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ANALIZA OSETLJIVOSTI I SCENARIO METODA ZA OCENU EFEKTIVNOSTI INVESTICIONIH PROJEKATA U USLOVIMA RIZIKA

Rezime: Cilj istraživanja je da na projektu analiziramo osetljivosti i metod scenarija kao jednu od veoma bitnih metoda koje nam omogućavaju da u uslovima neizvesnosti i rizika izvršimo ocenu efektivnosti investicionog projekta. U uslovima pandemije izazvane virusom COVID-19, kao i učestalim neizvesnim događajima koji stvaraju ekonomske krize i turbulencije na tržištima svakako je ponovo u prvi plan kod ocene isplativosti projekata analiza osetljivosti i metoda scenarija kao odgovor na povećanje rizika i potrebu za predviđanjima budućih ishoda projekata. Rezultat istraživanja je neophodnost i obaveza korišćenja ovih analiza i metoda za ocenu svih budućih investicionih projekata, jer smo svedoci negativnih efekata na ekonomiju koji su uzrokovani pandemijom i drugim neizvesnim događajima. Zaključak istraživanja je da klasične metode za ocenu efektivnosti investicija nisu više dovoljne i pouzdane, odnosno da bez analize osetljivosti i metoda scenarija i drugih sličnih metoda neće biti moguće adekvatno oceniti investicioni projekat. Najvažniji zaključak istraživanja je da će predviđanje budućnosti i predviđanje neizvesnih događaja biti u fokusu teorije i prakse poslovnog sveta. Pitanje koje se postavlja jeste da li je svet došao u fazu globalizacije u kojoj najveći investitori su toliko moćni da kreiraju scenarije prema svojoj volji i imaju unapred spremne odgovore i rešenja globalnih problema uz ostvarenje svojih interesa.

Ključne riječi: analiza osetljivosti, metoda scenarija, ocena efektivnosti, investicioni projekti, budućnost

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UVOD

Investicioni projekti su izloženi različitim oblicima rizika koji mogu uticati na očekivani ishod. Uopšteno, rizik podrazumeva verovatnoću ostvarenja neželjnog događaja, što za investiciju znači mogućnost ostvarenja gubitka u budućnosti usled nedovoljnih ili netačnih informacija prilikom odlučivanja. Upravljanje rizicima podrazumeva analiziranje potencijalnih pretnji koje mogu da utiču na profitabilnost projekta u budućnosti. Kompletna definicija rizika koja uključuje dva aspekta (opasnost i priliku), smatra rizik kao neizvestan događaj ili stanje, koje će u slučaju manifestacije imati pozitivan ili negativan uticaj na ishod projekta. Utvrđivanje i ocena opravdanosti realizacije jednog investicionog projekta je veoma složen postupak, koji treba da obuhvati sagledavanje i razmatranje svih relevantnih faktora, pre svega, utvrđivanje efekata koji se dobiju realizacijom određene investicije. Efekti od investicije predstavljaju rezultat određenog ulaganja. Na taj način, efekti od investicije predstavljaju meru ostvarenja postavljenih ciljeva investiranja i služe kao kriterijumi za ocenu valjanosti investicionih projekata i izbor najefikasnije investicije. Merenje ukupnih efekata koje donosi eksploatacija

investicionog projekta i njihovo kvantitativno izražavanje uz pomoć određenih pokazatelja, odnosno kriterijuma, omogućava da se oceni da li će efekti nadmašiti ukupna potrebna ulaganja. Taj postupak naziva se ocena efikasnosti, odnosno rentabilnosti investicionog projekta i služi za donošenje investicione odluke. Analiza rizika sastoji se iz proučavanja verovatnoće da određeni projekat ostvari zadovoljavajuće performanse (u smislu neto sadašnje vrednosti – NSV ili interne stope rentabilnosti – IRR), kao i varijabilnosti rezultata, u poređenju sa prethodno obavljenom najboljom procenom.

Kriterijum neto sadašnje vrednosti podrazumeva sumu diskontovanih neto priliva (efekata), koji se ostvare u periodu eksploatacije investicije. Svaki investicioni projekat koji ima pozitivnu vrednost kriterijuma neto sadašnje vrednosti, smatra se opravdanim za realizaciju. Interna stopa rentabilnosti predstavlja onu diskontnu stopu, pri kojoj je kriterijum neto sadašnje vrednosti jednak nuli. Ona pokazuje pri kojoj najmanjoj diskontnoj stopi, realizacija investicionog projekta je još uvek opravdana. Preporučena procedura za procenu rizika zasniva se na analizi osetljivosti, kao prvom koraku, koja predstavlja računski postupak predviđanja uticaja promena ulaznih podataka na izlazne rezultate jednog modela. Drugi korak predstavlja studija raspodela verovatnoće za odabrane promenljive, kao i računanje očekivane vrednosti indikatora performansi projekta. Svrha analize osetljivosti jeste odabir „kritičnih“ promenljivih i parametara modela, odnosno onih čije varijacije, pozitivne ili negativne, u poređenju sa vrednošću korišćenom kao najbolja procena u baznom slučaju, imaju najveći uticaj na IRR ili NSV, odnosno uzrokuju najznačajnije promene u ovim parametrima. Kriterijumi koje bi trebalo usvojiti prilikom izbora kritičnih promenljivih variraju u zavisnosti od određenog projekta te moraju biti precizno procenjene od slučaja do slučaja. Nakon što su važne promenljive odabrane, može se proceniti njihova elastičnost računanjem, koje je lakše ukoliko se koristi jednostavan kompjuterski program za izračunavanje indeksa IRR i/ili NSV. Prilikom svakog računanja, potrebno je dodeliti novu vrednost (višu ili nižu) svakoj promenljivoj, a zatim ponovo izračunati IRR ili NSV, pri tome obraćajući pažnju na razlike (apsolutne i procentualne) u poređenju sa baznim slučajem. Kombinovano razmatranje pojedinih „optimističkih“ i „pesimističkih“ vrednosti grupe promenljivih može biti korisno pri prikazivanju različitih scenarija u okviru određenih hipoteza. U cilju definisanja optimističkih i pesimističkih scenarija, neophodno je za svaku kritičnu promenljivu izabrati ekstremne vrednosti unutar opsega definisanog raspodelom verovatnoće. Zatim se pokazatelji performansi projekta izračunavaju za svaku hipotezu. U ovom slučaju nije potrebna precizno određena raspodela verovatnoće. Analiza scenarija ne predstavlja zamenu za analizu osetljivosti ili analizu rizika, već predstavlja samo uprošćenu proceduru. Nakon što su kritične promenljive određene, a kako bi se sprovedla analiza rizika, neophodno je svakoj od njih dodeliti raspodelu verovatnoće, koja je utvrđena preciznim opsegom vrednosti oko najbolje procene, korišćene u baznom slučaju, a u cilju izračunavanja indeksa procene. Nakon uspostavljanja raspodele verovatnoće kritičnih promenljivih, moguće je nastaviti sa računanjem raspodele verovatnoće IRR ili NSV tog projekta. Jedino je u najjednostavnijim slučajevima moguće izračunati ove vrednosti korišćenjem analitičke metode za računanje verovatnoća sastavljenih iz određenog broja nezavisnih događaja. Povećanjem složenosti modela analize troškova i koristi, čak i za nekolicinu promenljivih, broj kombinacija će ubrzo postati previše visok za direktan postupak. Na primer, trebalo bi obratiti pažnju na to da će se, ukoliko postoje samo 4 promenljive, pri čemu se za svaku od njih razmatraju samo tri vrednosti (najbolja procena i dva odstupanja, jedno pozitivno i jedno negativno), na kraju pojaviti 81 moguća kombinacija za analizu.

Dinamičke metode za ocenu investicija uzimaju u obzir veličinu i vremenski raspored očekivanih tokova novca u toku ekonomskog veka projekta, što omogućava realniju ocenu investicija. Uz pomoć tehnike diskontovanja obuhvataju se ulaganja i efekti iz svih godina perioda ulaganja i perioda eksploatacije i tako izračunavaju dinamički kriterijumi. Dinamički kriterijumi, su složeni pokazatelji koji, na različite načine, obuhvataju ulaganja i pritanje efekata od investicije i tako omogućavaju da se znatno realnije analiziraju različiti aspekti jednog investicionog projekta i oceni opravdanost njegove realizacije. (Mičić 2017, 60).

