDPR does not specify whether data generated by a service provider may be subject to data portability for statistical and analytical purposes (Vanger, 2018). One example is the user rating or rating on platforms like *ebay.com* and others. With long-term use of the platform, the data subject is assigned a specific rating, but the GDPR does not specify whether the user's rating is transferable to another data controller when switching to another platform.

The effectiveness of the right to data portability will largely depend on the broad interpretation of the definition of personal data. Article 20 of the GDPR states that the right to data portability applies to data provided by the data subject himself. This means that it does not apply to derived data. For example, if the data subject provides the doctor with information about his symptoms, it is personal data, while if the doctor adds to this information his diagnosis obtained during an examination or treatment, it can no longer be classified as information provided by the data subject himself.

A literal interpretation of Article 20 of the GDPR allows the data subject to transfer only his personal information from one controller to another, but does not apply to the ratings assigned to the data subject on different platforms. And this can prevent data subjects from switching to another data controller.

The issue of the right to data portability is also reflected in the third party right to privacy. Allowing one data subject to transfer data to another data controller when such data also contains information about another data subject violates the other data subject's right to privacy (Vanger, 2018). For example, if a photo posted on *Facebook.com* shows multiple data subjects and one of them wants to transfer that image to another data controller on another platform, this is not possible because it affects the other data subjects' rights to privacy and data portability. Another example is a bank account statement that includes information about both the payer and the payee.

If the information requested by the data subject includes information about others (e.g. third party data), the data controller must consider whether this could adversely affect the rights and freedoms of these third parties. The transfer of third party data to the person making the portability request should not be a problem, assuming that the applicant first provides this data

in his information. However, the controller must always consider whether the rights and freedoms of third parties will be adversely affected, especially if the data are transferred directly to another controller. If the requested data is provided to several data subjects (e.g. a joint bank account), the portability request must be approved by all parties involved.

In order to avoid adverse effects on the third parties involved, such personal data may be processed by another controller only in so far as the data are under the sole supervision of the requesting user and are processed only for personal or household purposes. The controller to whom the data have been transmitted may not use the transmitted third-party data for his own purposes, for example to offer marketing products and services to those other third-party data subjects.

Security and privacy risks arise when personal data is transferred from one data controller to another. It is the interoperability of systems used by different data controllers that is considered to be one of the key aspects that can pose security risks. Data controllers are advised to take risk mitigation measures using additional authentication information, such as the use of a password or the possibility to suspend the transfer of data in cases where personal data are suspected to be compromised (Vanger, 2018). These security measures are only in the form of a recommendation, so each controller has the right to choose whether or not to implement them, and if some controllers choose to implement them and some do not, the issue of differences in the data processing process will re-emerge, even though the GDPR aims to prevent them.

It is important to note that the application of the right to data portability is limited to a certain format (Cremona, 2017). It is not a right of general application, so before requesting the portability of certain data, the data subject must consider whether these data meet the conditions for the format and the justification for the processing.

Conclusions

The right to data portability allows the data subject to receive personal data relating to himself which he has provided to the controller in a structured, widely used and machine-readable format and to transfer that data to another controller provided that this is technically possible. This right includes two separate rights of data subjects. First, there is the right to receive personal data. Secondly, there is the right to transfer personal data to another data controller, if this is technically possible, by transferring

personal data directly from one controller to another. These rights are separate, which means that the data subject can choose whether to receive personal data. Or the person can choose to transfer the personal data to another data controller. A person can request both, but these rights are not interdependent.

The aspects of that right relating to the conditions which must be satisfied for the right to be exercised indicate that that right is not general. The wording in regard to transfer of data to another controller "if technically possible" means that the controller may also ignore the request for portability on the grounds of technical incompatibility with the platform of the controller to which the data subject wishes to transfer his data. If existing systems do not support the direct transfer of data from one controller to another, this is a valid reason for the data controller to reject the request for data portability. Such a technical condition significantly reduces the possibility of exercising the right to data portability, and does not impose any obligation on the controller to upgrade or modify the system to be compatible with other controllers' systems.

The data portability right only applies to personal data, so any data that is anonymous or not related to the data subject will not be subject to this right. However, they are applicable to pseudonomized data that are clearly linked to the data subject. Article 20 of the GDPR does not define whether the right to data portability also applies to contextual personal data. The right to data portability only applies in cases where the processing is carried out by automated means, so it does not apply to most information in paper form, and it only applies to data provided by the data subject himself. This means that it does not apply to derived data.

From a business point of view, the right to data portability is both a challenge to the traditional competition law system and an opportunity to build interoperable systems. From the users' point of view, the impact of data portability is obvious both in terms of the control of personal data (and in general in order to increase the individuals' rights of control) and in terms of the interconnection of service users. The right to data portability will also increase the sense of responsibility of data providers and storers, as well as promote transparency as to what information is held by the service provider.

One of the disadvantages of the right to data portability is the separation of data portability from other rights, such as the right of access. Data controllers need to explain very carefully the differences between the types of data that a data subject can receive in exercising his or her right of access and data portability. The right to data portability may adversely affect the

rights and freedoms of others. Such adverse effects may arise in cases where the transfer of data from one controller to another would prevent third parties from exercising their rights under the GDPR, such as the right to information, access, etc. The right to data portability has a significant impact on privacy and data security: if data is portable, identity fraud can become a long-term personal data breach, as a hacker can easily transfer his fake identity to many other platforms. There is also the possibility that several persons request control of the same data, which means that the right to data portability may adversely affect property rights.

The issue of exercising the right to data portability is also highlighted in the issue of data format and volume. Processing is carried out on the basis of the consent of the data subjects or a contract and by automated means. This means that the right to data portability is not enforceable in cases where data processing takes place on another legal basis, as well as in cases where the data is submitted or stored in a non-automated way. Article 20 of the GDPR requires data controllers to ensure the transmission of data in a widely used, machine-readable format. The terms "structured", "widely used" and "machine readable" are a set of minimum requirements that should facilitate the interoperability of the data format provided by the data controller. However, the GDPR does not define the optimal format to be used in the process of enforcing data portability rights.

Structured and widely used are two different requirements that must be met in order for consumers to exercise their data portability rights. In reality, these two requirements will not always be met, as the Regulation does not specify the format in which the data are to be submitted. The conditions for the exercise of the right exclude cases where the data are not structured or in a widely used format, despite the fact that one of the conditions is met. The problems of the application of the right to data portability at present is currently caused largely due to uncertainties about the most appropriate format, as well as the need to meet all the technical conditions at the same time and ensure a structured, widely used and machine-readable format.

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BEHAVIORAL ECONOMICS PERSPECTIVE ON ASSESSMENT OF RECRUITMENT AND SELECTION PRACTICES IN LATVIA

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Abstract

The aim of the current paper is to evaluate the current Human Resource Management evolution in Latvia with respect to employee recruitment and selection practices. The focus is set on the used methods of selection process in organizations, when they are hiring personnel on different organization levels. The authors of the current paper applied several empirical methods to research the recruitment and selection processes. The study was executed in two stages: (1) discussion with Latvia's recruitments practitioners (Delphi method), and (2) quantitative study performed in Latvia. The research questions were the following. Question 1: Which recruitment methods are used in their represented organizations? Question 2: Which of selection methods are used in their organization? To collect primary data an online survey form was created which was completely self-administrative. A sample of 16 businesses from different industries in Latvia, was selected. The sampling was conducted during the whole month of January 2020 and data is reflected in the findings. The survey results demonstrate that the employee selection methods applied in Latvia are not that various. Most of the respondents holds on to the traditional methods such as panel interviews and one to one interviews.

Keywords: behavioral economics; human resource management; recruitment methods

DOI: 10.37804/1691-6077-2020-11-128-139

Introduction

The goal of the current paper is to evaluate the current Human Resource Management evolution in Latvia with respect to employee recruitment and selection practices. The focus is set on the used methods of selection process in organizations, when they are hiring personnel on different organization levels. Human Resource Management (HRM) is an approach to manage people resources within the organization. Historically workers have been managed for many thousand years, we cannot imagine constructing ancient sites such as The Great Pyramids of Giza or The Great Wall of China without some sort of organizational management. However, the term HRM has been around since early 1900's, at the time when manufacturing started to blossom, though formerly it was known as "personnel management". Throughout history the terminology has been altered numerous times, due the change of societal and fiscal activities of certain period. Only in the late 20th century academics and theoreticians tried to divide both terms by establishing differences between the personnel management and HRM.

Processes of globalization, rapid deregulation, increasing pace of technological innovations and technological advancement (Yahmed & Dougherty, 2017) have caused quick development of HRM. The external stresses built density in organizations increasing concerns and motivating companies to focus on strategic planning – the process of foreseeing future changes. Facile transfer of products, services and information, triggered by globalization, accelerate the development of management correspondingly (Aycan, et al. 2007). These global activities have sparked interest in cultural relativism and transferability in HRM. The study of current recruitment and section practices in Latvia also can be used as a useful tool for foreign managers and companies investing into Latvia. Nowadays, when globalization is rising and more organizations are going multinational, it is important to comprehend which HRM practices are common and which practices are specific for the selected area or culture (Ryan, et al., 1999). Advancement of technologies such as World Wide Web and rapid development of IT support changes and gives space for further development (Anderson, 2003). Child (1981) points out that the need for recruiting and selection of employees is worldwide, however it does not necessarily mean that all practices are general and the same can be applicable everywhere.

Theoretical framework

Human resource management does not have one unified approach, there are different concepts and HRM models. HRM must be seen as a philosophy that determines orientations, which helps employees reach the goal set by the organization (Armstrong, 2006). The essence of HRM has been much researched over the years; the common practices and policies have been established which are considered fundamental to the hypothetical approach to HRM (Weber and Kabst, 2004). There are many discussions between researchers in cultural and national levels about deviations of HRM across the nations. The significant study of Easterby-Smith et al. (1995) gives clear evidence of the cultural divergence of HRM, when recruitment and selection practices were discovered, concluding that the matter of results were culturally complex and fluctuated between nations. Research by Lawler's et al. (1995) supports the theory of HRM differences across the diverse cultures. Other studies have discovered the link between company size, leadership and ownership together with other variables, which can influence applied HRM practices and policies in organizations (Budhwar & Sparrow, 1997).

This study does not aim to duplicate G. Hofstede's and others (2010) research by paralleling different dimensions of national cultures. Rather, the study intends to evaluate Hofstede's purposed national culture values, particularly taking into account the dynamics of Latvia, and to identify the implications of work related values for HRM and its performed practices and policies. As it was concluded in the earlier researches by Easterby Smith et al (1995) and Lawler et al. (1995), HRM has a touch of cultural sensitivity, especially when recruitment and selection practices are discussed. Combining findings of the previously conducted research we can hypothetically state that the recruitment methods and selection practices may vary depending on the peculiarities of nation, company size and ownership pattern (Jasim, 2020; Doz, 2020; Englmaier & Schussler, 2016).

The key task of staff recruitments is to draw potential applicants to the vacant post, candidates whose profile match demanded requirements and ultimately make a selection in favor of an appropriate, keen and perspective candidate. It is known and proven, that intellectual capital of knowledge owned by organization will give it a competitive advantage in market. (Subramaniam & Youndt, 2005). Organizations which desire and are able to attract advanced, open-minded, performance-oriented employees gain a better position in the growth of the labor market and their ability to adapt to changing internal and external environmental conditions. The search for

new employees may start with creating the job poster. Nowadays, when the market is multifarious and fast-moving, job advertisements to achieve the intended development must be attractive and exceptional – one that attracts attention, engages with applicants and encourages to act. In addition, it has to attract interest among potential employees who will be part of the organizational culture, who with their enthusiasm and talent will be able to ensure the organization's growth and success in a particular market segment, have responsibility towards the clients of the organization and be open to learning new knowledge.

The next step in the process is the advertisement of vacant post, which can be done in several ways, internally within the organization or externally or both practices used simultaneously. Internal recruiting refers to potential candidates for the vacant post within the organization from already existing workforce, while external recruiting targets candidates outside an organization (Hughes & Rog, 2008). Over the year's usage of media, including online social platforms, for this purpose has been increased (Anderson, 2003; Chapman & Webster, 2003; Lievens & Harris, 2003). Experts advise placing the advertisement where it would be read by the largest number of target groups, i.e., where the most job advertisements are published all in one place. Capabilities of internet never have been as pronounced as it is now, it has become a new leading driver for candidate sourcing (Hunt, 2014). Increasingly new tools for right candidate sourcing have been developed and it affects the traditional approach to sourcing. The recruitment process changes due the factors initiated by industrialization and modernization, as countries become more developed economically, observations show the shift towards new management patterns, work related values and approaches (Ronen & Shenkar, 1985; Wasti, 1998). Modern and innovative approaches to sourcing take the upper hand, especially in times when quality, cost efficiency and time consumptions is cherished the most (Sinha & Thaly, 2013). Rapid development of information technology, World Wide Web and tremendous growth in usage of social media make a profound impact on sourcing candidates (Dutta, 2014).

Some studies have discovered negative impact on recruitment process caused by complex technical sophisms between organizations (Anderson, 2003; Bartram, 2002). Often alternative methods are being introduced in the recruiting process, such as informal promotion measures of vacant job posts in employee, family, friend networks, and review of past unsolicited applicants or reaching out to employment agencies. The informal method is often used in organizations since they appear to be cost efficient. Understanding

the importance and impact of recruitment is significant, especially pointing out that sourcing, yet the greatest method for recruiting process, is quite debatable (Houran, 2017).

Several methods are known once it comes to selecting the right candidate for vacant job post. Some of these methods used by organizations are as follows: application forms, one to one and/or panel interviews, different tests and many other methods. Levy-Leboyer (1994) points out the diversity across the nations that influences selection practices. Social cultural factors, labor legislation also have strong impact on the dominant selection method in the country.

Methods

The authors of the current paper applied several empirical methods to research the recruitment and selection processes. The aim of this study is to find out which recruitment and selection practices are applied in Latvia and how these aspects can be related to the behavioral economics perspective. This objective was proposed by the authors on the basis of the current research in the field depicted in the chapter above.

The study was executed in two stages:

1) discussion with Latvia's recruitment practitioners (Delphi method);
2) quantitative study performed in Latvia.

To learn most applicable practices of recruitment and selection practices used in Latvia, the authors attended Riga HR Meetup #14 workshop on the 15th of August 2019, to gain first hand data to summarize which methods of recruiting and selecting practices are mostly implemented in the country. The workshop had 33 attendees, representing public and private organizations from different fields. Seeking complete understanding of recruitment and selection practices the Delphi method was applied – a systematic approach to interact with all members in several discussion sets to gain fair judgment. The Delphi approach in based on the hypothesis, that group judgment is more valid than individual and that would provide more accurate results which will be used in the second research stage. By applying the Delphi method in several discussion sets, we minimize the bandwagon effect avoiding the uptake of same beliefs by all participants. There are several studies on the bandwagon effect, (references) where this phenomenon has been researched and been proved that by more people believing or claiming something other members will agree and join them without actual evidence or prior experience. The additional advantage of the Delphi method is that

it provides authors with results which are less corrupted by the halo error. Also snowball approach was also applied, where field's experts encouraged engage others professionals to share their practices (Avella, 2016).

The research questions were the following.
Question 1: Which recruitment methods are used in their represented organizations?
Question 2: Which of selection methods are used in their organization?

Completing the first study stage a quantitative research approach was commenced to determine empirical observations relating to the current recruitment and selection practices in Latvia identified in the first stage. To collect primary data an online survey form was created which was completely self-administrative. A sample of 16 businesses from different industries in Latvia, was selected. The sampling was conducted during the whole month of January 2020 and the data is reflected in the findings.

Results and discussion

Attending the Riga HR Meetup #14 workshop the authors gained an overall perception of the application process used among recruiting professionals in Latvia. During the workshop immediate information was gained about factors that are directly related to recruitment and selection process. This knowledge solidified areas which were important to research during the second stage. Throughout the workshop participants discussed approaches which were aligned with current trends in leading countries around the world. There, among the participants, it was agreed unanimously that all of them were applying the latest methods of recruiting and selection practices. During the second stage the authors wanted to test the reliability of these statements.

Firstly, authors wanted to gain knowledge if respondents have a clear protocol which is followed when any sort of human resource management activities are carried out. During the first stage of the research high importance was set on aspects such as the need for clearly defined human resources management strategy. The majority of participants while discussing the importance of written protocols, confirmed that they have several written statements and strategies in their companies (see Figure 1).

Figure 1. **Written documents that have an impact on human resource management activities in a company**

However, observing overall results of the data collected regarding written statements and strategies we can clearly conclude that the importance of written human resource management strategy isn't that high in the priority list. Less than half of respondents of the total sample confirmed that written strategies related to human resource management exist in their organizations.

According to Korn Ferry company research (2015), about 40% of companies outsource much if not the complete recruiting process to agencies or subcontractors who carry out this process. In most of these cases, subcontractors would carry out activities online on different social platforms to find the candidate appropriate to the company's demands. During the workshop, about half of participants involved in the discussion group, agreed that they outsource third parties to carry out such processes. However, a discrepancy was observed between data registered via the online survey and what was perceived during the workshop (see Figure 2).

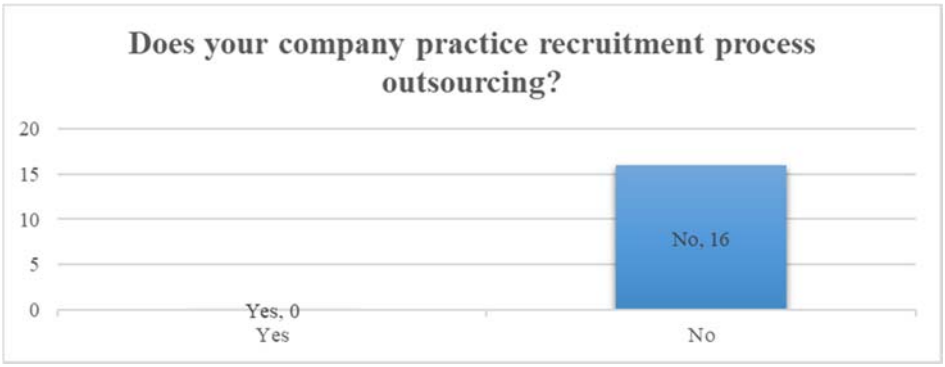

Figure 2. **Outsourcing of the recruitment process**

Another noteworthy aspect the authors were keen to research was the recruiting methods currently applied in Latvian businesses. We know that there are several methods how to attract potential workforce to business. There are no two jobs which will have same requirements nor two companies with identical needs. This make us think that business units need to apply different hiring tactics to attract the right candidates they are scouting for.

It has to be admitted that various recruiting methods can be applied within the same business unit depending on the position and division of the business. The human resource management specialists cannot use the same hiring methods to find superior candidate for every department the same way. Table 1 depicts the methods applied for hiring employees.

Table 1

Recruitment methods

Recruitment methods	Managerial	Professional	Clerical/ Manual	Usually not used
Advertise Internally	5	6	9	3
Word-of-mouth	4	9	13	2
Advertisement in newspapers	1	2	5	11
Use of company web site	8	11	13	3
Use of commercial web site	8	12	13	3
Social Media (LinkedIn, Twitter, Facebook)	10	13	11	2
Unsolicited application	0	1	8	8
Career exhibitions	0	2	5	11
Trainee Program	0	2	8	8

Selecting and hiring the right candidate who matches the requirements and can contribute to company from the first day is every business units' goal. Selecting the suitable candidate consists of two principal stages: shortlisting and assessment. It is expected that employers treat all candidates equally throughout both stages. Selection should be performed without discrimination or bias, purely based on the candidate's abilities and experiences, performance capabilities and their long term potential for development. Several methods which according to participants were applied in their selection process was observed during the workshop. The focus was set on the assessment stage of selecting the right candidate for the employer, including different approaches of interviews as well as various testing methods. To evaluate accuracy of group discussion results a survey was designed to observe evaluation methods applied during the selection practices. The questionnaire was designed in a technique that would allow the authors to gain a perspective on approaches used for employees of different hierarchy levels. All the methods observed during the first stage of the research were included in quantitative research (see Table 2).

Table 2

Selection methods by job type

Selection Techniques	Managerial	Professional	Clerical/ Manual	Usually not used
Panel interview	9	9	11	4
One-to-one interview	12	11	13	1
Application forms	3	4	6	6
Psychometric tests	2	2	1	14
Aptitude tests	3	7	6	8
References	9	10	5	6
Ability tests / Trial day	2	3	2	12
Technical tests	3	4	4	11
Computational tests	1	3	0	13
Online selection tests	0	2	2	14

After analyzing the survey results it is clearly evident that the selection methods applied in Latvia are not that various. Most of the respondents hold on to traditional methods such as panel interviews and one to one interviews. As it was observed during the stage one, recruiting specialists reported using different testing methods during the recruiting and selection process, similar to those done in leading countries around the world, but the results of survey indicate something different. There is a common trend that human resource management specialists do not apply the newest practices and methods while conducting the recruitment process.

Conclusion

The aim of the current research was to evaluate the current Human Resource Management evolution in Latvia with respect to employee recruitment and selection practices. The research was conducted in two stages: first, discussion with professionals; second, online survey of the human resource management professionals. The research showed that there existed some discrepancies between answers received in the discussion and online survey data, namely, during the discussion specialists admitted that they use the newest methods in the employee recruitment and selection process, while the survey results indicated that most respondents use traditional methods, such as one-to-one interviews, panel interviews and references instead of various tests (psychometric tests, ability tests, computational tests, online selection tests). It can be partly explained by the 'nudge' phenomenon during discussions (professionals felt compelled to admit using the latest candidate selection methods, although their everyday practice demonstrated a rather conservative approach). The results of the research can serve as an insight into the current situation in Latvia in the field of recruitment and job candidate selection practices, as well as the starting phase for further in-depth analysis.

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MEASURING EMOTIONAL INTELLIGENCE AMONG BUSINESS SCHOOL STUDENTS IN INDIA

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Abstract

This paper examines the Trait Emotional Intelligence (TEI) of business school students using the Trait Emotional Intelligence Questionnaire-Short Form (TEIQ). The primary objective of the research is to study the wellbeing, self-control, emotionality, and sociability of students in a various business schools and to identify the differences in students' emotional intelligence (EI) with regards to students' undergraduate (UG) degree, family type, work experience, brought up place and gender. This survey was carried out among the MBA students of a various B-schools in India and data were collected from 141 respondents. The researchers employed T-Test & one-way Anova to test all variables using descriptive statistics for better understanding. Many researchers proved that emotional intelligence helps in successful leadership irrespective of domains. Researchers strongly believe students who pursue management degrees will one day become business leaders. Therefore, there is a scope in EI for business students. Many research papers on EI for leaders have been published but only few have been published on EI for business students. One of the results from this study shows that students who brought up in semi urban cities exhibit significant differences in wellbeing factor of TEI.

Keywords: Trait Emotional Intelligence, Business School Students, B-School, Leadership

DOI: 10.37804/1691-6077-2020-11-140-155

Introduction

Emotions are one of the fascinating things about the human experience. In today's scenario, we as human beings are giving too much importance to our thought process. But we do not give significant consideration to our feelings and emotions. For individual development, humans need to enhance emotional skills and social skills for a better life. From an organization's point of view, emotional intelligence (EI) helps employees to perform well at work, especially in the service industry because employees need to interact with the customers in the service industry. Therefore, employees should have interpersonal skills, besides emotional intelligence skills. EI helps employees to engage more with customers, even though customers are rude. Therefore, EI helps both in personal and professional life.

In this paper, researchers explore EI among business school students in India. Researchers feel that EI will help MBA students to manage their own emotions and understanding the emotions of others. Only few business schools in India offer emotional intelligence courses to their MBA students. So through the addition of an EI related course in the MBA curriculum, we can teach students not only for their intellectual growth but also for their emotional growth. There is a need for exploring emotional intelligence by business students because these students one day will become the heads of the company. Many leaders and researchers state that EI plays a major role in leadership effectiveness. Mayer and Salovey (1990) define EI as, "the ability to monitor one's own and other's thinking and actions". Leaders who possess high EI can perform well and at the same time they can influence positive attitude, behaviour, and outcome to the workers (Carmeli, 2003) Leadership and emotional intelligence are major general skills that are linked to increased performance at the work and effective leadership (Vyas, 2017).

Emotional intelligence

Emotional intelligence in simple terms can be expressed as a creation of a balance between emotional thinking and cognitive thinking. EI has been a real breakthrough in behavioural science. The concept offered a platform

for new knowledge and practices in several fields including management. EI is something more than a fancy name repackaging existing notions and concepts of empathy, self-awareness and more. The evidence does suggest that EI as a concept is useful in gaining insights into a broad range of behaviours and functions beyond what existing concepts and measures offer from education, learning through work and organizational behaviour (Sivan & Zysberg, 2014). The effective use of emotions can bring mental ability and growth prospects in a career as well as personal life. According to Mayer-Salovey, the ability to perceive emotions and facilitate emotions is an experiential process of EI. Whereas understanding and managing emotions is a strategic process of EI (Emmerling, 2006). The Mayer-Salovi-Caruso Emotional Intelligence Test (MSCEIT) is used to research Emotional Intelligence in organizations. The test shows how the employee controls his behaviour, responds to social difficulties and makes decisions that achieve positive results.

Emotional intelligence is moreover an implication study when it comes to the field of management. People who perform with better EI tend to have better pro-social behaviour and good decision-making skills. Emotional skills are important in almost all areas of a person's life from career success to being liked by others. Emotional intelligence is a type of social intelligence that involves the ability to monitor one's own and other's emotions, to discriminate among them and to use the information to guide one's thinking and actions (Mayer, et al., 2001; Warwick & Nettelbeck, 2004).

Modern developments and automations have reduced the human ability to look at an issue from a technical as well as an emotional way. Being raised up in a nuclear family and lack of EI activities during primary education could be possible reasons for the decline in EQ level (Goleman, 1998). Although there are ample studies conducted on emotional intelligence and leadership effectiveness it is important to consider the emotional aspects of business school students as they will become the future managers and leaders of organizations (Harms & Credé, 2010; Sadri, 2012).The urgency in the educators' need for action is also fuelled by sociological changes in society. Family disintegration, cultural diversity and its impact on norms of behaviour and the deleterious effects of poverty all contribute to the challenges children and adolescents currently face in their lives (Stokes, 2004). The strengthening of positive interpersonal relationships is a key factor in the health trajectories of young people (Umberson & Montez, 2010) By including EI as a course paper and exposing business students into emotion focused activities there can be significant changes in their emotional

awareness, which may certainly contribute towards building better managers and leaders for the organization.

When we assume that everyone has only emotional brain and no neocortex in them, we would become more reactive with sensory input and would be unable to make wise decisions. It would be tragic when it is vice versa, with neocortex and no emotional brain, when we would be just cold heartless computers. The effective functioning is the balance and interaction between these two brains, as opposed to the suppression of one or the other. The way that the brain functions is that sensory data goes to the thalamus and then across a single synapse first to the amygdala, before the same signal is sent separately to the neocortex (Cobb & Mayer, 2000).The rationalization of thought process is necessary to attain an emotional stability. The process of emotional intelligence includes inter-personal skills and intra-personal skills. Thus, the development of EI abilities among the management students is vital.

Trait emotional intelligence

Trait emotional intelligence (TEI) is defined as a constellation of emotional perceptions located at the lower levels of personality hierarchies. TEI (or 'emotional self-efficacy') refers to a constellation of behavioural dispositions and self-perceptions concerning one's ability to recognize, process, and utilize emotion-laden information (Petrides, 2011). Although the role of TEI in mediating academic success has been measured in some studies (Perera & Di Giacomo, 2015; Petrides, et al., 2004a; Saklofske, et al., 2012), there is still a need for further investigation in the field of management students. Conceptually TEI integrates the affective aspects of personality. Personality is an enormous domain that comprises characteristics like motives, interests, values, emotional traits, social traits and many others (Funder, 2012). TEI measures generally use a self-report format adopting the perspective that it is the personal and subjective aspects of one's emotional life, experiences and interactions that are central to an understanding of EI. It is important to ensure that the respondent is providing accurate responses to questions and not 'faking 'or distorting in order to achieve other goals (Petrides, 2009). The present study aims at measuring the 15 facets of TEI components through TEIQ developed by K V Petrides on wellbeing, self-control, emotionality, sociability. The concept of wellbeing can be simply explained as the conditions of quality life, positive physical and mental health. Whereas Self-control defines the ability of individual in terms of managing and responding to external stimuli. Emotionality explains the individual's

ability in understanding one's own emotions and of others. Sociability refers to the interpersonal and intrapersonal skills of an individual; it deals with the social interactions. On the other hand, those who have a low score are not good in social interaction, and have a hard time impressing the crowd due to lack of sociability skills (Petrides, et al., 2004b).