Veoma često klasične dinamičke metode za ocenu efektivnosti investicija, kao što su neto sadašnja vrijednost, interna stopa prinosa i druge metode, nisu dovoljno pouzdane za ocenu efektivnosti investicija. Ovo je posebno slučaj u uslovima neizvesnosti i rizika kada ima mnogo promenljivih i tada je potrebno koristiti analizu osetljivosti ili senzitiv analizu za pouzdanu ocenu efektivnosti investicionog projekta.

Analiza osetljivosti je tehnika kojom se proverava osetljivost investicijskog projekta na promene neke ulazne promenljive. Broj promenljivih od kojih zavisi projekt je veliki, ali nemaju promene svih promenljivih isti uticaj na krajnje rezultate ocena projekta. Radi pojednostavljenja analize osetljivosti, u analizu treba uključiti samo one promenljive koje imaju veći uticaj na krajnje rezultate ocena. Takve se promenljive nazivaju kritični parametri projekta. Pri tome je važno pratiti i menjati jednu po jednu promenljivu i pratiti njen utjecaj na efikasnost projekta. Na taj način se dolazi do podataka o elastičnosti projekta na promene pojedinih varijabli te o podacima za graničnu efikasnost projekta.

U uslovima velike neizvesnosti i turbulentnosti, a svedoci smo čestih iznenadnih ekonomskih kriza kao što je ova izazvana virusom COVID-19, jedna od važnih metoda za ocenu efektivnosti investicija postala je metoda scenarija. Inače ova metoda sve više dobija na značaju i koristi se u poslovnom svetu upravo zbog nepredvidivosti i čestih promena uslova poslovanja usled elementarnih nepogoda, pandemija, terorističkih napada, ratnih sukoba, migracija i drugih nepredvidivih dešavanja.

Početak primene metoda scenarija veže se uz Platona i njegove rasprave i opise Idealne republike te napredne ličnosti toga vremena poput Thomasa Moorea i George Orwella (Bradfield i Wright i Burt i Cairns i Heijden 2005, 795). Prvi dokumentovani zapisi današnjih scenarija pojavljuju se u 19. veku u radovima dva pruska vojna stratega, von Clausewitza i von Moltkea, kojima se, takođe, pripisuju zasluge za razvoj i postavljanje današnjih principa strateškog planiranja. Von Clausewitz je svojim radovima u središte zanimanja stavio ratna zbivanja i scenario metodu kao idealan instrument za pronalaženje alternativnih načina za postizanje pobjeda kroz stalnu koordinaciju i fleksibilno postavljanje strategije, taktike i operative. Kako bi nadmudrili protivnika, vojni stratezi toga vremena koristili su scenario metodu sa ciljem prepoznavanja njihovih slabijih strana i što uspešnijem i bržem uništenju protivnika. Drugi svetski rat i daljnja upotreba scenarija kroz hladni rat i naftne šokove dali su daljnji podsticaj razvoja scenario metoda (Bradfield i Wright i Burt i Cairns i Heijden 2004, 3). Primena metode scenarija u različitim oblicima planiranja proširila se nakon Drugog svetskog rata, a njezin razvoj bio je vezan uz vojno planiranje, planiranje u javnoj upravi, poslovno planiranje, predviđanje tehnološkog razvoja, studije životne sredine i održivi razvoj, prostorno i regionalno planiranje te studije budućnosti uopšte. Izrada scenarija označava se kao osnovna metodologija (Slaughter 2002, 349), odnosno par excellence alat studija budućnosti (Inayatullah 2008, 5).

Metod scenarija se kasnije razvija 70-ih godina, posle naftne krize, kada su uočene mane dotadašnjeg tradicionalnog planiranja, koje je podrazumevalo da je budućnost izvesna. Nakon toga, menadžeri su bili suočeni sa turbulentnim okruženjem, neizvesnom budućnošću, veoma promenljivim internim i eksternim uslovima poslovanja i javlja se potreba za novim tipom planiranja.

Metod scenarija se koristi u novijem periodu i posebno je značajan za strategijsko planiranje. U literaturi iz ove oblasti se reč scenario pojavila krajem 1960-ih godina u poznatom radu H. K. Kahn-a i A. Wienera: gde oni definišu scenario kao hipotetički niz događaja konstruisan da bi se usredsredila pažnja na uzročne procese i tačke odlučivanja. Kao takav, scenario se razlikuje od drugih pristupa predviđanja po dva osnova: Prvo, on obično obezbeđuje više kvalitativnu i kontekstualnu deskripciju evolucije sadašnjosti i budućnosti, a manje insistira na numeričkoj preciznosti. Drugo, scenario analiza obično pokušava da identifikuje set mogućih budućnosti od kojih se svaka može desiti, ali ni jedna nije osigurana.

U Evropi se metoda scenarija razvijala i kroz planiranje u javnoj upravi. Francuski filozof Gaston Berger razvio je sredinom 1950-ih scenarijski pristup dugoročnom planiranju, koji je nazvao prospektivnim razmišljanjem (la prospective), temeljen na promišljanju procesa donošenjem odluka kroz razmatranje budućnosti (Durance 2010, 1469), a nešto spektakularniji pristup nekoliko godina kasnije razvio je Bertrand de Jouvenel (Godet 2000, 3). Prva primena scenarija zabeležena je prilikom istraživanja geografskih budućnosti, a napravljena je za DATAR, francusku upravu za prostorno planiranje i regionalni razvoj (Godet i Roubelat 1996, 164).

Scenario metoda je prisutna u društvu od davnina. Ljudi su uvek bili opčinjeni budućnošću i želeli su na različite načine istraživati budućnost i po mogućnosti je predvideti. Za vreme relativno stabilnih vremena (50-ih i 60-ih godina prošlog veka) ljudi su se koristili metodom prognoziranja u svrhu ovladavanja budućih događaja. Međutim, kako je samo okruženje postajalo sve dinamičnije i kompleksnije tako su i metode prognoziranja postale sve sklonije greškama, što je potaknulo ljude da razviju metodu misaonog prodora u budućnost, poznatu pod nazivom scenario metoda. (Wack 1985, 139).

1. ANALIZA OSETLJIVOSTI ZA OCENU EFEKTIVNOSTI INVESTICIONOG PROJEKTA U USLOVIMA NEIZVESNOSTI

Analiza osetljivosti investicionog projekta (sensitivity analysis) ocenjuje uticaj promene ključnih faktora investicionog projekta na pokazatelje efektivnosti projekta.

Stepen osetljivosti projekta u odnosu na moguće izmene uslova realizacije, a samim tim i stepen rizika može biti ocenjen na osnovu pokazatelja graničnog nivoa obima proizvodnje, troškova proizvodnje i drugih parametara projekta. Granična vrednost parametara projekta u i-toj godini njegove realizacije predstavlja vrednost tog parametra, pri kojoj je neto dobit u toj godini 0. Svaki pokazatelj graničnog nivoa karakteriše stepen osetljivosti u zavisnosti samo od konkretnog parametra projekta (obim proizvodnje itd).

Jedan od pokazatelja je tačke pokrića (prelomna tačka rentabilnosti), koja karakteriše obim prodaje pri kome je dobit od poslovanja jednaka troškovima proizvodnje. Tačka pokrića treba da odredi koliko je jedinica proizvoda potrebno prodati da bi se nadoknadili ukupni troškovi proizvodnje (varijabilni i fiksni troškovi).

Analiza tačke pokrića omogućava da se utvrde uska mesta projekta, u smislu dostizanja planiranih prihoda, koji obezbeđuje potrebnu efektivnost investicionog projekta. Tačka pokrića govori o obimu prodaje koji se želi postići da bi se izbegao gubitak. Na osnovu tačke pokrića moguće je odrediti minimalno potreban obim proizvodnje.