The different pattern of associations and models for stress and academic success indicate that EI components related to the regulation of emotion and to adaptability are respectively salient to dealing with academic stress and to achieving academic success (Saklofske, et al., 2012). However, there are several studies conducted in terms of using TEIQ as a subject matter of study. There have been empirical evidences showing relationship between TEI and mental health. There are studies demonstrating reliable association between the two constructs (Mikolajczak & Luminet, 2009).

Why EI in business school?

EI has been found to be positively associated with psychological health. (Schutte & Malouff, 2011, 2014)The effects of emotional intelligence concerning age, work experience, and academic performance have been studied earlier. In these studies, it has been proven that the results of individuals with better emotional intelligence abilities were four times important than IQ in determining professional success and prestige (Goleman, 1998) The earlier study conducted with business students of South-eastern University shows that the results of generalizability (Shipley, et al., 2010) of the sample is limited. Students with mid-range GPA require more EI skills whereas when it comes to age there is not any significant relationship with EI (Putranto, et al., 2018). However, emotional intelligence is considered an adaptive function that improves with aging. There is a need to measure EI abilities among management students, as it requires further investigation in parameters such as family background, work experience that affects their EI coping skills. Interestingly for students studies abroad has been taken as one of the variables in measuring Emotional Intelligence (Timmins, 2006). There is no statistical significance found in accordance to students who studied abroad with a different cultural diversity. The concept of Emotional Intelligence made its impact in many academic disciplines. The study which encompassed veterinarian medical students gave importance to this non-technical competency which forms the base for achieving career success (Magsino & Opulencia, 2015). The entrepreneurial intentions of management students have been focused on in a study. The qualitative content analyses of the narratives revealed that actual business exposure as part of the course

curriculum increased the students' EI and that there were different reasons for the change. There are certain intervention programs given to students in academic settings in terms of EI through experiential learning. Quasi experimental design has been followed to know the validity of the Intervention programs. Similar research with management students has been conducted and the results prove there is a significant difference between EI scores after the experiential learning intervention (DeRoberto, 2011). Even there are studies that were focused on managerial level emotional intelligence programs in the learning organization. Studies within the business community have shown that a leader with higher emotional intelligence can stimulate greater productivity (DeRoberto, 2011).The significance of conducting a study on management students is evident as it is directly connected with the future stakeholders of the organization. EI regulated activities have been continuously studied in various academic disciplines irrespective of the research design; it can be an intervention model, past and present literature, instrumentation, didactic teaching methods employing EI concepts, and data analysis (Davis, 2013).The claim of Daniel Goleman about the significance of EI (also known as EQ) over IQ has created many avenues for further exploration in the context. Similarly, a comparative analysis of emotional intelligence and intelligence quotient among Saudi business students' academic performance has been made comparing public and private university students which shows significant pieces of evidence in terms of EI improvement with regards to public university students whereas private university students were found to have excellent IQ as well as EI (Khan, 2019).

Hypotheses

The researchers framed the following hypotheses based on the differentiation of the student's profile.

H1: There is no significant difference between males and females in TEI dimensions.

H2: There is no significant difference between Arts & Science and Engineering degree students in TEI dimensions.

H3: There is no significant difference between the Joint family and the Nuclear family of the students in TEI dimensions.

H4: There is no significant difference among student's works experience in TEI dimensions.

H5: There is no significant difference among students brought up place in TEI dimensions.

Methodology

A survey questionnaire was administered to 141 students in different B-schools in India. The study was conducted in the classroom. The survey instrument consisted of 30 questions on a seven-point Likert-type scale that measured TEI using the TEIQ model.

The demographics of the participants included gender, UG degree, family type, work experience and brought up place. Totally141 students were the respondents for this research, out of which, 80 were men and 61 women; 126 students were with arts and science degree and 15 students from engineering degree; 117 students come from a nuclear family and 24 students come from a joint family. Among 141 respondents, 117 students don't have any work experience, 14 students have work experience from 0–1yr, and 10 students have work experience from 1–2yrs. Among 141 respondents, 44 students were brought up in metro cities i.e. Mumbai, Bangalore, whereas 50 students were from semi-urban cities i.e. Trichy, Mysore; the remaining 47 students were from rural areas in India.

Results & discussions

Trait EI on Gender

Table 1

T-Test and Descriptive Statistics of Variable (Trait Emotional Intelligence on Gender)

	Gender	N	Mean	SD	F-Ratio (Sig.)
Wellbeing	Male	80	4.4792	1.00119	F=.080(.777)
	Female	61	4.8716	.98995	
Self-control	Male	80	4.1229	.48518	F=1.067(.303)
	Female	61	4.1148	.59670	
Emotionality	Male	80	4.3922	.65324	F=.029(.864)
	Female	61	4.5041	.61575	
Sociability	Male	80	4.1625	.74958	F=.120(.730)
	Female	61	4.2213	.80664	

- T-Test results corresponding to Wellbeing show that (see Table 1) that male students (μ= 4.4792, σ= 1.01) do not differ significantly (F = 0.080, Sig. = 0.777) from female students (μ= 4.8716, σ= .989).

- T-Test results corresponding to Self-Control show that male students (μ= 4.1229, σ= .485) do not differ significantly (*F* = 1.067, Sig. = 0.303) from female students (μ= 4.1148, σ= .596).
- T-Test results corresponding to Emotionality show that male students (μ= 4.3922, σ= .653) do not differ significantly (*F* = 0.029, Sig. = .864) from female students (μ= 4.5041, σ= .615).
- T-Test results corresponding to Sociability show that male students (μ= 4.1625, σ= .749) do not differ significantly (*F* = 0.120, Sig. = 0.730) from female students (μ= 4.2213, σ= .806).

Trait EI on UG Degree

Table 2

T-Test and Descriptive Statistics of Variable (Trait Emotional Intelligence on UG Degree)

	UG Degree	N	Mean	SD	F-Ratio (Sig.)
Wellbeing	Arts & Science	126	4.6085	.98867	F=1.369(.244)
	Engineering	15	4.9889	1.17085	
Self-control	Arts & Science	126	4.1151	.51660	F= 3.739(.055)
	Engineering	15	4.1556	.68564	
Emotionality	Arts & Science	126	4.3988	.62264	F=.222 (.638)
	Engineering	15	4.7917	.67425	
Sociability	Arts & Science	126	4.1481	.75901	F=.659(.418)
	Engineering	15	4.5222	.83063	

- T-Test results corresponding to Wellbeing show (see Table 2) that respondents with Arts & Science degree (μ= 4.6085, σ= .988) do not differ significantly (*F* = 1.369, Sig. = .244) from students with Engineering degree (μ= 4.9889, σ= 1.170).
- T-Test results corresponding to Self-Control show that respondents with Arts & Science degree (μ= 4.1151, σ= .516) have significant differences (*F* = 3.739, Sig. = .055) when compared to respondents with engineering degree (μ= 4.1556, σ= .68564).
- T-Test results corresponding to Emotionality show that respondents with Arts & Science degree (μ= 4.3988, σ= .622) do not differ significantly (*F* = .222, Sig. = .638) from engineering students (μ= 4.7917, σ= .674)
- T-Test results corresponding to Sociability show that respondents with Arts & Science degree (μ= 4.1481, σ= .759) do not differ significantly (*F* = .659, Sig. = .418) from Engineering students (μ= 4.522, σ= .830).

Trait EI on Family Type

Table 3

T- Test and Descriptive Statistics of Variable (Trait Emotional Intelligence on Family Type)

	UG Degree	N	Mean	SD	F-Ratio (Sig.)
Wellbeing	Nuclear	117	4.7151	1.00193	F=.947(.332)
	Joint Family	24	4.3264	1.01852	
Self-control	Nuclear	117	4.0812	.51352	F= .678(.412)
	Joint Family	24	4.3056	.60327	
Emotionality	Nuclear	117	4.4872	.63661	F=1.498 (.223)
	Joint Family	24	4.2135	.60397	
Sociability	Nuclear	117	4.2407	.79584	F=2.812(.096)
	Joint Family	24	3.9306	.59571	

- T-Test results corresponding to Wellbeing show that there is no significant difference (F = .947, Sig. = .332) between respondents in terms of Nuclear (μ= 4.7151, σ= 1.00) (see Table 3) or Joint Family (μ= 4.3264, σ= 1.01).
- T-Test results corresponding to Self-Control show that there is no significant difference (F = .678, Sig. = .412) between respondents in terms of Nuclear (μ= 4.0812, σ= .513) (see Table 3) or Joint Family (μ= 4.3056, σ= .603).
- T-Test results corresponding to Emotionality show that there is no significant difference (F = 1.498, Sig. = .223) between respondents in terms of Nuclear (μ= 4.4872, σ= .636) or Joint Family (μ= 4.2135, σ= .603).
- T-Test results corresponding to Sociability show that there is no significant difference (F = 2.812, Sig. = .096) between respondents in terms of Nuclear (μ= 4.2407, σ= .795) or Joint Family (μ= 3.9306, σ= .595).

Trait EI on Work Experience

Table 4

One Way Anova and Descriptive Statistics of Variable (Trait Emotional Intelligence on Work Exp)

	Work Exp	N	Mean	SD	F-Ratio (Sig.)
Wellbeing	No Work Exp	117	4.6410	1.00730	F=.125(.882)
	0.1 - 1yr	14	4.6071	1.17598	
	1.1 - 2yr	10	4.8000	.90540	
	Total	141	4.6489	1.01178	
Self-control	No Work Exp	117	4.0855	.52959	F= 1.524(.221)
	0.1 - 1yr	14	4.2381	.52993	
	1.1 - 2yr	10	4.3500	.56900	
	Total	141	4.1194	.53427	

Emotionality	No Work Exp	117	4.4338	.63940	F=.070 (.932)
	0.1 - 1yr	14	4.4464	.64992	
	1.1 - 2yr	10	4.5125	.65999	
	Total	141	4.4406	.63748	
Sociability	No Work Exp	117	4.1638	.75143	F=.343(.710)
	0.1 - 1yr	14	4.2857	.95950	
	1.1 - 2yr	10	4.3333	.79349	
	Total	141	4.1879	.77251	

- One-way ANOVA results corresponding to wellbeing show (see Table 4) that students with no Work Exp (μ= 4.6410, σ= 1.00), students with 0.01-1yr Work Exp (μ= 4.6071, σ= 1.17), and students with 1.1–2yr Work Exp (μ= 4.80, σ= .905) do not differ significantly (*F* = .125, Sig. = .882).
- One-way ANOVA results corresponding to self-control show that students with no Work Exp (μ= 4.0855, σ= .529), students with 0.01–1yr Work Exp (μ= 4.2381, σ= .529), and students with 1.1–2yr Work Exp (μ= 4.3500, σ= .569) do not differ significantly (*F* = 1.524, Sig. = .221).
- One-way ANOVA results corresponding to emotionality show that students with no Work Exp (μ= 4.4338, σ= .639), students with 0.01–1yr Work Exp (μ= 4.4464, σ= .649), and students with 1.1–2yr Work Exp (μ= 4.5125, σ= .659) do not differ significantly (*F* = .070 Sig. = .932).
- One-way ANOVA results corresponding to sociability show that students with no Work Exp (μ= 4.1638, σ= .751), students with 0.01-1yr Work Exp (μ= 4.2857, σ= .959), and students with 1.1-2yr Work Exp (μ= 4.3333, σ= .793) do not differ significantly (*F* = .343, Sig. = .710).

Trait EI on Brought up place

Table 5

One Way Anova and Descriptive Statistics of Variable (Trait Emotional Intelligence on Brought up area)

	Brought up place	N	Mean	SD	F-Ratio (Sig.)
Wellbeing	Urban(Metro Cities)	44	4.3636	.94710	F=3.493(.033)
	Semi-Urban (Other developed cities)	50	4.9067	1.11888	
	Rural (Village/Panchayats)	47	4.6418	.89076	
	Total	141	4.6489	1.01178	
Self-control	Urban(Metro Cities)	44	4.1742	.50444	F= .451(.638)
	Semi Urban (Other developed cities)	50	4.1200	.53456	
	Rural (Village/Panchayats)	47	4.0674	.56643	
	Total	141	4.1194	.53427	

Emotionality	Urban(Metro Cities)	44	4.3778	.59704	F=1.367 (.258)
	Semi Urban (Other developed cities)	50	4.5600	.76107	
	Rural (Village/Panchayats)	47	4.3723	.51241	
	Total	141	4.4406	.63748	
Sociability	Urban(Metro Cities)	44	4.0909	.61993	F=1.127(.327)
	Semi Urban (Other developed cities)	50	4.3167	.91983	
	Rural (Village/Panchayats)	47	4.1418	.72563	
	Total	141	4.1879	.77251	

- One-way ANOVA results corresponding to wellbeing show (see Table 5) that students in the Urban (Metro Cities) (μ= 4.3636, σ= .947), students in the Semi Urban (μ= 4.9067, σ= 1.11), and students in the Rural (μ= 4.6418, σ= .890) have significant differences. The values show that there are significance differences among the respondents (*F* = 3.493, Sig. = .033) with regards to Semi Urban (μ= 4.9067, σ= 1.11).
- One-way ANOVA results corresponding to self-control show that students in the Urban (Metro Cities) (μ= 4.1742, σ= .504), students in the Semi Urban (μ= 4.1200, σ= .761), and students in the Rural (μ= 4.0674, σ= .566) do not differ significantly (*F* = .451, Sig. = .638s).
- One-way ANOVA results corresponding to emotionality show that students in the Urban (Metro Cities) (μ= 4.3778, σ= .597), students in the Semi Urban (μ= 4.5600, σ= 1.11), and students in the Rural (μ= 4.3723, σ= .512) do not differ significantly (*F* = 1.367, Sig. = .258).
- One-way ANOVA results corresponding to sociability show that students in the age group 20-22 (μ= 4.0909, σ= .619), students in the age group 23–24 (μ= 4.3167, σ= .919), and students in the age group 25–27 (μ= 4.1418, σ= .725) do not differ significantly (*F* = 1.127, Sig. = .327).

Discussions

The study aims at examining TEI based on student's Gender, UG degree, Work-experience, Family background and Brought up place. The study shows that there is no significant difference between TEI in terms of Gender. The female brain consists of a larger prefrontal cortex and it matures faster in women when compared to men. It puts a brake on emotions and prevents them from going wild. Studies reveal that females have more interaction that is social and they focus intensely on their emotions and communication (Brizendine, 2006). Researchers are interested in finding out the relationship associated with the education background of the respondents in the account

of TEI skills. Through the observation, we got to know that most of the students in Tier III Business schools of India have an Arts Science background during their Under Graduation. This made researchers to make a hypothesis on whether there is any significance difference between engineering & arts and science degree students. In this study, engineering background students have more self-control than arts and science students. This result surprised the researchers as normally the students who pursue arts and science degree students spend more time on extracurricular activities than engineering students. Through extracurricular activities one can develop self-control skill i.e. Sports. Researchers suggest the future need to explore this hypothesis in further detail, so that we can have better understanding on this regard.

Further TEI is evaluated on students with regards to their Family background. When we look at the issue in depth, it can be seen that the early stages of child development and the parental styles have significance in shaping the adulthood of an individual. There is a major contribution of parental styles, which is instrumental in shaping the emotional intelligence of an individual. The development level of emotional intelligence is influenced by the five parental styles: Authoritarian, Dictatorial, and Permissive, Democratic and Rejecting/Neglecting. According to Jean Piaget's theory of cognitive development, the process of equilibration drives the development. It comprises of assimilation, accommodation. The theory concerns the emergence and acquisition of schemata-schemes of how one perceives the world in "Developmental stages," times when children are acquiring new ways of mentally representing information (Piaget, 1977). According to Daniel Goleman, it is to be believed that children from a joint family possess a higher level of emotional intelligence than children from a nuclear family. The importance and contribution of parents and family members during child rearing contributes greatly in shaping the personality of a child. In contrast our study shows no significant differences in TEI concerning Family type of students. Emotional intelligence is said to be an adaptive function and it grows with age. The brought up place and the environment has an influence too on human behaviour. It is necessary to take into account the place where the students were brought up. The students in the semi-urban area show significant differences in well-being dimension of TEI. It is observed that students from semi-urban background naturally come with better EI related abilities than from other backgrounds. It is because students who grow in semi urban area have both rural influences and metro influences, which helps them to understand more about other people and oneself. This better understanding helps them to live happily.

Students with considerable emotional wellbeing can have differences in perceiving things and can have better emotional reactions towards people. The couplets below from Indian literature, one a Sanskrit sloka (mantra) and the other a Tamil couplet help us to understand the importance of self-awareness. In fact self-awareness is the base for emotional intelligence.

[In Sanskrit]

This couplet from Bhagavad-Gita (Chapter II, Verse 15)

यं हि न व्यथयन्त्येते पुरुषं पुरुषर्षभ |
समदु:खसुखं धीरं सोऽमृतत्वाय कल्पते ||

yaṁ hi na vyathayantyete puruṣhaṁ puruṣharṣhabha
sama-duḥkha-sukhaṁ dhīraṁ so 'mṛitatvāya kalpate

It clearly narrates the whole idea of Emotional Intelligence (EI). It says: a man who is quiet and stays unperturbed by either torment or joy is the person who achieves everlasting life.

[In Tamil]

This is from Thirukkural (kural 123)

சறிவறிந்த சீர்மை பயக்கும் அறிவறிந்த
ஆற்றின் அடங்கப் பறின்.

Serivarindhu Seermai Payakkum Arivarindhu
Aatrin Atangap Perin.

It says, knowing that self-control is knowledge, if a man should control himself, in the prescribed course, such self-control will bring him distinction among the wise.

Leaders must understand the above two verses, because it clearly gives them guidance for better leadership. Any type of leadership needs happiness towards what they are doing. This study emphasises B-Schools students' needs for high emotional wellbeing, because these students will one day become business leaders and they are going to influence thousands of human lives. Leaders are perceived as a role model, because they know how to control their emotions, show self-control. If followers trust leaders, the workflow of the organization or enterprise will be more efficient (Raghavendra

& Senthil, 2017). A role model in the workplace is someone who does not have an official leader. It can be any employee who is always calm under pressure, deserves trust and achieves the goal. This role model may inspire others if they see that the attitude and ethics of this colleague lead him to success.

Conclusion

Leadership is considered one of the important qualities for effective management. There are many studies, which prove the significance of Emotional intelligence and its association with leadership effectiveness.

The present study aims at measuring the Emotional intelligence of Business school students considering parameters such as Gender, UG degree background, the family type in which they belong to categorised as joint family/Nuclear family, the work experience they have, the UG degree they have and finally the brought up place. One of the results from this study shows that students who were brought up in semi urban cities exhibit significant differences in wellbeing factor of TEI.

This empirical study results emphasise that EI has a role in B-Schools students' curricula. Hence, researchers recommend the Business schools introduce an EI course in the academic curriculum in order to expose future leaders to the practice of emotional intelligence. Further it is necessary to focus on students from rural and urban parts in terms of EI education. Socio-Emotional Learning (SEL) practices can be provided to the focused group of students. Through intervention techniques students can able to improve their EI skills. It helps them become a better leader or manager in their respective field. Mastering the EI skills has its yield always in career. As there are significant differences in EI with students from semi-urban parts they have better EI compared to the students from rural and urban parts. It proves that the environment in which the students grow up has a significant influence on their EI. The research can be extended to various levels of business schools across the globe to see how EI influences academic performance and placements.

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ECOLOGICAL TURN-AROUND – TRENDS AND PERSPECTIVES

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Abstract

The current threatening environmental trends point to enormous environmental policy challenges at the national, regional and global levels. To improve this situation, it is necessary to begin fundamental economic and social transformations. Such processes create enormous political problems. The article analyses in detail four historical studies that explain the need for a global environmental shift, and explores the possibility of transformational processes. Transformation as a radical transformation is a value-oriented process.

Keywords: ecology, limits to growth, social contract for sustainability, environmental governance

DOI: 10.37804/1691-6077-2020-11-156-163

Limits to growth and ecological overshoot

The UN Conference in Rio de Janeiro (1992) was a milestone in global environmental policy. It brought the concept of sustainable development into the debate, and led to basic international agreements on climate, biodiversity and desertification. However, in the 28 years since that conference it has not been possible – despite successes in some areas – to systematically align development paths in the world in such a way that important ecological limits are observed and respected. Therefore, threatening ecological trends persist which indicate huge environmental policy challenges at the national, the regional and the global level.

Indicators of resource use and environmental impact play a key role in describing the actual ecological situation. By introducing the terms "ecological footprint" and "ecological rucksack", progress was made in measuring the

renewable biological capacity and the natural resource use associated with production and consumption. These indicators reveal cases of massive overstepping of boundaries, of limits to growth and ecological overshoot, both underpinning the urgent need for a "global ecological turn-around".

In view of these trends it's urgent to place the term "ecological turn-around" into the focus of policy-making, because only then will fundamental economic and social transformation processes be initiated. However, such processes present enormous policy challenges that have scarcely been reflected upon as yet in social discourse. Besides, the responses to the call for an ecological turn-around are quite diverse, and not always complementary and harmonious.

In the following, four important historic studies shall be discussed to shed light on the diversity of the arguments raised concerning the need for a "global ecological turn-around", and be looked at for the hidden chances of implementation they still may imply.

A social contract for a "Great Transformation"

The German Advisory Council on Global Change (WBGU) in a flagship report substantiated the need for a great global transformation, requiring the conclusion of a social contract for sustainability (WBGU 2011).

A "social contract", this hypothetical construct of classic contract theory, from Thomas Hobbes and John Locke to Jean-Jacques Rousseau, is re-interpreted by the WBGU to mean that individuals and civil society, states and the community of states, business and academia take collective responsibility for the avoidance of climate disaster and for the ecological conservation of "Planet Earth".

A "great transformation", the term coined by economist Karl Polanyi in his analysis of the first industrial revolution, is re-interpreted in normative terms by the WBGU: A radical transition of national economies and the global economy within specific "planetary guard rails" should prevent overshoot and the collapse of global ecosystems.

So far, so good. But some questions remain: How can a new social contract come into being? How can a great transformation get under way? The WBGU in its report presents several basic ideas about the first question, and a great many ideas about the second one.

Unsustainable situations can easily "tip over"; the new democratic movements in several countries are seen as evidence of that insight. The carbon-based

world economic model is an unsustainable model because it endangers the stability of the climate system; the natural life support systems for future generations are in deep trouble. The transformation towards a low-carbon economy and society, in the view of the WBGU is therefore as much an ethical imperative as was the abolition of slavery and the condemnation of child labour. However, for this transformation to happen, the structural transition of economy and society must be made ecological in the most suitable way. How can such an "ecological turn-around" take place, how can it succeed?

Primarily, the WBGU advocates improving and intensifying the practised climate policy in three major transformation fields: a) energy, b) urbanisation, and c) land use.

Several "measure packets" with major strategic leverage are presented to accelerate the transformation towards a low-carbon economy and society, especially the following ones:

- "a pro-active state with extended citizen participation";
- "global carbon pricing";
- "the promotion of renewable energies";
- "sustainable urbanisation";
- "climate-compatible land use";
- "internationalisation of climate and energy policy", and an
- "international cooperation revolution (!)".

All in all, this seems to be a "major coup"; the WBGU report, no doubt, is full of thought-provoking ideas and manifold recommendations for action. But what is lacking? Above all, an idea of how the work performed by scientists can reach not only the governments, the elites and decision-makers, but also society at large, the Europeans, the global citizens, so that it can truly be initiated: the much needed "great transformation".

Ecological turn-around anywhere?

The German *Jahrbuch Ökologie* (ecology yearbook) takes a different, more pragmatic approach to the question (Wende überall? 2012). Whether a profound transformation of economy and society – an ecological turn-around – is possible and probable is narrowed down with a strong hypothesis: There will be pioneers, but also laggards and dunces.

This compelling "triple image" emerges when analysing the latest developments in Germany (and probably many other countries), be it in the sectors of energy, transport and mobility, agriculture and food, business and academia, as well as concerning the issues of awareness and culture, i.e. of changing

people's hearts and minds. A comparison of the current turn-around dynamics reveals certain similarities but also major differences.

Phasing out, *switching* and *moving* – these are central topics of the debate (at least in Germany): phasing out nuclear power and brown coal; switching to cleaner and softer technologies; moving to renewable energies: solar, wind, water, biomass, geothermal energy.

The 2011 resolution by the German government and parliament to *phase out* nuclear power by the year 2022, and the 2019 resolution to *phase out* coal by the year 2038 met with approval from civil society.

Switching is being promoted by setting new technical standards, however still hindered by vested interests many companies have in retaining their economic power.

Moving to renewable energies is met with enormous approval by numerous new actors (particularly in the fields of solar, wind and geothermal energy), by many municipalities and cooperatives (especially wind and biomass), and by millions of homeowners who have taken action themselves (in photovoltaics).

In contrast to the energy sector, nothing similar has been occurring so far in the *transport* sector, which led to postulate a different strategy, the "mobility turn-around", i.e. the necessary merger of energy and transport activities.

In spite of a number of successes in the organic and fair trade segment, the *agriculture* and *food* sectors turn out to be highly resistant to necessary change.

Although it was impossible to detect an ecological turn-around in the *economy* as a whole, in recent years very many companies demonstrated how sustainability-oriented entrepreneurship could look like and be installed.

The question concerning the ecological turn-around in *academia* resulted in a strong philippic against the antiquated disciplinary structures and interests which have stifled transformative ecological research and education, or only enabled it to thrive in a number of institutes but not in the university system at large.

Pioneers, laggards and *dunces* thus is the prevalent pattern when considering the development of various sectors and areas in Germany (and probably in most other countries) – it is the answer to the question concerning status and dynamics of the "ecological turn-around" at the national level.

No doubt, the answer would likely be similar when contemplating the question of the ecological turn-around at the global level; but here, the basic questions are asked in a different way.

Global environment outlook

The *Global Environment Outlook* by the United Nations Environment Programme (GEO 5) describes the status and trends of the various segments of the global ecology (UNEP 2012). There has been further deterioration, rather than improvement in the majority of the ecological segments considered in the extensive study. This especially, when compared with GEO 4, and to an even greater extent compared with GEO 1.

This deterioration is the case for globally relevant emissions (in particular carbon emissions) and global resource utilisation in general, for renewable resources (above all fisheries) and for non-renewable resources (such as metals) in particular, which have reached a historic maximum, leading to overuse or overshoot.

The basic pattern of a global overload of ecosystems and an overuse of resources has been confirmed by the United Nations' INTERNATIONAL RESOURCE PANEL. In an initial report (IRP 2011), individual attempts of decoupling resource consumption and environmental impacts from the gross domestic product (GDP) were identified, but no appreciable, let alone impressive, achievements could be found.

Over the past 100 years, the global extraction of building materials has increased by a factor of 34, that of iron and minerals by a factor of 27, that of fossil fuels by a factor of 12, and the use of biomass by a factor of 3.6. This expansion of the consumption of natural materials and their use for industrial production has led to considerable ecological contamination and destruction: to air pollution, climate change, soil degradation, water shortage and a loss of biodiversity, to name just a few effects. Only an absolute decoupling of the use of these materials from the GDP could help protect resources and relieve the strain on the natural environment.

Although some elements of a decoupling strategy were identified in the two industrial countries (Germany and Japan) investigated in detail in the study (IRP 2011), only very modest successes were discernible. In the two case studies on developing countries (China and South Africa), there was neither a strategy nor any measurable success found regarding resource decoupling and impact decoupling.

The conclusion for this chapter is clear: the industrialised countries as well as the emerging and developing countries continue to be on a collision course with the natural environment; there cannot (yet) be any talk of a remarkable or drastic ecological turn-around. There are many reasons for

this state of affairs, such as lagging people's environmental awareness and their short-term economic interests, but also, and perhaps above all, a policy that is (as yet) unable to really cope with global environmental challenges.

Global governance

Despite the numerous conferences held and the many international treaties signed since the 1972 UN Stockholm Conference on the Human Environment – i.e. over the past 48 years – it is apparent that the institutions and mechanisms by which humans and states govern their relationship with the natural environment are utterly insufficient. The evidence of this allegation could be detected at the United Nations Conference in Rio de Janeiro in June 2012 ("Rio+20").