Dobit pre interesa i poreza se može izraziti na osnovu sledeće jednačine:

Prihodi - varijabilni troškovi - fiksni troškovi = dobit pre interesa i poreza

$$(JPC \times K) - (JVT \times K) - FT = PBIT \quad (1.1.)$$

Gde je:

JPC - cena po jedinici proizvoda (jedinica neto dobiti);

JVT - jedinica varijabilnog troška;

K - količina prodatih jedinica;

FT - fiksni troškovi;

PBIT - dobit pre interesa i poreza.

Tačka pokrića je količina proizvodnje pri kojoj je ukupan prihod jednak ukupnim troškovima, odnosno gde nema dobiti od poslovanja (jednaka je nuli), što se može izraziti preko jednačine:

$$(JPCxK)-(JVTxK)-FT=0 \quad (1.2.)$$

Rešavajući navedenu jednačinu po K (količina prodatih jedinica), dobija se:

$$K = \frac{FT}{JPC - JVT} \quad (1.3.)$$

Što je stvarni obim proizvodnje veći od tačke pokrića to je projekat stabilniji. Projekat se obično smatra stabilnim ako tačka pokrića ne prelazi 75% od nominalnog obima proizvodnje. Pri oceni tačke pokrića potrebno je imati u vidu da fiksni troškovi ne zavise od obima realizacije proizvoda te se dobit povećava ili smanjuje brže od obima realizacije proizvoda. Efekte koje fiksni troškovi imaju na promene u dobiti pre interesa i poreza opisuje poslovni leverage. Poslovni leverage proučava efekte koje imaju promene u obimu prodaje na dobit pre interesa i poreza, koje su rezultat delovanja fiksnih troškova.

Uticaj poslovnog leverage-a se izražava preko sledeće formule:

$$S = \frac{FT + PBIT}{PBIT} = \frac{K(JPC - JVT)}{PBIT} \quad (1.4.)$$

i predstavlja odnos procentualnih promena u dobiti pre interesa i poreza i procentualnih promena u obimu prodaje.

Primer: Preduzeće proizvodi proizvod X. Fiksni troškovi za proizvodnju ovog proizvoda su 1000 evra godišnje. Maksimalno moguć obim proizvodnje proizvoda X je 200 jedinica u toku godine. Radi jednostavnosti pretpostavlja se da ne postoji vremenski jaz između proizvodnje i realizacije proizvoda. Cena po jedinici proizvoda je 50 evra. Varijabilni trošak po jedinici proizvoda je 30 evra.

Tačka pokrića na osnovu jednačine (1.3.) je:

$$K = \frac{1.000}{50-30} = 50$$

Obim prodaje, koje bi preduzeće trebalo da obezbedi da ne bi poslovalo sa gubitkom, je 50 jedinica, odnosno prihodi od poslovanja treba da iznose 2500 evra.

Ukoliko je očekivani obim proizvodnje 150 jedinica, tačka pokrića je 33,33% od mogućeg obima proizvodnje, tako da se projekat može smatrati stabilnim. Dobit od poslovanja u tom slučaju je $50 \times 150 - 30 \times 150 - 1.000 = 2.000$ evra.

Ukoliko se očekuje da će se u drugoj godini broj prodatih jedinica povećati se za 2%, odnosno $K=153$, ovo povećanje će uticati na prihode od realizacije i varijabilne troškove, koji će se takođe povećati za 2%.

Uticaj poslovnog leverage-a će biti:

$$S = \frac{(JPC \cdot K) - (JVT \cdot K)}{PBIT} = \frac{7.500 - 4.500}{2.000} = 1,5$$

Porast realizacije proizvoda od 2% će izazvati porast dobiti pre interesa i poreza od $1,5 \cdot 2\% = 3\%$, što znači da će dobit pre interesa i poreza na kraju druge godine biti $2000 \cdot 1,03 = 2060$ evra ($50 \cdot 153 - 30 \cdot 153 - 1.000$).

Nedostaci ovakve analize su što se zasniva na proceni dobiti, a ne na proceni neto novčanih tokova, a osim toga analizira osetljivost projekta samo na promene obima realizacije proizvoda. Zbog navedenih nedostataka analiza osetljivosti se uglavnom zasniva na proceni uticaja izmena promenljivih projekta na neto novčani tok. Najracionalniji redosled ove analize je:

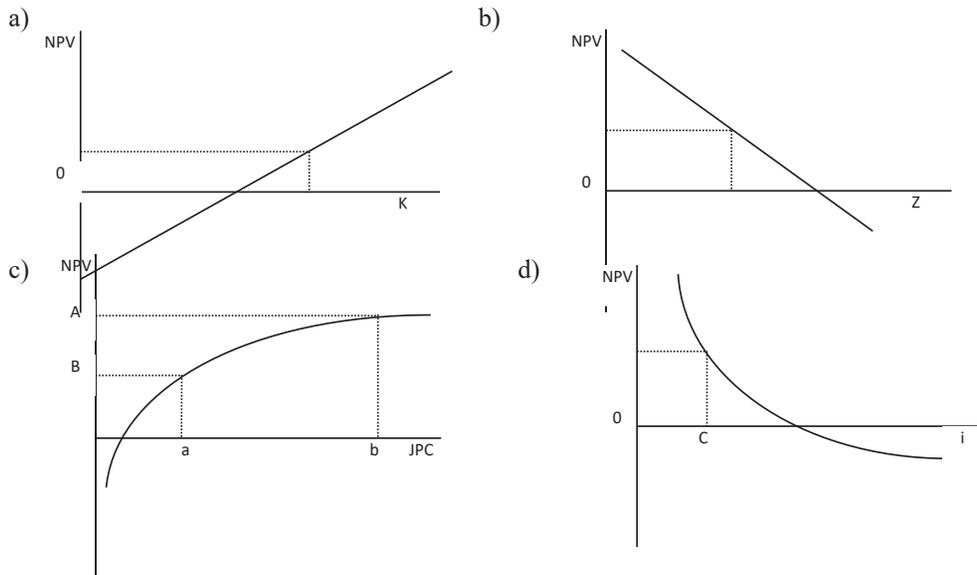
1. Izbor ključnih faktora projekta, koji značajno utiču na pokazatelj efektivnosti i koji nemaju jednoznačnu vrednost, odnosno koji su neizvesni (tipični su: cena kapitala i ulaganja u obrtna sredstva; tržišni faktori- cena robe i obim prodaje; komponente cene koštanja; vreme gradnje i uvođenja u rad osnovnih sredstava).
Broj ovih parametara ne bi trebao da bude veliki jer je, u suprotnom, ovu analizu teško koristiti bez ozbiljnih kompjuterskih programa. Zato se pokazatelj efektivnosti posmatra kao funkciju ograničenog broja ključnih promenljivih. Ostale promenljive u modelu se posmatraju kao konstante.
2. Određivanje očekivanih intervala vrednosti ključnih promenljivih (npr. $\pm 15\%$ od bazne vrednosti).
3. Obračun vrednosti pokazatelja efektivnosti za intervale vrednosti ključnih promenljivih, nakon čega se ocenjuje procentna izmena pokazatelja efektivnosti u odnosu na bazni slučaj i obračunava se pokazatelj osetljivosti. Na osnovu tih obračuna se vrši rangiranje promenljivih prema stepenu važnosti i ekspertna ocena prognoziranih vrednosti promenljivih.

Rezultati mogu biti predstavljeni u tabličnom vidu ili u vidu grafika osetljivosti za sve neizvesne faktore, što omogućava da se izdvoje najkritičniji faktori, na koje je u toku realizacije investicionog projekta potrebno obratiti posebnu pažnju s ciljem da se smanji rizik realizacije investicionog projekta. Ako je npr. cena proizvodnje kritični faktor, u toku realizacije potrebno je poboljšati program marketinga ili povećati kvalitet robe. Ako je projekat osjetljiv na izmene obima proizvodnje, potrebno je veću pažnju posvetiti usavršavanju menadžmenta preduzeća i uvesti mere za povećanje proizvodnje. Ako su kritičan faktor materijalni troškovi, trebalo bi pokušati smanjiti cenu sirovina, poboljšavajući odnose sa isporučiocem sirovina, zaključivanjem dugoročnih ugovora i sl.

Da bi se olakšao proračun koriste se tabelarni (spread sheet) kompjuterski programi, koji omogućavaju brži obračun i preglednost. Upotrebom ovih programa omogućena je brza analiza uticaja promena bitnih faktora na pokazatelj efektivnosti.

Niže navedeni grafikoni karakterišu zavisnosti neto sadašnje vrednosti (NPV) od:

- a) Izmene godišnjeg obima proizvodnje (K);
- b) Godišnjeg obima eksploatacionih troškova (Z);
- c) Cene po jedinici proizvodnje (JPC);
- d) Nivoa cene kapitala (i) pod uslovima da su sve ostale promenljive modela fiksne.



Grafikon 1. Osetljivost projekta na izmene neizvesnih faktora (Четыркин 2001, 286)

Primer: Preduzeće planira da proizvodi novi proizvod. Za njegovu proizvodnju potrebno nabaviti novu opremu, koja zahteva inicijalni kapitalni izdatak od $A_0=150.000$ evra. Ekonomski rok investicije (n) je šest godina, nakon čega se procenjuje da nema ostatka vrednosti.

Podaci relevantni za donošenje odluke su:

- Procenjeni godišnji obim prodaje je $K=5000$ jedinica;
- Planska cena koštanja proizvoda je $JPC=30$ evra;
- Troškovi rada su $L=12$ evra po proizvodu;
- Troškovi materijala su $M=9$ evra po proizvodu;
- Ostali troškovi nemaju bitan uticaj na donošenje odluke;
- Cena kapitala je $i=11\%$;
- Porez na dobit $T=20\%$.

Godišnji iznos amortizacije je $A_m=150000/6=25000$ evra.

Na bazi prethodnih podataka biće obračunata NPV i analizirana osetljivost NPV na napred navedene faktore.

Na osnovu baznih podataka godišnji neto novčani tok će biti:

$$P_i = \{K \cdot [JPC - (L + M)] \cdot (1 - T) + A_m \cdot T\} = \{5000[30 - (12 + 9)]0,8 - 25000 \cdot 0,2\} = 41000.$$

Radi se o jednakim neto novčanim tokovima u toku 6 godina funkcionisanja projekta, tako da NPV može biti izračunata upotrebom IV finansijskih tablica:

$$NPV = -A_0 + \{K \cdot [JPC - (L + M)] \cdot (1 - T) + A_m \cdot T\} \cdot IV_i^n \quad (1.5.)$$

$$NPV = -150000 + \{5000[30 - (12 + 9)]0,8 - 25000 \cdot 0,2\} IV_{11}^6 = -150000 + 41000 \cdot 4,2305 = 23450,5$$

Neto sadašnja vrednost je pozitivna i projekat na bazi ovog proračuna se može prihvatiti.

Da bi se ispitala osetljivost neto sadašnje vrednosti na izmene pojedinačnih promenljivih izračunavaju se vrednosti promenljivih koje daju $NPV=0$.

♦ Inicijalna investicija:

$$-P_0 + \{5000[30 - (12+9)] \cdot 0,8 - 25000 \cdot 0,2\} \cdot 4,2305 = 0$$

$$P_0 = 173450,5$$

♦ Obim godišnje prodaje:

$$-150000 + \{K[30 - (12+9)] \cdot 0,8 - 25000 \cdot 0,2\} \cdot 4,2305 = 0$$

$$K = \frac{P_0}{\{[JPC - (L + M)] \cdot (1 - T) - Am \cdot T\} \cdot IV_k^n} = \frac{150000}{\{[30 - (12 + 9)] \cdot 0,8 - 25000 \cdot 0,2\} \cdot 4,2305}$$

$$K = 4230 \text{ jedinica}$$

♦ Prodajna cena po jedinici proizvoda:

$$JPC = \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} + (L + M) = \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} + (12 + 9) = 28,61$$

♦ Troškovi rada po jedinici proizvoda:

$$L = (JPC - M) - \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} = (30 - 9) - \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} = 13,39$$

♦ Troškovi materijala po jedinici proizvoda:

$$M = (JPC - L) - \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} = (30 - 12) - \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} = 10,39$$

♦ Cena kapitala:

$$IV_i^6 = \frac{A_0}{\{K \cdot [JPC - (L + M)] \cdot (1 - T) - Am \cdot T\}} = \frac{150000}{\{5000 \cdot [30 - (12 + 9)] \cdot 0,8 - 25000 \cdot 0,2\}}$$

$$IV_i^6 = 3,6585$$

Cena kapitala se nalazi između 16 i 17%.

Traženu cenu ćemo dobiti interpolacijom:

Tabela 1. Interpolacija (Autori 2020)

i (%)	Vrednost IV tablica	i (%)	Vrednost IV tablica
16	3,6847	K	3,6585
17	3,5892	17	3,5892
1	-0,0956	17-k	-0,0693

$$1: (17-i)=0,0956:0,0693$$

$$i=16,2745$$

◆ Vreme trajanja projekta

Pri zadatoj ceni kapitala 11% $IV_{11}^n=3,6585$.

U IV tablicama nalazimo za $IV_{11}^4=3,1024$, a za $IV_{11}^5=3,6959$.

Vreme trajanja projekta koje će pri ceni kapitala 11% dati NPV= 0 je između 4 i 5 godina.

Interpolacijom dobijamo da je to 4,9369, odnosno 4 godine 11 meseci i 7 dana.

Vreme trajanja projekta je moguće ustanoviti tek kad je projekat okončan i tada je moguće proceniti da li je očekivano vreme trajanja projekta bilo optimistički procenjeno (McLaney 2003, 149).

Prethodni rezultati prikazani su u tabeli:

Tabela 2. Prikaz rezultata (Autori 2020)

Faktor	Originalni podaci	Vrednosti koje daju NPV=0	Odstupanje (%)
Inicijalna investicija	150000	173450,50	15,63%
Obim godišnje prodaje	5000	4230	-15,40%
Prodajna cena po jedinici proizvoda	30	28,61	-4,63%
Troškovi rada po jedinici proizvoda	12	13,39	11,58%
Troškovi materijala po jedinici proizvoda	9	10,39	15,44%
Cena kapitala	11%	(IRR) 16,2745%	47,95%
Vreme trajanja projekta	6	4,9369	-17,72%

Na osnovu procentualnog odstupanja početnih vrednosti od vrednosti koje pojedinačno daju nultu NPV moguće je odrediti osetljivost NPV na promene tih vrednosti. Ukoliko bi se navedeni faktori projekta kretali do navedenih granica, projekat bi se mogao prihvatiti.

Projekat je najosetljiviji na promene u prodajnoj ceni i troškovima rada. Smanjenje prodajne cene po jedinici proizvoda za samo 4,63% uz ostale neizmenjene uslove, čini projekat neprofitabilnim. Ta činjenica mogla bi da utiče da preduzeće odustane od investiranja.

Osetljivost povećanja inicijalnog kapitalnog izdatka nema potrebe analizirati, jer je to izdatak koji se dešava u sadašnjosti i poznata mu je vrednost.

Na ovaj način je omogućeno da se utvrde kritični faktori projekta i uticaj pojedinačnih faktora na konačni rezultat projekta.

Osnovni nedostatak analize osetljivosti je što se izmena jednog faktora razmatra izolovano, jer su u praksi svi ekonomski faktori u ovoj ili onoj meri u korelaciji.

Metod može biti modifikovan uzimajući u obzir korelaciju zavisnost između ključnih pokazatelja.

Analiza osetljivosti pokazatelja efektivnosti na promene više promenljivih zahteva da se nakon obračuna pokazatelja efektivnosti za svaku očekivanu vrednost pojedinačnog faktora, ocene pokazatelji efektivnosti za kombinaciju ključnih faktora projekta. Na taj način je omogućeno da se odredi kolika je osetljivost pokazatelja efektivnosti projekta na promene pojedinačnog faktora i promene kombinacije faktora.