Two central themes had been placed on its agenda: "green economy in the context of sustainable development and poverty eradication", and an "institutional framework for sustainable development". The United Nations Environment Programme (UNEP) had worked hard on these topics, giving experts from developing and industrialised countries two years to contemplate on a solid concept. The result was a report containing a compromise in terms of both language and content: the "green economy" was understood as a method of production that "increases well-being and leads to more social justice, while simultaneously reducing environmental risks and ecological scarcities."

It was not a bad starting point for an "ecological turn-around", as well as for a "global social contract" and a "great transformation", one might think. But the realities were far from such optimism.

At the conference, these definitions were not seriously brought up for discussion to flesh out or compare terms, but was loaded with all kinds of prejudices – as it still is nowadays. It seems that we no longer live in times of rational discourse; the political mood is poisoned, and mutual international trust got largely lost.

The international community of states did however agree to support the concept of the "green economy" in Rio. This agreement was made despite fierce opposition from large sections of the fossil-based industrial economy, as well as from sections of civil society, who saw (or wanted to see) in it a kind of neo-colonialism, greenwashing, protectionism, or the conditionality of financial support. According to the outcome document of the conference (Paragraph 56), "green economy should be used as an important tool – in accordance with national circumstances".

"Green economy", in this way, does not concern the goal of minimising resource use and eliminating pollutant emissions, of reducing the use of energy and lowering per capita carbon emissions – as one could have defined it – but is supposed to be a tool! And this tool is to generate further quantitative economic growth. Economic growth may help alleviate the poverty that persists in the world to this day, but what will such an enforced growth strategy mean for the global ecosystems and the natural resources?

All the same might be remarked about the institutional issues: According to the document, UNEP is to be strengthened and enhanced; but it will not be transformed into a specialised agency of the United Nations – like the WHO, the ILO or the FAO. This potential political innovation was blocked at Rio 2012, by the USA in particular, but also by Canada, Russia and Japan.

The UN General Assembly now can decide on universal membership in UNEP and on better financing of the programme. The possibilities UNEP has to assume environmental policy coordination tasks and to act as an early warning system against deteriorating environmental problems may to some extent be improved. But UNEP in this way will definitely not gain the competences necessary for effective global environmental policy – and there will be no promotion of a basic parity between economic and ecological interests in this world.

Considering the reasons for the international community of states' structural *incapacity* to act effectively, which emerged again and again in regard to environmental and sustainability issues, three major governance problems are discernible:

1) the horizon of the G8 and the G20 meetings has increasingly become narrowed down to short-term crisis management;
2) the US government is no longer capable of taking on a rational leading role due to ideological blockades. Europe, which ought to take on this role, is not (yet) sufficiently coherent from an environmental policy perspective;
3) the geostrategic repositioning of the world – waning powers in the West, rising powers in the East – acts as an impediment to the globally necessary integration of the environment and sustainability issues, of environmental protection and sustainable development.

The WBGU succinctly summed up this striking predicament following Rio 2012 in the following words: "The result is an international crisis of leadership and confidence, a *G-Zero World* in which no leading power effectively is taking the initiative and no coalitions capable of taking action are emerging."

Outlook: Environmental collapse or planetary cooperation

In view of these dangerous trends, one is reminded of Jared Diamond, who systematically analysed the historic collapse of societies. His book "Collapse" revolves around the question why people and societies do stupid things. Diamond answers this question with a theory of four stages of disastrous decision-making processes:

1) it could be that a society fails to anticipate a problem;
2) a society does not want to perceive the problem;
3) a society may perceive the problem, but does not make any serious effort to solve it;
4) the elites of a society close themselves to the consequences of their actions, hampering transformation and accelerating the collapse.

Diamond, however, is cautious about the question of transferring knowledge on historical cases of collapse to the present epoch. After all, there are differences between the past and the present – not just concerning the problems themselves, but also concerning the reactions to them. His remaining optimism rests on the modern possibilities of communication. Unlike in the past, he says, we are now capable of learning from other societies that are distant in terms of space and time. He does not say that we should, no, he believes that we will (!) decide in favour of using this unique advantage.

In order to strategically back up such structural optimism, the WBGU in its report strongly advocated better planetary collaboration in the future – and called for no less than a "revolution in international cooperation" to achieve it.

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PROBLEMATICS OF AMENDMENTS MADE IN TENDER DOCUMENTS IN PUBLIC PROCUREMENT – THE PERSPECTIVE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

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Abstract

During the procurement process, it is often found that the tenders submitted are deficient, for example, required documents are not submitted. Given the amount of information to be provided, the types of errors are different and can apply to the qualification of the tenderer, its technical or financial tender and other aspects. In each of these situations the procurement commission must evaluate whether it is possible to correct the error or the tender should be rejected. The Public Procurement Law does not contain very detailed and clear regulation on this situation. Therefore decisions of contracting authorities are often challenged and found to be unfounded. It justifies the topicality of the study. The aim of the study is to summarize and analyze the findings of the European Court of Justice to determine what legal principles and considerations have to be taken into account in such situations and to make recommendations for further action in Latvia. The descriptive, comparative and analytical research methods were used. The study will result in suggestions as to what conditions should be considered when assessing the possibility of corrections to the tender.

Keywords: public procurement, corrections to tender, errors
DOI: 10.37804/1691-6077-2020-11-164-183

Introduction

During the public procurement process, it is often found that the tenders submitted are deficient, for example, required documents are not submitted or information in the tender is controversial. This could be both due to the negligence of the tenderer or with a purpose to later improve the tender. Given the amount of information to be provided, also the types of errors are different – they can apply to the qualification of the tenderer, its technical or financial tender, exclusion criteria and other aspects of the tender. In each of these situations the procurement commission must evaluate whether is it possible to correct the error while not permitting any substantive amendments to the tender, or it should reject the tender. As U. Skrastiņa points out, in the evaluation process the procurement commission almost always comes in to a situation that is not regulated in any legal act, including procurement documents, because it is not possible to foresee how the wide range of suppliers will understand the various requirements, as they will undoubtedly interpret each requirement in their own interest. For example, they will submit similar document or will not submit it at all, modify or very roughly fill in the financial tender or other forms. In these situations the procurement commission shall seek its own fair and equitable solution. For example, by asking or not asking additional information, correcting or rejecting the tender. (Skrastiņa, 2015) The Public Procurement Law does not contain very detailed and clear regulation that would help the commission in all cases and there are no specific guidelines for such situations. As a result, decisions of contracting authorities are often challenged and found to be unfounded. This leads to ineffective procurement procedures and additional resources spent which could be prevented if there were clearer guidelines. Already in 1998 Arrowsmith concluded that it is very important that consideration should be given to supplementing the current rules with some more detailed guidance from the Commission on their application. More specifically, inter alia, guidance should be given on the extent to which discussions may be held with providers after tenders have been submitted to deal with various problems such as ambiguities and inconsistencies. (Arrowsmith, 1998) It justifies the topicality of the topic. Of course, one of the simplest solutions could be to prohibit any changes in the tenders, but, as Arrowsmith has observed, the problem with adopting a "strict" view in the above situations – that amendments are not permitted when this might give the bidder chance for effectively "changing" the bid as well as adjusting for error – is that errors, inconsistencies and ambiguities

are very prevalent in many complex procurement processes, and not to take account of these may mean that many bidders are eliminated and it is difficult to secure a best value for money. (Arrowsmith, 1998) Therefore Arrowsmith concludes it is necessary to balance, on the one hand, the interests of the EU directive, particularly, the need to curb abuse as referred to above, and, on the other, the interests of Member States in securing value for money in their own circumstances, as well as the interests of individual firms, the last two being relevant considerations in applying the EU principle of proportionality. And there are two main questions to consider – whether there is ever a duty to allow a tenderer to correct errors, and – where there is no duty, how far an authority has a discretion to allow correction if it chooses to do so. (Arrowsmith, 2014, 820–821). To see how the regulation of this aspect has developed and whether it reflects the principles provided by the European Court of Justice (hereinafter – ECJ) the development of its case-law will be summarized. The aim of the study is to summarize and analyze the findings of the ECJ to determine what legal principles and considerations have to be taken into account in such situations and to make recommendations for further action in Latvia. The research methods used include descriptive, comparative and analytical methods. The study will result in suggestions as to what conditions should be considered when assessing the possibility of corrections of the tender. Due to the limited scope of the article the study will review only judgements of European Court of Justice, without looking at the judgements of the General Court that could be a further topic of study, and the main focus regarding regulation will be on the open procedures in the 'classical public sector directives'.

Legal regulation

The most recent regulation regarding amendments in tenders on EU level is the Article 56(3) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (hereinafter – Directive 2014/24/EC) which provides that where information or documentation to be submitted by economic operators is or appears to be incomplete or erroneous or where specific documents are missing, contracting authorities may, unless otherwise provided by the national law implementing this Directive, request the economic operators concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the

principles of equal treatment and transparency. (Directive 2014/24/EC, 2014, 56.3.). According to Sanchez-Graells Article 56(3) should be seen as a codification of the case law of the CJEU concerned with the duty of good administration in the area of public procurement and need to be read in conjunction with its interpretation of the limits imposed by the principles of transparency and equal treatment. He further concludes that Article 56(3) of the new Directive should be welcome inasmuch as it can contribute (through the interpretation to be given to it by the CJEU) to the development of a common (minimum) standard of "good administration" in public procurement across all EU Member States – regardless of the requirements of their domestic codes of administrative procedure or similar provision. (Sanchez-Graells, 2014, 103)

This regulation is transposed in the Public Procurement Law (hereinafter – PPL), in force since 1 March. Article 41 (6) and (7) of the PPL provides that if the contracting authority establishes that the information or a document contained in the application or the tender or submitted by the candidate or tenderer is unclear or incomplete, it shall request that the candidate or tenderer, or the competent authority clarify or supplement the relevant information or document or submit the missing document, ensuring equal treatment of all candidates and tenderers. The contracting authority shall determine the term for submission of the necessary information or document commensurate with the time necessary to prepare and submit such information or document. If the contracting authority in accordance with Paragraph six of this Article has requested to clarify or supplement the information contained in the application or tender or submitted by the candidate or tenderer, but the candidate or tenderer has failed to do it in accordance with the requirements determined by the contracting authority, the contracting authority shall evaluate the application or tender based on information at its disposal. Further Article 41(8) provides that during the evaluation of the tenders, the contracting authority shall be entitled to request that information contained in the technical and financial tender be explained, as well as the samples of offered products are submitted, if any are necessary for the product conformity assessment and the tenderer through the documents available thereto cannot prove to the contracting authority the conformity of the products. The contracting authority shall not request to submit the samples of such products which are to be adjusted or produced during the performance of the procurement contract in accordance with the requirements thereof, if such samples are not available to the economic operator before the conclusion of the procurement contract, as

well as the product samples the submission whereof causes incommensurate expenses to the economic operator. And, finally, Article 41(9) provides that during the evaluation of the tenders, the contracting authority shall check whether the tender is free of arithmetic errors. If the contracting authority detects such errors, it shall correct such errors. The contracting authority shall notify the tenderer whose errors have been corrected of the correction of errors and the corrected sum of the tender. When evaluating the financial tender, the contracting authority shall take corrections into account. (Public Procurement Law, 2017) As we can see, paragraph 6 refers to qualification, paragraph 8 refers to the technical and financial tender and paragraph 9 – to arithmetical errors. The PPL has added an additional regulation to the Directive, e.g., it has made mandatory the correction of arithmetical errors as well as the request for additional information regarding qualification documents. It is a separate topic on how far the discretion of Member State can go in such cases. Further analysis of the ECJ case-law will reflect how the regulation in force has evolved.

Before Latvia's accession to the EU

One of the very first cases in the context of tender amendments is the '*Storebaelt*' where as a result of negotiations the contracting authority accepted amendments in the tender in a form of reservations regarding price. The ECJ stated that, although the directive makes no express mention of the principle of equal treatment of tenderers, the duty to observe that principle lies at the very heart of the directive [71/305/EEC] whose purpose is to ensure in particular the development of effective competition in the field of public contract. Observance of the principle of equal treatment of tenderers requires that all tenders comply with the tender conditions so as to ensure an objective comparison of the tenders submitted by the various tenderers. That would not be satisfied if the tenderers were allowed to depart from the basic terms of the tender conditions by means of reservations, except where those terms expressly allow them to do so. (ECJ, 1993, C-243/89) In this case the tenderer did not comply with the requirements regarding price setting, therefore this principle was not observed. The Advocate General Tesauro pointed out that the directive's very purpose is first and foremost to secure equality for all those who take part in a tendering procedure. (Opinion of Advocate General Tesauro, 1992) He also pointed out to the Council Statement concerning Article 5(4) of the Directive 71/305/EEC where the Council and the Commission state that in open and restricted procedures all negotiation with candidates or tenderers on

fundamental aspects of contracts, variations in which are likely to distort competition, and in particular on prices, shall be ruled out; however, discussions with candidates or tenderers may be held but only for the purpose of clarifying or supplementing the content of their tenders or the requirements of the contracting authorities and provided this does not involve discrimination. (Council, 1989) A similar statement has been issued regarding, for example, Article 7 (4) of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts. (Council, 1994) Regarding this view, Bovis points out that all negotiations with candidates or tenderers on fundamental aspects of contract, in particular on prices, are prohibited in open and restricted procedures; discussions with candidates or tenderers may be held, but only for the purpose of clarifying or supplementing the content of their tenders or the requirements of the authorities and provided this does not involve discriminatory practices. The need for such a prohibition is clear, since the possibility to negotiate may allow the authority to introduce subjective appraisal criteria. (Bovis, 2007, 77) As it can be seen, the problematics of tender amendments was topical already before public procurement system in Latvia even evolved in a way we know it after restoration of independence. Further in '*Waloon Busses*' case amendments were made to one of the tenders after the opening of tenders – data on fuel consumption and change of spare parts of the busses it offered were adjusted and this influenced the winner's choice. ECJ refers to the previous '*Storebaelt*' decision and notes that the procedure for comparing tenders had to comply at every stage with both the principle of the equal treatment and the principle of transparency so as to afford equality of opportunity to all tenderers when formulating their tenders. When a contracting entity takes into account an amendment to the initial tenders of only one tenderer it is clear that that tenderer enjoys an advantage over his competitors therefore the contracting authority failed to fulfil its obligations under Directive. (ECJ, 1996, C-87/94)

So it can be concluded that it is not allowed to allow one tenderer to change the technical proposal after the submission deadline to improve it because that would infringe the principle of equal treatment and transparency. This could be concluded from the general principles of the PPL, but it can not be said that this idea is clearly reflected in the Article 41(8) of the PPL.