Analiza osetljivosti (Mičić i Trtić 2015; Duvnjak 2014; Duvnjak i Babić 2014) je korisna za identifikovanje promenljivih, za čije se promene očekuje da imaju najveći uticaj na neto sadašnju vrednost ili na internu stopu prinosa projekta. Ona olakšava identifikaciju mogućih odluka ako osnovne pretpostavke modela moraju da se promene. Može da se koristi kod uslovno prihvaćenih investicionih projekta da bi se odredilo da li oni treba da se nastave, modifikuju ili da se odbace.

Postoje i izvesne mane u vezi sa ovom analizom. Prvo, teško je odrediti precizno odnos između posebne promenljive i pokazatelja efektivnosti. Drugo, konačna odluka je subjektivna, jer ova analiza ne obezbeđuje pravilo odlučivanja koje se može iskoristiti za prihvatanje ili odbacivanje investicionih projekata. Primena datog metoda u praksi, kao samostalnog instrumenta analize rizika, je po mišljenju mnogih autora veoma ograničena.

2. METODA SCENARIJA ZA OCENU EFEKTIVNOSTI INVESTICIONOG PROJEKTA U USLOVIMA RIZIKA

Metoda scenarija (scenario building) se zaniva na prognoziranju varijanti mogućih vrednosti faktora koji utiču na realizaciju investicionog projekta i obračun efektivnosti investicija za svaki scenario. Pripisivanjem scenarijima određene verovatnoće omogućeno je formiranje raspodele verovatnoća, ocena očekivane vrednosti i standardnog odstupanja i asimetrije rasporeda.

Pristup verovatnoće raspodele pretpostavlja da je premija rizika povezana sa projektom uključena u procenjenju verovatnoću raspodele.

Koraci ove analize su:

1. korak: Izaberu se ključni faktori investicionog projekta i određuju verovatnoće javljanja tih faktora.
2. korak: Za svaku kombinaciju faktora izračunava se pokazatelj efektivnosti koristeći nerizičnu stopu.
3. korak: Na osnovu izračunatih pokazatelja efektivnosti i njihovih verovatnoća obračunavaju se statistički pokazatelji rizika, formira se kriva rasporeda verovatnoća i donosi konačna odluka.

Približnu ocenu pokazatelja efektivnosti neto sadašnje vrednosti ili interne stope prinosa omogućava razrada „pesimističkih“, „najverovatnijih“ i „optimističkih“ scenarija. Pesimistička varijanta prognoze podrazumeva procenu uslova realizacije investicionog projekta pri najlošijim očekivanjima (npr. mali obim realizacije proizvoda). Optimistička varijanta

podrazumeva procenu uslova pri najboljim očekivanjima, npr. pri najvećem obimu realizacije proizvoda, čime je moguće oceniti potrebe za obrtnim kapitalom. Uporedo sa baznim informacijama o projektu razmatraju se niz drugih podataka, koji se po mišljenju menadžera projekta mogu javiti u procesu realizacije.

U sledećem primeru biće prikazan princip obračuna, tako da će se rizik projekta posmatrati kao varijabilnost obima prodaje i varijabilnost troškova rada. Model se dodatno usložnjava kada se uključi veći broj faktora koji utiču na neto novčane rokove.

Primer: Procenjuje se da je mogući obim prodaje:

- A) 4000 jedinica sa verovatnoćom 0,2;
- B) 5000 jedinica sa verovatnoćom 0,5;
- C) 5500 jedinica sa verovatnoćom 0,3.

Za svaki očekivani obim prodaje biće izračunate NPV.

$$NPV = -P_0 + \{K \cdot [JPC - (L + M)] \cdot (1 - T) + Am \cdot T\} \cdot IV_k^n \quad (2.1.)$$

$$A) NPV = -150000 + \{4000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 33800 \cdot 4,2305 = -7009,1$$

$$B) NPV = -150000 + \{5000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 41000 \cdot 4,2305 = 23450,5$$

$$C) NPV = -150000 + \{5500[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 44600 \cdot 4,2305 = 38680,3$$

Procenjeno je da postoje tri moguće vrednosti troškova rada:

1. 11 evra po proizvodu sa verovatnoćom od 0,15;
2. 12 evra po proizvodu sa verovatnoćom od 0,60;
3. 13 evra po proizvodu sa verovatnoćom od 0,25.

Tabela 3. Scenariji u zavisnosti od obima prodaje, troškova i verovatnoće (Autori 2020)

Obim prodaje (jedinica proizvoda)		Troškovi rada (po jedinici proizvoda)		Zajednička verovatnoća	Scenariji
4000	0,20	11	0,15	0,03	1
		12	0,60	0,12	2
		13	0,25	0,05	3
5000	0,50	11	0,15	0,075	4
		12	0,60	0,3	5
		13	0,25	0,125	6
5500	0,30	11	0,15	0,045	7
		12	0,60	0,18	8
		13	0,25	0,075	9

Obračun se komplikuje jer postoji 9 mogućih kombinacija, što se može i grafički prikazati:

Neto sadašnje vrednosti ovih devet novčanih tokova će biti:

1. $NPV = -150000 + \{4000[30 - (11 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 6.528,5;$
2. $NPV = -150000 + \{4000[30 - (12 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = -7009,1;$
3. $NPV = -150000 + \{4000[30 - (13 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = -20546,7;$
4. $NPV = -150000 + \{5000[30 - (11 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 40372,5;$
5. $NPV = -150000 + \{5000[30 - (12 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 23450,5;$
6. $NPV = -150000 + \{5000[30 - (13 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 6528,5;$
7. $NPV = -150000 + \{5500[30 - (11 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 57294,5;$
8. $NPV = -150000 + \{5500[30 - (12 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 38680,3;$
9. $NPV = -150000 + \{5500[30 - (13 + 9)]0.8 - 25000 \cdot 0,2\}IV_{11}^6 = 20066,1.$

Dobijen je niz od devet mogućih vrednosti neto sadašnje vrednosti.

Za donošenje konačne odluke potrebno je oceniti rizik projekta izračunavanjem očekivane vrednosti i standardne devijacije neto sadašnjih vrednosti, što je učinjeno u sledećoj tabeli:

Tabela 4. Obračun očekivane vrednosti i standardne devijacije neto sadašnjih vrednosti (Autori 2020)

Mogućnosti	NPV	P _i	NPV · P _i	$(NPV_i - \overline{NPV})^2 \cdot P_i$
3	-20546,7	0,050	-1027,34	83227683,42
2	-7009,1	0,120	-841,09	89181692,12
1	6528,5	0,030	195,86	5650232,83
6	6528,5	0,125	816,06	23542636,81
9	20066,1	0,075	1504,96	2598,66
5	23450,5	0,300	7035,15	3068656,27
8	38680,3	0,180	6962,45	61126797,90
4	40372,5	0,075	3027,94	30361858,65
7	57294,5	0,045	2578,25	61745799,50
Σ			20252,24	357907956,16
			σ	18918,46

◆ Očekivana neto sadašnja vrednost će biti:

$$\overline{NPV} = \sum_{i=1}^n (NPV_i \cdot P_i) = 20252,24$$

Očekivanu neto sadašnju vrednost je moguće izračunati i direktno ukoliko se izračunaju prosečne vrednosti ključnih promenljivih (McLaney 2003, 155) (u ovom slučaju obim tražnje i troškovi rada):

Prosečan obim tražnje = $(4000 \cdot 0,2) + (5000 \cdot 0,5) + (5500 \cdot 0,3) = 4950$ jedinica proizvoda.

Prosečni troškovi rada = $(11 \cdot 0,15) + (12 \cdot 0,60) + (13 \cdot 0,25) = 12,1$.

$$NPV = -150000 + \{4950 [30 - (12,1 + 9)]\}IV_{10}^6 = 20252,24$$

♦ Standardna devijacija je:

$$\sigma_{NPV} = \sqrt{\sum_{i=1}^n (NPV_i - \overline{NPV})^2 P_i} = \sqrt{357907956,16} = 18918,46$$

♦ Koeficijent varijacije je:

$$K_V = \frac{\sigma_{NPV}}{NPV} = 0,9341$$

Projekat može biti ocenjen kao visokorizičan. Odluka o prihvatanju projekta zavisi od sklonosti investitora prema riziku.