Period regarding Directive 2004/18/EU

As from the moment when Latvia joined the European Union in 1 May 2004 and started aligning its legislation, the regulation of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (hereinafter – the Directive 2004/18/EC) became relevant. Article 51 "Additional documentation and information" of Directive 2004/18/EC provided that the contracting authority may invite economic operators to supplement or clarify the certificates and documents submitted pursuant to Articles 45 to 50. These articles referred to the criteria for qualitative selection, i.e., Article 45 'Personal situation of the candidate or tenderer', Article 46 'Suitability to pursue the professional activity', Article 47 'Economic and financial standing', Article 48 'Technical and/or professional ability', Article 49 'Quality assurance standards' and 50 'Environmental management standards', so no regulation regarding technical or financial tender was provided which is confirmed by ECJ.

In the '*Slovensko*' case it was evaluated whether in a restricted public procurement procedure where the tender submitted is imprecise or does not meet the technical requirements of the tender specification the contracting authority may or must seek clarification. The ECJ stated that the principal objectives of the EU rules in the field of public procurement include that of ensuring the free movement of services and the opening-up to undistorted competition in all the Member States. In order to pursue that twofold objective, EU law applies, inter alia, the principle of equal treatment of tenderers and the obligation of transparency resulting therefrom. The obligation of transparency, for its part, is essentially intended to preclude any risk of favouritism or arbitrariness on the part of the contracting authority. It is in the light of those considerations that the questions referred to the ECJ must be answered. ECJ notes that Directive 2004/18 does not contain any provision for the said situation when the technical tender is imprecise. The principle of equal treatment of tenderers and the obligation of transparency resulting preclude, in that procedure, any negotiation between the contracting authority and one or other of the tenderers. Therefore it does not follow from Article 2 or from any other provision of Directive 2004/18, or from the principle of equal treatment or the obligation of transparency, that, in such a situation, the contracting authority is obliged to contact the tenderers concerned. Those tenderers

cannot, moreover, complain that there is no such obligation on the contracting authority since the lack of clarity of their tender is attributable solely to their failure to exercise due diligence in the drafting of their tender, to which they, like other tenderers, are subject. None the less, Article 2 of that directive does not preclude, in particular, the correction or amplification of details of a tender where appropriate, on an exceptional basis, particularly when it is clear that they require mere clarification, or to correct obvious material errors, provided that such amendment does not in reality lead to the submission of a new tender. In the exercise of the discretion thus enjoyed by the contracting authority, that authority must treat the various tenderers equally and fairly, in such a way that a request for clarification does not appear unduly to have favoured or disadvantaged the tenderer or tenderers to which the request was addressed, once the procedure for selection of tenders has been completed and in the light of its outcome. The following conditions should be met:

- a request for clarification of a tender may be made only after the contracting authority has looked at all the tenders;
- that request must be sent in an equivalent manner to all undertakings which are in the same situation, unless there is an objectively verifiable ground capable of justifying different treatment of the tenderers in that regard, in particular where the tender must, in any event, in the light of other factors, be rejected;
- that request must relate to all sections of the tender which are imprecise or which do not meet the technical requirements of the tender specifications, without the contracting authority being entitled to reject a tender because of the lack of clarity of a part thereof which was not covered in that request. (ECJ, 2012, C-599/10)

It can be concluded that in case of imprecise technical tender it is allowed, but not mandatory to allow corrections in the tender and this is in line with the regulation of 40(8) of the PPL giving the contracting authority a discretion regarding technical and financial tenders. However, the PPL does not set any additional conditions provided in the ECJ case-law.

Further the first case where qualification requirements were evaluated is the '*Manova*' case, where a procurement procedure was organised according to the regulation applicable to the services listed in Annex IIB of Directive 2004/18/EC. Tenderers were required to submit a copy of the most recent balance sheet in so far as the tenderer is obliged to draw up such document and few of tenderers had not included this document in their tenders, therefore the contracting authority requested them to submit it. ECJ points

out that the application of the principle of equal treatment to public procurement procedures does not constitute an end in itself, but must be viewed in the light of the aims that it is intended to achieve. It is settled case-law that the principle of equal treatment requires that comparable situations must not be treated differently, and that different situations must not be treated in the same way, unless such treatment is objectively justified. The principle of equal treatment and the obligation of transparency preclude any negotiation between the contracting authority and a tenderer during a public procurement procedure, which means that, as a general rule, a tender cannot be amended after it has been submitted, whether at the request of the contracting authority or at the request of the tenderer concerned. It follows that, where the contracting authority regards a tender as imprecise or as failing to meet the technical requirements of the tender specifications, it cannot require the tenderer to provide clarification. However, the ECJ has explained that Article 2 of Directive 2004/18 does not preclude the correction or amplification of details of a tender, on a limited and specific basis, particularly when it is clear that they require mere clarification, or to correct obvious material errors. Further ECJ refers to certain requirements to mark the bounds of the contracting authority's right to make a written request to the tenderer or tenderers concerned for clarification of their bid that it laid down in the '*Slovensko*'case, reminding also that request may not lead to the submission, by a tenderer, of what would appear in reality to be a new tender and when exercising its right to ask a tenderer to clarify its tender, the contracting authority must treat tenderers equally and fairly, in such a way that a request for clarification does not appear unduly to have favoured or disadvantaged the tenderer or tenderers to which the request was addressed, once the procedure for selection of tenders has been completed and in the light of its outcome. Accordingly, a contracting authority may request the correction or amplification of details of such an application, on a limited and specific basis, so long as that request relates to particulars or information, such as a published balance sheet, which can be objectively shown to pre-date the deadline for applying to take part in the tendering procedure concerned. But in this case the court provides one limitation – this would not be the case if the contract documents required provision of the missing particulars or information, on pain of exclusion. It falls to the contracting authority to comply strictly with the criteria which it has itself laid down. (ECJ, 2013, C-336/12) Firstly, considering the reference made to the conditions laid out in the 'Slovensko' case, it can be concluded that the ECJ does not strictly differ between clarification of the information of qualification documents

and technical proposal, at least in this case. The PPL does not mention these conditions in its regulation. Secondly, the ECJ adds idea of information that 'can be objectively shown to pre-date the deadline for applying to take part in the tendering procedure concerned', but it is not clear what are the limitations of use of this aspect, i.e., whether it allows to correct all errors if the information to be submitted pre-date the deadline of application. PPL does not contain any reference to this aspect. Thirdly, the ECJ refers to the limitation – 'this would not be the case if the contract documents required provision of the missing particulars or information, on pain of exclusion'. PPL does not reflect on the regulation of the procurement documents, since the PPL 41(6) puts a duty on contracting authority to request additional information regarding qualification regardless of the regulation of the procurement documentation. So the contracting authority has no discretion regarding errors in qualification documents. It is yet to be evaluated whether the formulation of Article 56(3) of the Directive 2014/24/EU 'contracting authorities may, unless otherwise provided by the national law implementing this Directive' is meant to allow such limitations.

Further in the '*Cartiera dell'Adda*' case the ECJ deliberated on whether Article 45 of Directive 2004/18 must be interpreted as precluding the exclusion of an economic operator from a tendering procedure on grounds that the operator has failed to comply with a requirement laid down in the contract documentation to annex to the tender, on pain of exclusion, a statement to the effect that the person designated in the tender as the operator's technical director has not been the subject of criminal proceedings or a conviction, where, at a date after the expiry of the deadline for submitting tenders, such a statement has been provided to the contracting authority or it is shown that the person in question was identified as the technical director in error. ECJ refers to the 'Manova' case that the principle of equal treatment requires tenderers to be afforded equality of opportunity when formulating their bids, which therefore implies that the bids of all tenderers must be subject to the same conditions and the obligation of transparency is intended to preclude any risk of favouritism or arbitrariness on the part of the contracting authority. It implies that all the conditions and detailed rules of the award procedure must be drawn up in a clear, precise and unequivocal manner in the contract notice or specifications so that, first, all reasonably informed tenderers exercising ordinary care can understand their exact significance and interpret them in the same way and, second, the contracting authority is able to ascertain whether the bids submitted satisfy the criteria applying to the contract in question. Therefore

the Directive does not preclude the exclusion of a tenderer on grounds that he has omitted to annex to his bid a sworn statement relating to the person identified in the bid as technical director. In particular, in so far as the contracting authority takes the view that the omission is not a purely formal irregularity, it cannot allow the tenderer subsequently to remedy the omission in any way after the expiry of the deadline for submitting bids. Furthermore Article 51 of Directive 2004/18 cannot be interpreted as permitting that authority to accept any rectification of omissions which, as expressly provided for in the contract documentation, must result in the exclusion of the bid. (ECJ, 2014, C-42/13) In the context of PPL regulation this situation would be difficult to evaluate.

In the '*Partner Apelski Dariusz*' case it is evaluated whether the principles of equal treatment and non-discrimination of economic operators, laid down in Article 2 of Directive 2004/18, must be interpreted as meaning that they preclude a contracting authority, after the opening of the tenders submitted in a public procurement procedure, from allowing the request of an economic operator, which has submitted a tender for the whole of the contract concerned, to consider its tender solely for the award of certain lots of that contract. The ECJ refers to the previous considerations laid down in 'Cartiera dell'Adda' and 'Manova' cases. Regarding the specific case ECJ notes that it is common ground that such communication, by which an economic operator indicates to the contracting authority, after the opening of the tenders, the order of priority of the lots of the contract concerned according to which its tender should be assessed, far from being merely a clarification made on a limited or specific basis or a correction of obvious material errors, constitutes, in reality, a substantive amendment which is more akin to the submission of a new tender and it is not allowed. (ECJ, 2016, C-324/14) The PPL does not cover situations like this therefore the contracting authority would have to base its decision solely on condidereations regarding principles of public procurement.

In the '*Pizzo*' case the ECJ evaluated whether the principle of equal treatment and the obligation of transparency are to be interpreted as precluding an economic operator from being excluded as a result of that economic operator's non-compliance with an obligation which does not expressly arise from the documents relating to that procedure or out of the national law in force, but from an interpretation of that law and from the incorporation of provisions into those documents by the national authorities or administrative courts. ECJ refers to the '*Cartiera dell'Adda*' case and that the ECJ has also held that the principles of transparency and equal treatment

which govern all procedures for the award of public contracts require the substantive and procedural conditions concerning participation in a contract to be clearly defined in advance and made public, in particular the obligations of tenderers, in order that those tenderers may know exactly the procedural requirements and be sure that the same requirements apply to all candidates. But in a situation where a condition for participating in a procedure for the award of a contract, on pain of exclusion from that procedure, is not expressly laid down in the contract documentation and that condition can be identified only by a judicial interpretation of national law, the contracting authority may grant the excluded tenderer a sufficient period of time in order to rectify its omission. (ECJ, 2016, C-27/15) This kind of situation is also not regulated in the PPL.

In the '*Ciclat*' case the ECJ evaluated whether Article 45 of Directive 2004/18 and Articles 49 and 56 TFEU must be interpreted as precluding national legislation which obliges a contracting authority to consider an infringement relating to the payment of social security contributions, recorded in a certificate requested by a contracting authority on its own initiative and issued by the social security institutions to be a ground for exclusion, where that infringement existed on the date of the participation in a tender procedure, even if it no longer existed on the date of the award or of the verification carried out on the contracting authority's own initiative. The ECJ provides that although a contracting authority may request the correction or amplification of data relating to an offer, such corrections or additions may relate only to data which can be objectively shown to pre-date the deadline for applying to take part in the tendering procedure concerned and may not relate to information which must be communicated, failing which the tender will be excluded. Article 51 of Directive 2004/18 cannot be interpreted as permitting that authority to accept any rectification of omissions which, as expressly provided for in the contract documentation, must result in the exclusion of the tenderer. (ECJ, 2016, C-199/15) This judgement again containd idea of 'data which can be objectively shown to pre-date the deadline for applying' regarding exclusion criteria. These situations are regulated by Article 42 of the PPL on exclusion criteria that is separate topic.

In the '*Esaprojekt*' case ECJ answered whether Article 51 of Directive 2004/18, in conjunction with Article 2 thereof, must be interpreted as precluding an economic operator, in order to prove that it satisfies the conditions for participating in a public procurement procedure, from submitting to the contracting authority, after the expiry of the period

prescribed for applications to take part in a public tender procedure, documents not included in its initial bid, such as a contract performed by another entity and the undertaking by the latter to place at the disposal of that operator the capacities and resources necessary for the performance of the relevant contract. The ECJ referred to the conclusions made in the '*Partner Apelski Dariusz*' case. In the present case such further information, far from being merely a clarification made on a limited or specific basis or a correction of obvious material errors is in reality a substantive and significant amendment of the initial bid, which is more akin to the submission of a new tender. Such a communication directly affects the essential elements of the award procedure, namely the very identity of the economic operator which may be awarded the public contract concerned, and the verification of the capacities of that operator and, therefore, its ability to perform the contract concerned within the meaning of Article 44(1) of Directive 2004/18. (ECJ, 2017, C-387/14) As the Advocate General Bobek points out, the possibility for submitting additional information after the deadline for submission is considered exceptional, but not non-existent. The question then becomes where precisely to draw the line. In his view, the approach of the ECJ could perhaps best be captured by a metaphor: the information and documentation submitted by a tenderer upon the lapse of the submission deadline represents a snapshot. Only the information and documentation already contained in that picture may be taken into account by the contracting authority. This does not prevent the contracting authority from zooming in on any details in the picture that were a bit blurry and requesting an increase in the picture's resolution in order to see the detail clearly. But the basic information must already have been, albeit in low resolution, in the original snapshot. Following that logic, he considered that a tenderer, in principle, cannot be permitted to demonstrate that it fulfils the technical and professional requirements of a tender by relying on the experience of third parties not referred to prior to the submission deadline. That is a material change affecting a key element of the procedure. (Advocate General Babek, 2016) This case resolves the question whether it is possible to attract additional subcontractors, but this question would require more in depth analysis since it is possible to change the subcontractors in case the exclusion criteria apply to them according to the Article 42 (7) of PPL and the question of information about experience of the tenderer also needs additional analysis.