U celini, model omogućava dobijanje dosta pregledne slike za različite varijante realizacije projekta, dajući informacije o mogućim odstupanjima od željenog rezultata. Primena tabelarnih programa omogućuje da se značajno poveća efektivnost analize putem neograničenog uvećavanja broja scenarija i uvođenja dopunskih promenljivih. Ukoliko je broj scenarija veliki preporučuje se imitaciono modeliranje.

Ocena rizika investicija je direktno vezana sa mogućnošću određivanja informacija o neizvesnosti. Ako su polazni parametri prikazani u obliku verovatnoća, to će i pokazatelji efektivnosti imati oblik slučajnih veličina sa svojim verovatnim rasporedom. Međutim, što je manji stepen statističkih uslovljenosti parametara projekta, što je slabija informisanost o stanju tržišta i što je niži stepen intuitivne sposobnosti eksperta, ocena verovatnih parametara je neadekvatna i nosi veliki rizik grešaka u analizi.

U tom slučaju može se koristiti metod nejasnih intervala. Potrebno je izabrati tri scenarija pri kojima projekat dostiže minimalnu (NPV_{min}), prosečnu (NPV_{avg}) i maksimalnu (NPV_{max}) neto sadašnju vrednost.

Stepen rizika (V&M) neefektivnosti investicija se dobija iz jednačine:

$$V \& M = R \left(1 + \frac{1-a}{a} \ln(1-a) \right) \quad (2.2.)$$

Gde je:

$$a = - \frac{NPV_{min}}{NPV_{avg} - NPV_{min}} \quad (2.3.)$$

$$R = - \frac{NPV_{min}}{NPV_{max} - NPV_{min}} \quad (2.4.)$$

Stepen rizika V&M nalazi se u intervalu od 0 do 1. Svaki investitor može na osnovu sklonosti ka riziku da klasifikuje vrednosti V&M i odredi kriterijum prihvatanja.

Primer: Razmatra se projekat čiji se rok funkcionisanja procenjuje na dve godine. Inicijalni kapitalni izdatak je 150.000 evra. Diskontna stopa u toku planiranog perioda može da varira od $imin=10\%$ do $imax=15\%$. Očekivani neto novčani tokovi su intervalu od 100000 do 150000 evra.

Minimalna, maksimalna i prosečna NPV se ocenjuju po sledećim formulama:

$$NPV_{\min} = P_0 + \frac{A_{\min}}{(1+i_{\min})} + \frac{A_{\min}}{(1+i_{\min})^2} = 12570,88$$

$$NPV_{\max} = P_0 + \frac{A_{\max}}{(1+i_{\max})} + \frac{A_{\max}}{(1+i_{\max})^2} = 110330,58$$

$$NPV_{\text{avg}} = P_0 + \frac{A_{\text{avg}}}{(1+i_{\text{avg}})} + \frac{A_{\text{avg}}}{(1+i_{\text{avg}})^2} = 59876,54$$

Gde je:

$$P_{\text{avg}} = \frac{P_{\max} + P_{\min}}{2}$$

$$i_{\text{avg}} = \frac{i_{\max} + i_{\min}}{2}$$

Stepen rizika prema prethodnoj formuli iznosi $V\&M=0,0188$ (1,88%).

Stepen rizika $V\&M$ nije tačan pokazatelj i predstavlja polje intervalnih vrednosti sa svojim rasporedom očekivanja.

Prednost ove metode je što se rešenje donosi na osnovu minimalne i maksimalne vrednosti efektivnosti projekta i ona omogućava da se oceni integralna mera negativnih rezultata investicionog projekta, tj. stepen investicionog rizika.

ZAKLJUČAK

Analiza osetljivost je najraširenija metoda analize individualnog rizika projekta i ne zahteva informacije o trendu kretanja ključnih promenljivih, tj. njihovu raspodelu verovatnoće. To bi značilo da ne zahteva podatak o tome kolika je realna verovatnoća da se neka promena promenljive dogodi. Ipak, to što ne uzima u obzir raspodelu verovatnoće nastanka nekih promena, smatra se i glavnom manom analize osetljivosti. Naime, promenom postotka određene promenljive može se ustanoviti da projekat nije jako osjetljiv na promenu te promenljive, ali ako raspodela promene te promenljive pokaže da ne postoji velika verovatnoća promene te promenljive, naša analiza osetljivosti je bespotrebna. Na primer, variranje procenta poreza na dobit može analizom osetljivosti pokazati da je posmatrani projekt održiv i u slučaju porasta te stope za 80%, ali u pravno sigurnim državama mala je verovatnoća da bi porez na dobit rastao 80%. Time analiza postaje nepotrebna. Može čak i zavarati ako se prezentuje nekome ko nema dobrih ekonomskih znanja, a kaže mu se da je projekat neosetljiv na promenu do 80% visine poreza na dobit. Ili na primer, ako se radi analiza osetljivosti sa projekcijom pada količine prodanih proizvoda za 30% i zaključi se da je projekt održiv i s padom količine prodanih proizvoda za 30%, a ne uključi se u analizu trenda pada količine prodanih proizvoda zbog zastarelosti (npr. informatička industrija), gde se smanjenje prodaje raspodelom verovatnoće očekuje i do 70%, može se pogrešno zaključiti o osetljivosti projekta. Zbog toga se uz analizu osetljivosti preporučuje izrada analize verovatnoća. Cilj analize verovatnoća je pronaći raspon verovatnoća vrednosti ključnih promenljivih, a time i raspon verovatnoća očekivanih vrednosti pokazatelja učinkovitosti projekta. Raspored verovatnoća ključnih parametara projekta nije podatak koji se dobija iz knjiga. To je rezultat stručnog posla koji se zasniva na znanju, iskustvu i praćenju trendova investicionog projektanta.

Prikazane su glavne karakteristike analize osetljivosti; glavna prednost analize osetljivosti nad ostalim metodama merenja rizika projekta je jednostavnost izrade i važnost zaključaka koje donosi. Glavni nedostatak analize osetljivosti je taj što ne ispituje raspored verovatnoće promene promenljivih. Taj nedostatak ispravlja metoda scenarija i zato se ove dve metode često rade zajedno, odnosno prvo se radi analiza osetljivosti, a nakon toga se radi metoda scenarija. Metoda scenarija je nadograđena analiza osetljivosti. Za razliku od analize osetljivosti, koja varira pojedine ključne promenljive i prati njihov uticaj na projekat u celosti, metoda scenarija izračunava i verovatnoću tih promena. Ona, dakle, uzima u obzir verovatnoću i veličinu promena nekih ključnih promenljivih. Na taj se način dobija podatak o rasponu vrednosti neto sadašnje vrednosti nekog projekta sa vrednostima standardne devijacije, tj. odstupanja od one bazne neto sadašnje vrednosti iz projekta. U metodi scenarija se najčešće sastavljaju tri scenarija: bazni ili najverovatniji, pesimistički i optimistički. Bazni scenarij uzima u obzir najverovatnije vrednosti pojedinih promenljivih. Pesimistički scenarij uzima u obzir vrednosti pojedinih promenljivih koje su lošije od najverovatnijih, a optimistički vrednosti koje su bolje od verovatnijih. Na osnovu tako određenih scenarija može se uporediti odstupanje loše i najbolje neto sadašnje vrednosti od bazne ili najverovatnije neto sadašnje vrednosti. Mnogi se projekti čine odličnim, period povrata je prihvatljiv, neto sadašnja vrednost velika, interna stopa rentabilnosti zadovoljavajuća, dobri su za životnu sredinu, ali slome se na i najmanje promene uslova poslovanja. To je zato jer nije napravljena kvalitetna analiza osetljivosti na moguće promene promenljivih projekta. Ni jedan projekat nije neosetljiv od tržišnih, političkih ili privrednih uticaja. Niti jedan investitor nije vidovit pa da sigurno zna buduća kretanja. Zato treba dobru ideju „provući“ kroz simulacije mogućih događaja, da se zna koje su maksimalne granice koje su održive. Osluškiivati tržište, predviđati promene i prilagođavati se novim uslovima. Najbolji primer neizvesnosti je pandemija koja je zahvatila čitav svet i izmenila za tri meseca uslove poslovanja na tržištu za sve pa i one najspremnije poslovne sisteme. U mnogome je pandemija uticala da analiza osetljivosti i metod scenarija mnogo više koriste prilikom ocene efikasnosti investicionih projekata. Najveći globalni investitori su se našli na udaru kritike upravo zbog toga što su predvideli neke od mogućih scenarija u svetu i bili kritikovani od mnogih političkih lidera i javnosti da su i kreirali neke scenarije koji se sada realizuju. Ostaje da saznamo da li su oni predviđali moguće scenarije ili su ih sami kreirali i uticali na realizaciju ovakvih scenarija. Postavlja se pitanje, da li je globalizacija došla do tog stepena da su globalni investitori postali toliko uticajni i moćni da mogu zaustaviti čitav poslovni svet i uvesti svoja pravila poslovanja prema scenariju koji najviše njima odgovara?