In the '*Archus and Gama*' case a tenderer sent new samples after the submission deadline stating that there had been an inadvertent mistake and the sample annexed to their tender did not conform to the tender specification. The ECJ

refers to the previous case-law stating that in general no negotiations are allowed after the tender submission deadline, however, the principle of equal treatment does not preclude the correction or amplification of details of a tender, where it is clear that they require clarification or where it is a question of the correction of obvious clerical errors, subject, however, to the fulfilment of certain requirements. A request sent by the contracting authority to a tenderer to supply the declarations and documents required cannot, in principle, have any other aim than the clarification of the tender or the correction of an obvious error vitiating the tender. It cannot, therefore, permit a tenderer generally to supply declarations and documents which were required to be sent in accordance with the tender specification and which were not sent within the time limit for tenders to be submitted. Nor can it result in the presentation by a tenderer of documents containing corrections where in reality they constitute a new tender. In any event, the obligation which a contracting authority may have under national law, to invite tenderers to submit the declarations and documents required which they have not sent within the time limit given for the submission of offers, or to correct those declarations and documents in the event of errors, cannot be permitted except in so far as the additions or corrections made to the initial tender do not result in a substantial amendment of that tender. In this case ECJ left for the national court to decide on the factual situation. (ECJ, 2017, C-131/16). This judgement again applies to the technical proposal.

In the '*Casertana Costruzioni*' case the ECJ evaluated whether directive is precluding national legislation which excludes the possibility for an economic operator taking part in a tendering procedure to replace an auxiliary undertaking that has lost required qualifications after the submission of the tender and which results in the automatic exclusion of that operator. According to the ECJ the possibility afforded, unpredictably, exclusively to a consortium of undertakings to replace a third-party undertaking which belongs to that consortium and has lost a qualification that is required in order not to be excluded would amount to a substantial change of the tender and the very identity of the consortium. Therefore that Articles 47(2) and 48(3) of Directive 2004/18 must be interpreted as not precluding national legislation which excludes the possibility for an economic operator taking part in a tendering procedure to replace an auxiliary undertaking that has lost required qualifications after the submission of its tender and which results in the automatic exclusion of that operator. (ECJ, 2017, C-223/16)

In the '*MA.T.I. SUD*' case in the evaluation process the procurement committee noted that the declaration of commitment required, designating MA.T.I. SUD

as the lead undertaking of the Association, lacked the signature of its legal representative. Accordingly, the contracting authority requested that the Association remedy that irregularity, on pain of exclusion from the tender procedure, and that it pay a financial penalty of EUR 35 000. ECJ points out that it is possible to supplement or clarify the certificates and documents submitted pursuant to Articles 45 to 50 of Directive 2004/18/EC. Neither that provision nor any other provision of Directive 2004/18 contains details on how such a rectification may take place or on the conditions to which it may be subject. Member States may therefore decide to subject that possibility of rectification to the payment of a financial penalty. However, when they implement the possibility provided for in Article 51 of Directive 2004/18, the Member States must ensure that they do not jeopardise the attainment of the objectives pursued by that directive or undermine the effectiveness of its provisions and other relevant provisions and principles of EU law, particularly the principles of equal treatment and non-discrimination, transparency and proportionality. Article 51 of Directive 2004/18 cannot be interpreted as allowing the contracting authority to accept any rectification of omissions which, as expressly provided for in the contract documentation, had to lead to the exclusion of the tenderer. Besides ECJ points out that in accordance with the principle of proportionality, which constitutes a general principle of EU law and with which the award of contracts concluded in the Member States must comply, the measures adopted by the Member States must not go beyond what is necessary in order to achieve that objective. Further ECJ notes that the very concept of substantial irregularity in this case does not appear to be compatible with Article 51 of Directive 2004/18 or with the requirements to which the clarification of a tender in the context of a public contract falling within the scope of Directive 2004/17 is subject. It follows that the mechanism of assistance in compiling the documentation provided for in Public Procurement Code is not applicable if the tender submitted by a tenderer cannot be rectified or clarified within the meaning of the case-law, and that, consequently, no penalty can be imposed on the tenderers in such a case. In that regard, it should be noted, first, that the setting in advance by the contracting authority of the amount of the penalty in the contract notice does indeed fulfil the requirements arising from the principles of equal treatment of tenderers, transparency and legal certainty, in that it is objectively such as to avoid any arbitrary or discriminatory treatment of tenderers by that contracting authority. The fact remains, however, that the automatic application of the penalty thus set in advance, irrespective of the nature of the rectifications made by the errant tenderer and therefore also in the

absence of any specific reasons, does not appear to be compatible with the requirements deriving from the principle of proportionality. It should be noted, secondly, that the imposition of a financial penalty is indeed an appropriate means of achieving the legitimate objectives pursued by the Member State related to the need to place responsibility on the tenderers in submitting their tenders and to offset the financial burden that any regularisation represents for the contracting authority. However, the amounts of penalties such as those set out in the contract notices by the contracting authorities in the two cases in the main proceedings appear manifestly disproportionate as such, taking into account the limits placed on the rectification of a tender under Article 51 of Directive 2004/18 and on the clarification of a tender within the framework of Directive 2004/17. (ECJ, 2018, C-523/16 and C-536/16). The situation with penalty is not relevant in case of PPL, but it is interesting option to look at in case of amendments to a tender.

The Advocate General Campos Sanchez-Bordona, regarding existing case-law, concludes that a 'clarification made on a limited or specified basis or a correction of obvious material errors' is therefore accepted, but not a 'substantive and significant amendment of the initial bid, which is more akin to the submission of a new tender'. The provision of 'documents which are not included in the initial bid' is also ruled out where their subsequent submission would, in reality, amount to the making of a new bid. Nor would it be possible to remedy irregularities 'if the contract documents required provision of the missing particulars or information, on pain of exclusion[, since] it falls to the contracting authority to comply strictly with the criteria which it has itself laid down'. (Sanchez-Bordona, 2017) The situation with a lack of signatures is difficult because many different documents require signatures and the new e-procurement system has brought new challenges regarding this aspect. However, it is clear that the PPL does not regulate situations like the ones reviewed in the judgement.

In the '*VAR and ATM*' case a requirement was included that an economic operator proposing equivalent solutions to the requirements defined by the technical specifications shall make this known by a separate declaration, which it shall attach to its tender. The provision of Directive 2004/17/EC does not state at what point in time or by what means the 'equivalent' nature of a product offered by a tenderer must be proved. It follows that, when the contracting authority makes use of the option available to it under the second sentence of Article 34(8) of that directive, it must require the tenderer which wishes to avail itself of the possibility of tendering products equivalent to those defined by reference to a specific mark, origin or

production to provide, at the time of submission of its tender, proof of the equivalence of the products concerned. Such verification and the possible adoption of a decision that equivalence does not exist can, however, take place only after the tenders have been opened, when they are assessed by the contracting entity, which means that that entity must have evidence that enables it to assess whether and to what extent the tenders submitted satisfy the requirements in the technical specifications, as otherwise it will run the risk that the principle of equal treatment may be infringed and that the tendering procedure may be vitiated by an irregularity. As a result, although the contracting entity cannot permit tenderers to prove the equivalence of the solutions which they propose after they have submitted their tenders, that entity has a discretion in determining the means that may be used by tenderers to prove such equivalence in their tenders. That discretion must, however, be exercised in such a way that the means of proof allowed by the contracting entity actually enable that entity to carry out a meaningful assessment of the tenders submitted to it and do not go beyond what is necessary in order to do so, by preventing those means of proof from creating unjustified obstacles to the opening-up of public procurement to competition, in breach of Article 34(2) of Directive 2004/17. (ECJ, 2018, C-14/17) This situation is also not clearly regulated in the PPL.

Period regarding Directive 2014/24/EU

In the '*Lavorgna*' case the ECJ had to answer whether the principles of legal certainty, equal treatment and transparency, to which Directive 2014/24 refers, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, according to which failure to list the labour costs separately, in a financial tender submitted in a procedure for the award of public services, results in that tender being excluded without the possibility of supplementing or amending the tendering documentation, even where the obligation to list those costs separately was not set out in the tender documents. The ECJ refers again to the settled case-law, i.e., first, the principle of equal treatment requires tenderers to be afforded equality of opportunity when formulating their tenders, which therefore implies that the tenders of all tenderers must be subject to the same conditions. Secondly, the obligation of transparency, which is its corollary, is intended to preclude any risk of favouritism or arbitrariness on the part of the contracting authority. That obligation implies that all the conditions and detailed rules of the award procedure must be drawn up in a clear, precise and unequivocal manner in the contract notice or specifications so that,

first, all reasonably informed tenderers exercising ordinary care can understand their exact significance and interpret them in the same way and, secondly, the contracting authority is able to ascertain whether the tenders submitted satisfy the criteria applying to the contract in question. So the answer to the question is that the principles of legal certainty, equal treatment and transparency, as referred to in Directive 2014/24, must be interpreted as meaning that they do not preclude national legislation, such as that at issue in the main proceedings, according to which failure to list the labour costs separately, in a financial tender submitted in a procedure for the award of public services, results in that tender being excluded without the possibility of supplementing or amending the tendering documentation, even where the obligation to list those costs separately was not set out in the tender documents, in so far as that requirement and that possibility of exclusion are clearly provided for by the national legislation on public procurement expressly referred to in those tender documents. However, if the provisions of the tender procedure do not enable the tenderers to list those costs in their financial tenders, the principles of transparency and proportionality must be interpreted as not precluding tenderers from being allowed to regularise their position and to comply with the obligations under the relevant national legislation within a period set by the contracting authority. (ECJ, 2019, C-309/18) Due to the laconic regulation of Article 41(8) of the PPL the contracting authority would have problems to come to similar conclusions in such a situation.

Conclusions

1. The ECJ has concluded and it has been incorporated in the public procurement regulation that it is possible to clarify and supplement the information in the tender, if the principles of equal treatment of tenderers and transparency are met.
2. The ECJ has provided general guidelines to conclude when these principles are met, for example, such amendments can not in reality lead to the submission of a new tender and a request for clarification may not appear unduly to have favoured or disadvantaged the tenderer or tenderers to which the request was addressed. However, in each situation additional aspects has been evaluated by the ECJ, for example, whether it has been clear from the tender documents that the information must be submitted, whether the data was available before the application

deadline etc. It is not clear which of these aspects should be applied in every situation when there is an error in a tender.

3. The PPL does not contain specific aspects listed in the case-law reviewed and could not be helpful in many situations reviewed by the ECJ. However, the PPL regulates aspects not included in the reviewed case-law, especially regarding discretion of the contracting authority to ask clarification.
4. There are many different situations where the tender could have errors as well as different aspects that should be taken into account in each of them, therefore it is challenging to conclude the 'right' approach in each situation. The reviewed ECJ case-law gives only partial guidance that is needed to evaluate the errors in tenders and additional study is needed to give practical directions that could be useful for all situations that occur in public procurement.

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KOPSAVILKUMS

Pasaules pieredze: attiecības starp komercbanku kredītu un ekonomisko izaugsmi

Davit Aslanishvili

Šajā pētījumā aplūkota problēma saistībā ar nesamērīgi liela mēroga panākumiem banku sektora attīstībā un lielākoties neveiksmīgu reālās ekonomikas nozares attīstību. Jāatzīmē, ka šī nevienlīdzība ir apspriests temats mūsdienu ekonomiskajā literatūrā un šis pētījums ir mēģinājums paplašināt šo problēmu un dalīties ar idejām starptautiskajās zinātniskajās aprindās. Galvenā pētījuma problēma ir banku sektora kredītportfeļa un kredīttirgus darbības ietekme uz valsts ekonomisko izaugsmi. Ņemot to vērā, ir ļoti svarīgi identificēt, izpētīt valsts makroekonomisko stabilizāciju un paātrināt ekonomisko izaugsmi, analizēt kredītu tirgus faktoru ietekmes mehānismus uz ekonomisko izaugsmi. Secinājums, kas apkopo pētījuma lielāko daļu un aptaujā sniegtos viedokļus, ir šāds: no ekonomiskā viedokļa galvenā banku funkcija ir palielināt līdzekļu finansēšanu/aizdevumu, kas savukārt ir nozīmīgākais elements investīciju pieauguma veicināšanā ekonomikā. Tādējādi valsts izaugsme no ekonomiskā viedokļa ir atkarīga no investīciju pieauguma. Šobrīd banku sektors ir atbildīgs par to, vai tas mūs vedīs uz ekonomisku inerci vai paātrinās valsts ekonomisko attīstību caur efektīvu resursu sadali.

Sociālās uzņēmējdarbības iespējas Latvijas pašvaldībās

Ainārs Brencis, Inga Šīna, Ieva Brence

Līdz 2018. gadam Latvijā nav pastāvējusi juridiskā forma tādas uzņēmējdarbības regulēšanai, kuras mērķis nav peļņas gūšana. Līdz ar to bezpeļņas organizācijas Latvijā bija spiestas darboties strīdīgā juridiskajā statusā. Uzņēmējs varēja izvēlēties vai nu kļūt par komersantu, vai arī nodarboties ar uzņēmējdarbību caur nevalstisku organizāciju, kas nav visai piemēroti uzņēmējdarbībai. Vietējās pašvaldības bija spiestas rīkoties līdzīgi kā uzņēmēji. Lai iegūtu autonomiju savām organizācijām, pašvaldības ir izveidojušas komercuzņēmumus, kuri atbilstoši Latvijas likumdošanai ir paredzēti peļņas gūšanai. Veidojās situācija, kurā pašvaldība, kas *a priori* darbojas uzņēmuma labā, nodibinot komercuzņēmumu, cenšas gūt peļņu – galvenokārt no sabiedrības.

Šajā pētījumā, pielietojot ar dažādām pētniecības metodēm iegūto datu triangulāciju, izvērtētas vietējo pašvaldību iespējas uzsākt sociālo uzņēmējdarbību, kuras tiesiskais regulējums Latvijā darbojas mazāk par gadu. Pētījumā izvērtētas Latvijas vietējo pašvaldību iespējas pārveidot esošās organizācijas, dibināt jaunus sociālos uzņēmumus un uzticēt sociālās uzņēmējdarbības funkcijas privātajā sektorā dibinātajiem sociālajiem uzņēmumiem.

Ilgtspēja un digitalizācija: nacionālās attīstības divpusējās stratēģijas vadlīnijas

Eugene Eteris

Raksta mērķis ir parādīt globāli Eiropā veikto darbību attīstību ilgtspējas un digitalizācijas nodrošināšanā, kas sniedz pamatu Baltijas valstu centieniem pilnveidot to ekonomikas pārvaldību atbilstoši modernajiem izaicinājumiem.