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SENSITIVITY ANALYSIS AND SCENARIO METHOD FOR EVALUATION OF EFFICIENCY OF INVESTMENT PROJECTS IN RISK CONDITIONS

Summary: *The aim of the research is that on the project we analyze the sensitivity and scenario method as one of the very important methods that allow us to assess the effectiveness of the investment projects in conditions of uncertainty and risk. In the conditions of the pandemic caused by the COVID-19 virus, as well as frequent uncertain events that cause economic crises and turbulence in the markets, sensitivity analysis and scenario method are certainly again in the forefront when assessing the cost-effectiveness of the projects as a response to increased risk and the need to predict future project outcomes. The result of the research is the necessity and obligation of usage of these analyses and methods for evaluation of all future investment projects, because we are witnesses of negative effects on economy that are caused by pandemic and other uncertain events. The conclusion of the research is that the classical methods for assessing of the effectiveness of investments are no longer allowed and reliable, that is, without sensitivity analysis and scenario methods and some other similar methods it will not be possible to adequately assess the investment project. The most important conclusion of the research is that predicting the future and predicting of uncertain events will be in the focus of the theory and practice of the business world. The question that arises is whether the world has reached the phase of globalization where the largest investors are so powerful that they are able to create scenarios according to their will and that they have already made answers and solutions to global problems while accomplishing their own interests.*

Key words: *sensitivity analysis, scenario method, assessment of effectiveness, investment projects, future.*

JEL classification: C02, C60, C61, C65

INTRODUCTION

Investment projects are exposed to various forms of risk and they may influence on the expected outcome. In general, risk implies the probability of accomplishment of unwanted outcome, which for an investment means the possibility of making a loss in the future due to insufficient or incorrect information when making a decision. Risk management involves analyzing of potential threats, that can affect the profitability of the project in the future. A complete definition of risk, which includes two aspects (threat and opportunity), considers risk as an uncertain event or condition, which will, in the case of manifestation, have positive or negative effects on the outcome of the project. Determining and assessing of the justification of realization of an investment project is a very complex procedure, which have to include observation and consideration of all relevant factors, primarily, the process of determining of

the effects that are obtained by the realization of a particular investment. The effects of an investment represent the result of a particular investment. In that way, the effects of the investment represent the measure of accomplishment of the set of investment goals and they serve as a criteria for assessing of the validity of investment projects and the selection of the most efficient investment. Measuring of the total effects brought by exploitation of the investment project and their quantitative expression, with the help of certain indicators, that is, criteria, enables us to assess whether the effects will exceed the total required investments. That procedure is called the assessment of the efficiency or profitability of the investment project, and it serves us to make investment decisions. Risk analysis consists of studying of the probability that a particular project will achieve satisfactory performance (in terms of net present value – NPV or internal rate of return – IRR), as well as the variability of results, in comparison to the previous best estimate.

The criterion of the net present value implies the sum of discounted net inflows (effects), which are realized in the period of the exploitation of an investment. Any investment project that has positive value of the net present value criterion is considered justified for realization. The internal rate of return represents the discount rate by which the net present value criterion is equal zero. It shows by what minimum discount rate is the realization of the investment project still justified. The recommended risk assessment procedure is based on the sensitivity analysis, as the first step, which represents calculation procedure of predicting of the impact of changes in input data on the output results of one model. The second step represents the study of probability distribution for selected variables, as well as calculations of expected values of the project performance indicators. The purpose of sensitivity analysis is the selection of „critical“ variables and model parameters, that is, those whose variations, positive or negative, in comparison with the value used as the best estimate in the base case, which have the greatest impact on NPV or IRR, the ones that cause the most significant changes in these parameters. The criteria that should be implemented during the selection of critical variables vary from project to project, and they must be precisely estimated from case to case. After all the important variables have been selected, their elasticity can be estimated by calculation, which can be easier if a simple computer programme is used for calculation of the NPV or IRR index. During each calculation, it is necessary to assign a new value (higher or lower) to each variable, and then recalculate NPV or IRR, and during that process to pay attention to the differences (absolute and percentage) in comparison to the base case. A combined consideration of individual „optimistic“ and „pesimistic“ values of a group of variables can be useful in presentation of different scenarios within certain hypothesis. In order to define optimistic and pesimistic scenarios, it is necessary to choose extreme values for each critical variable within the range defined by the probability distribution. Then the project performance indicators are calculated for each hypothesis. In this case a precisely determined probability distribution is not required. The scenario analysis does not represent a substitute for sensitivity analysis or risk analysis, but it represents only a simplified procedure. When the critical variables have been determined, and all in order to conduct a risk analysis, it is necessary to assign a probability distribution to each of them, which is determined by a precise range of values around the best estimate, which is used in the base case, and all in order to calculate the assessment index. After establishing the probability distribution of the critical variables, it is possible to proceed with the calculation of probability distribution of IRR or NPV of that project. Only in the simplest cases it is possible to calculate these values by using of analytical methods for calculation of probabilities that are composed of a certain number of independent events. By increasing the complexity of the model of the cost analysis and benefit, even for just a few variables, the number of combinations will soon become too high for the direct procedure. For example, it should pay attention on that, if there are only 4 variables, by which for each of them only three values are taken into consideration (the best estimate and two deviations, one positive and one negative), in the end 81 possible combinations will appear for analysis.

Dynamic methods for investment assessment take into consideration the size and timing of expected cash flows during the economic life of the project, which enables more realistic assessment of investments. With the help of discounting technique, the investments and effects from all the previous years of the investment period and the exploitation period are included, and in that way dynamic criteria are calculated. Dynamic criteria are complex indicators that, in different ways, include investments and the inflow of effects from the investment, and in that way they enable more realistic analysis of different aspects of an investment project and assessment of justification of its implementation. (Mičić 2017, 60)

Classical dynamic methods for assessment of effectiveness of investments, such as net present value, internal rate of return and other methods often are not reliable enough to assess the effectiveness of investments. This is especially the case in conditions of uncertainty and risk when there are many variables and then it is necessary to use sensitivity analysis or sensitive analysis for reliable assessment of effectiveness of the investment project.

Sensitivity analysis is a technique by which we evaluate the sensitivity of an investment project to changes on some input variable. The number of variables on which the project depends is huge, but the changes in all variables do not have the same impact on the final results of project evaluations. In order to simplify the sensitivity analysis, in analysis should include only those variables that have bigger impact on the final results. Such variables are called critical project parameters. During that it is important to monitor and change one variable at a time and monitor its impact on project efficiency. That is how we get the data about elasticity of the project on the changes of certain variables and on data for the marginal efficiency of the project.