Pētījumā atklāta būtība Eiropas institūciju darbībai, transformējot Baltijas valstu ekonomisko izaugsmi ilgtspējīgākas un digitālas politikas virzienā. Tādēļ pētniecības metodēs galvenokārt (bet ne tikai) iekļautas Eiropas Komisijas rekomendācijas un darbības saistībā ar ilgtspēju un digitālo programmu/ekonomiku Baltijas valstīs, piemēram, analizējot šo valstu viedās specializācijas stratēģijas un to efektivitāti.

Dažas Baltijas valstis jau ir pieņēmušas ilgtspējas un digitālās programmas plānus un stratēģijas. Šie modernās izaugsmes aspekti definēs ES valstu un Baltijas valstu progresīvo attīstību nākotnē.

Visbeidzot, pētījumā formulēti daži teorētiski un praktiski secinājumi un ieteikumi Baltijas valstu adaptācijai jaunai ilgtspējai un digitālajai paradigmai šo valstu perspektīvajā izaugsmē.

IT profesionāļu motivēšana un vadība: Latvijas situācija

Svetlana Gribanova, Anna Ābeltiņa

Raksta mērķis ir aprakstīt IT profesionāļu motivācijas struktūru Latvijā no diviem skatu punktiem: no pašu IT speciālistu viedokļa un no HR vadītāju viedokļa, kuri nodarbojas ar IT speciālistu piesaistīšanu un vadīšanu. Pētījuma jautājums ir, kā uzlabot IT profesionāļu vadības efektivitāti. Pētījuma teorētiskais pamatojums balstīts Makklelanda vajadzību teorijā. Pētījumā izmantota teorētiska pieeja, kas koncentrējas uz indivīda vajadzību izpratni un ņem vērā cilvēku sasniegumus kā galveno motivējošo faktoru. Vadoties pēc šīs teorijas, lai motivētu darbinieku strādāt efektīvi un uzturētu tā

atdevi uzņēmumam, nepieciešams saprast tā neapmierinātās vajadzības un piedāvāt iespējas to pastāvīgai apmierināšanai.

Pētījuma rezultāti parāda, ka IT profesionāļi ir cilvēku grupa, kurā dominē vajadzība pēc sasniegumiem un piederības. Zināmā mērā pastāv vajadzība pēc varas. Šīs profesionālās grupas efektīvai vadībai, vadītājiem jārada tai komfortabli darba apstākļi. Ērti darba apstākļi ietver kontroles samazināšanu, koncentrēšanos uz to, ko cilvēki dara, nevis – kad un kā to dara. Ir svarīgi nodrošināt ļoti precīzu informāciju par projekta mērķiem, ierobežojumiem, posmiem un termiņiem un skaidri formulēt gaidas attiecībā uz darba produktivitāti un iegūtajiem rezultātiem, samazināt rutīnu saistībā ar atskaitēm.

Lietuvas reģionālās demokrātijas analīze saskaņā ar Eiropas vietējo pašvaldību hartas pantiem

Karolis Kaklys

Nepietiekami adresētā motivācijas problēma pašvaldību demokrātijā var kavēt iedzīvotāju tiešu iesaistīšanos sabiedrisko lietu vadības procesā un lēmumu pieņemšanā par sociālajiem, politiskajiem, kulturālajiem, ekonomiskajiem un citiem pašvaldību jautājumiem. Pilsoņu tiesības piedalīties sabiedriskajās lietās ir definētas hartas preambulā kā viens no fundamentāliem demokrātijas principiem. Turklāt Lietuva ir ratificējusi Eiropas vietējo pašvaldību hartu (1999), apņemoties ieviest tās noteikumus nacionālajā tiesību sistēmā. Kā ar visiem Eiropas Padomes daudzpusējiem līgumiem, pastāv noteikta uzraudzības sistēma pareizai vietējo pašvaldību hartas ieviešanai, kurā viens no institucionālajiem instrumentiem izpildes nodrošināšanai ir neatkarīgu ekspertu grupa.

Līdz ar to pētījuma mērķis ir noteikt Eiropas pašvaldības hartā ietverto principu izpausmes līmeni Lietuvas nacionālajos likumos; atklāt Eiropas vietējo pašvaldību hartā ietverto principu ietekmi uz Lietuvas pašvaldību demokrātiskajiem procesiem; izvirzīt risinājumus Lietuvas likumdevējiem jautājumu analīzē identificētajām problēmām, lai uzlabotu nacionālo tiesisko regulējumu. Pētījumā izmantotas teorētiskās, vēsturiskās, empīriskās, salīdzinošās un analītiskās metodes.

Pretkorupcijas vides attīstība Lietuvas sabiedriskajā sektorā: labākās prakses piemēri un pieredze

Raimundas Kalesnykas

Rakstā analizēti priekšnoteikumi pretkorupcijas vides ieviešanai sabiedriskā sektora organizācijā un demonstrēta Lietuvas labākā prakse šajā jomā. Korupcija kā multistrukturāls globāls fenomens negatīvi ietekmē labu pārvaldību, sabiedrības uzticību sabiedriskā sektora organizācijām un nopietni kaitē šo organizāciju funkcionēšanai. Viens no būtiskākajiem Lietuvas valdības centieniem ir samazināt korupcijas apjomu, palielināt caurredzamību, godīgumu un atklātību sabiedriskajā sektorā.

Šajā pētījumā mēģināts pierādīt hipotēzi, ka sabiedriskā sektora organizācijām jāieņem aktīva loma korupcijas apkarošanā, radot nelabvēlīgu vidi korupcijas izplatībai. Šī pētījuma mērķis ir parādīt pievienoto vērtību pretkorupcijas vides attīstīšanai sabiedriskajā sektorā kā vienam no efektīviem pretkorupcijas instrumentiem korupcijas pakāpes samazināšanai. Pētījuma rezultāti parāda, ka nepietiek tikai ar likumdošanu, lai atrisinātu korupcijas problēmas. Sabiedriskā sektora organizācijām parasti nav efektīvu pretkorupcijas instrumentu, ar kuriem novērst un pārvaldīt dažādas korupcijas formas (kukuļdošanu, nepotismu, interešu konfliktu u.c.). Izvēloties labāko praksi, autors piedāvā Lietuvas sabiedriskā sektora organizācijām jaunu iniciatīvu attīstīt pretkorupcijas vidi, kas vērsta uz korupcijas izpausmju iespējamības samazināšanu.

Ar korupcijas apkarošanas efektivitātes palielināšanu sabiedriskajā sektorā saistīto jautājumu analizēšanā izmantotas loģiskā un salīdzinošā analīze, dokumentu analīze, problēmanalīze un sistēmiskās pieejas pētniecības metode. Autors secina, ka antikorupcijas vides attīstībai jākļūst par stratēģisku prioritāti sabiedriskā sektora organizācijai, kam nepieciešama efektīvas vadības sistēmas ieviešana korupcijas novēršanai un augstākās vadības apņemšanās nodrošināt tās funkcionēšanu reālā, nevis formālā veidā.

Tiesību uz datu pārnesamību piemērošanas problemātika

Marta Kive, Jānis Grasis

Raksta mērķis ir analizēt tiesību uz datu pārnesamību priekšrocības un trūkumus, kā arī aplūkot tās fizisko personas datu aizsardzības tiesiskā regulējuma attīstības kontekstā. Vispārīgā datu aizsardzības regula, kas stājās spēkā 2018. gada 25. maijā un ieviesa jaunu fizisko personas datu aizsardzības tiesisko regulējumu Eiropas Savienībā, ietvēra arī virkni jaunu

tiesību, tostarp tiesības uz datu pārnesamību. Tās ir datu subjekta tiesības saņemt personas datus attiecībā uz sevi, kurus viņš sniedzis pārzinim strukturētā, plaši izmantotā un mašīnlasāmā formātā, un minētos datus nosūtīt citam pārzinim pie nosacījuma, ja tas ir iespējams.

Tiesības uz datu pārnesamību attiecas tikai uz personas datiem, ko datu pārzinim iesniedzis pats datu subjekts, turklāt tās ir spēkā tikai tad, ja datu apstrāde sākotnēji tikusi pamatota ar lietotāja piekrišanu vai arī uz līguma pamata. Tas nozīmē, ka tiesības uz datu pārnesamību nav īstenojamas gadījumos, kad datu apstrāde notiek, balstoties uz citu tiesisko pamatu.

Tiesību uz datu pārnesamību ietvaros datu subjekti var tieši pārraidīt datus no viena datu pārziņa citam, ja tas ir tehniski iespējams. Regulā nav precizēts, ko nozīmē "tehniski iespējams". Formulējums norāda, ka tas ir jārisina katrā konkrētā gadījumā un jānodrošina dinamiska jēdziena "tehniski iespējams" interpretācija. Tas ir ierobežots, jo regula nerada pienākumu datu pārziņiem pieņemt vai uzturēt saderīgas apstrādes sistēmas.

Biheiviorālās ekonomikas perspektīva uz darbā pieņemšanas un atlases prakses novērtējumu Latvijā

Arturs Mons, Velga Vēvere

Šī pētījuma mērķis ir novērtēt pašreizējo cilvēkresursu vadības evolūciju Latvijā attiecībā uz darbinieku pieņemšanas un atlases praksi. Pētījums koncentrējas uz organizāciju izmantotajām metodēm atlases procesā, kad tās pieņem darbā personālu dažādos organizācijas līmeņos. Lai pētītu darbā pieņemšanas un atlases procesus, pētījuma autori izmantoja vairākas empīriskās metodes. Pētījums tika veikts divos posmos: (1) diskusija ar Latvijas personāla atlases speciālistiem (Delphi metode) un (2) kvantitatīvais pētījums, veikts Latvijā. Pētījuma jautājumi bija sekojoši: kuras darbā pieņemšanas metodes tiek izmantotas to pārstāvētajās organizācijās un kuras atlases metodes tiek izmantotas to organizācijās? Lai iegūtu primāros datus, tika izveidota tiešsaistes aptaujas forma, kuru respondents varēja aizpildīt bez palīdzības. Tika atlasīta 16 uzņēmumu kopa no dažādām industrijām Latvijā. Atlase tika veikta visu 2020. gada janvāri, un tās dati ir atspoguļoti rezultātos. Aptaujas rezultāti demonstrē, ka Latvijā izmantotās darbinieku atlases metodes pārāk neatšķiras. Lielākā respondentu daļa pieturas pie tādām tradicionālām metodēm kā paneļintervijas un individuālās intervijas.

Augstskolu studentu emocionālās inteliģences mērīšana Indijā

B. Arul Senthil, D. Ravindran, S. A. Surya Kumar

Šajā rakstā apskatīta emocionālās inteliģences (EI) iezīme augstskolu studentos, izmantojot emocionālās inteliģences iezīmes īsās formas anketu. Pētījuma galvenais mērķis ir izpētīt dažādu augstskolu studentu labsajūtu, paškontroli, emocionalitāti un sabiedriskumu un identificēt atšķirības studentu EI attiecībā pret studentu bakalaura grādu, ģimenes tipu, darba pieredzi, dzimto vietu un dzimumu. Aptaujā piedalījās MBA studenti no dažādām augstskolām Indijā, un tika ievākti dati no 141 respondenta. Pētnieki izmantoja T-testu un vienvirziena dispersijas analīzi (ANOVA) mainīgo pārbaudīšanai, labākai izpratnei, izmantojot aprakstošo statistiku. Vairāki pētnieki pierādīja, ka emocionālā inteliģence sekmē veiksmīgu vadību neatkarīgi no jomas. Pētnieki uzskata, ka studenti, kuri cenšas iegūt grādu vadībā, reiz kļūs par biznesa līderiem. Līdz ar to EI ir nozīmīga biznesa studentiem. Par līderu EI publicēti daudzi pētījumi, bet tikai daži pētījumi ir publicēti par biznesa studentu EI. Viens no šī pētījuma rezultātiem parāda, ka studenti, kuri auguši daļēji urbānās teritorijās, izrāda būtiskas EI labklājības faktora atšķirības.

Ekoloģiskais apvērsums – tendences un perspektīvas

Udo E. Simonis

Pašreizējās draudīgās vides tendences norāda uz milzīgiem izaicinājumiem vides politikā nacionālā, reģionālā un globālā līmenī. Lai uzlabotu šo situāciju, nepieciešams uzsākt fundamentālu ekonomisko un sociālo transformāciju. Šādi procesi rada milzīgas politiskas problēmas. Rakstā analizēti četri vēsturiski pētījumi, kuros izskaidrota nepieciešamība pēc globālām vides pārmaiņām un izpētīta transformējošu procesu iespējamība. Transformācija kā radikālas pārmaiņas ir uz vērtību orientēts process.

Publiskā iepirkuma piedāvājuma dokumentācijā izdarīto grozījumu problemātika – Eiropas Savienības tiesas perspektīva

Una Skrastiņa, Džeina Gaile

Iepirkuma procesa laikā bieži var novērot, ka iesniegtie piedāvājumi ir nepilnīgi, piemēram, nav iesniegti nepieciešamie dokumenti. Ņemot vērā piedāvātās informācijas apjomu, pieļautās kļūdas ir dažādas un var būt saistītas ar pretendenta kvalifikāciju, uz tā tehnisko vai finanšu piedāvājumu

un citiem aspektiem. Katrā no šīm situācijām iepirkumu komisijai jāizvērtē, vai kļūdu iespējams izlabot vai arī jānoraida pretendents. Publiskā iepirkuma likums nesatur detalizētu un skaidru šādu situāciju regulējumu, līdz ar to līgumslēdzēju iestāžu lēmumi bieži tiek apstrīdēti un atzīti par nepamatotiem. Tas ir pamatojums pētījuma aktualitātei. Pētījuma mērķis ir apkopot un analizēt Eiropas Tiesas atzinumus, lai noteiktu, kādi tiesību principi un apsvērumi jāņem vērā šādās situācijās un sniegtu ieteikumus turpmākai rīcībai Latvijā. Tika izmantotas aprakstošās, salīdzinošās un analītiskās pētniecības metodes. Pētījuma rezultāti sniedz ierosinājumus, kādi nosacījumi būtu jāņem vērā, novērtējot piedāvājuma labojumu iespēju.

Journal of Turiba University
Acta Prosperitatis Nr. 11

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ISSN 1691-6077
Publishing house of Turiba University
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E-mail: izdevnieciba@turiba.lv