In conditions of great uncertainty and turbulence, and we are witnessing frequent sudden economic crises such as this one caused by the COVID-19 virus, one of the important methods for assessing of the effectiveness of investments has become the scenario method. However, this method even more gains in its importance and it is used in the business world just because of unpredictability and frequent changes in business conditions due to natural disasters, pandemics, terrorist attacks, war conflicts, migration and other unpredictable events.

The beginning of the application of the scenario method is connected with Plato and his discussions and descriptions of the Ideal Republic, and important personalities of that time such as Thomas Moore and George Orwell (Bradfield and Wright, Burt and Cairns and Heiden 2005, 795). The first documented records of today's scenarios appear in the 19th century in the works of two Prussian military strategists, von Clausewitz and von Moltke, who are also credited for development and setting of today's principles of strategic planning. Von Clausewitz put war events and scenario method at the center of his work as an ideal instrument for finding alternative ways to achieve victories through constant coordination and flexible application of the strategy, tactics and operations. In order to outwit the opponent, the military strategists of that time used the scenario method with the aim of recognizing their weaknesses and destroying the opponents as successfully and quickly as possible. World War II and further usage of scenarios through the Cold War and oil crisis gave further stimulus to the development of scenario methods (Bradfield and Wright and Burt and Cairns and Heiden 2004, 3)

The application of the scenario method in various forms of planning expanded after the World War II, and its development was related to military planning, planning in public administration, business planning, forecasting of technical development, environmental and sustainable development studies, spatial and regional planning and studies of the future in general. Making of scenario is marked as the basic methodology (Slaughter 2002, 349), that is, par excellence tool for the study of the future (Inayatullah 2008, 5).

Scenario method developed later in the 70's, after the oil crisis, when the shortcomings of the previous traditional planning were noticed, which meant that the future was certain. After that, the managers were faced with turbulent environment, uncertain future, highly changeable internal and external business conditions and the need for a new kind of planning appeared.

Scenario method has been used in recent period and it is particularly important for strategic planning. In the literature, in this area, the word scenario appeared in the late 1960's in the

famous work of H.K.Kahn and A.Wiener: where they define scenario as a hypothetical sequence of events constructed in order to focus attention on causal processes and decision points. As such, the scenario differs from other prediction approaches on two grounds: First, it usually provides more qualitative and contextual description of the evolution of the present in the future, and insists less on numerical precision. Second, scenario analysis usually tries to identify a set of possible futures, where each can be possible, but none of them is certain.

In Europe, the scenario method has developed through public administration planning. In the mid 1950's French philosopher Gaston Berger developed a scenario approach to long term planning called (la prospective), based on thinking about the decision making process through consideration of the future (Durance 2010, 1469), and a little more spectacular approach, few years later, developed Bertrand de Jouvenel (Godet 2000, 3). The first application of the scenario was noted during the research of geographical futures, and it was made for DATAR, French administration for spatial planning and regional development (Godet and Roubelat 1996, 164).

The scenario method has been present in society since ancient times. People have always been fascinated by the future and they wanted to explore the future in different ways and possibly to predict it. During relatively stable time (50's and 60's of the last century) people used the prediction method in order to control the future events. However, as the environment itself became more dynamic and complex, so as the methods of forecasting became more prone to mistakes and that encouraged people to develop a method of thoughtful breach into the future known as the scenario method. (Wack 1985, 139)

1. SENSITIVITY ANALYSIS FOR EVALUATION OF THE EFFECTIVENESS OF THE INVESTMENT PROJECT IN CONDITIONS OF UNCERTAINTY

Sensitivity analysis of the investment project (sensitivity analysis) assesses the impact of the change of the key factors of the investment project on project effectiveness indicators.

The degree of sensitivity of the project in relation to possible changes of the conditions of realization, and thus the degree of risk can be assessed on the basis of indicators of the marginal level of the production volume, production costs and some other project parameters. Parameter limit value of the project in i-year of its realization represents the value of that parameter by which the net profit in that year is 0. Each limit value indicator characterizes the degree of sensitivity depending only on the specific project parameter (production volume etc.).

One of the indicators is the coverage point (breaking point of profitability), which characterizes the sales volume by which the operating profit is equal to the production costs. The coverage point should determine how many units of the product has to be sold in order to compensate total production costs (variable and fixed costs).

The coverage point analysis enables us to identify the bottlenecks of the project in terms of achieving of the planned revenues, which provides the necessary effectiveness of the investment project. The coverage point indicates the volume of sales that has to be achieved in order to avoid loss. Based on the coverage point it is possible to determine minimum required production volume.

Profit before interest and taxes can be expressed on the basis of the following equation:

Revenue – variable costs – fixed costs = profit before interest and taxes

$$(JPC \times K) - (JVT \times K) - FT = PBIT \quad (1.1.)$$

Where the:

JPC- price per unit of product (unit of net profit)

JVT- variable cost unit

K- quantity of units sold

FT- fixed costs

PBIT- profit before interest and taxes

The coverage point is the amount of the production where the total income is equal to the total costs, that is, where there are no operating profit (equal to zero), which can be expressed through the equation:

$$(JPC \times K) - (JVT \times K) - FT = 0 \quad (1.2.)$$

By solving the stated equation by Q (quantity of units sold), we get:

$$K = \frac{FT}{JPC - JVT} \quad (1.3.)$$

As the actual production volume is higher than the coverage point, the more stable is the project. A project is usually considered stable if the coverage point does not exceed 75% of the nominal production volume. When estimating the point of coverage it is necessary to keep in mind that fixed costs do not depend from the volume of product sales, that the profit increases or decreases faster than the volume of the product sales. The effects that fixed costs have on changes in profit before interest and taxes describe business leverage. Business leverage studies effects that changes have in the sales volume on profit before interest and taxes, which are the result of impact of the fixed costs.

The impact of business leverage is expressed through the following formula:

$$S = \frac{FT + PBIT}{PBIT} = \frac{K(JPC - JVT)}{PBIT} \quad (1.4.)$$

and represents the ratio of percentage changes in profit before interest and taxes and percentage changes in the sales volume.

Example: A company produces product X. Fixed costs of the production of this product are 1000 € per year. The maximum possible production volume of the production of the product X is 200 units during the year. For simplicity, it is assumed that there is no time gap between product production and realization. The price per unit of the product is 50 €. Variable cost per unit of the product is 30 €.

The coverage point on the basis of equation (1.3.) is:

$$K = \frac{1.000}{50-30} = 50$$

The volume of sales that the company should provide, in order not to operate with loss is 50 units, that is, the operating income from business should amount 2500 €.

If the expected production volume is 150 units, the coverage point is 33,33% of the possible production volume, so the project can be considered stable. The operating profit in this case is $50 \times 150 - 30 \times 150 - 1.000 = 2.000$ €.

If it is expected that in the second year the number of the sold units will increase for 2%, that is $Q=153$, this increase will affect the sales revenues and variable costs, which will also increase for 2%.

The impact of business leverage will be:

$$S = \frac{(JPC \cdot K) - (JVT \cdot K)}{PBIT} = \frac{7.500 - 4.500}{2.000} = 1,5$$

The increase in product sales of 2% will cause an increase in profit before interest and taxes of $1,5 \cdot 2\% = 3\%$, which means that the profit before interest and taxes at the end of the second year will be $2000 \cdot 1,03 = 2060$ eura ($50 \cdot 153 - 30 \cdot 153 - 1.000$)

The disadvantages of this analysis is that it is based on the estimation of profit, and not on the estimation of net cash flows, and beside that it analyzes the sensitivity of the project only to changes in the volume of product sales.

Due to these shortcomings the sensitivity analysis is mainly based on the estimation of the impact of changes in variable projects on net cash flow. The most rational order of this analysis is:

1. The selection of key project factors, which significantly affect on the efficiency indicator and which do not have unambiguous value, that is, which are uncertain (typical are: the price of capital and investment in working capital; market factors – price of goods and sales volume; cost price components; construction time and introduction of fixed assets).
The number of these parameters should not be large because, otherwise, this analysis should be difficult to use without serious computer programmes. Therefore, the effectiveness indicator is observed as a function of a limited number of key variables. Other variables in the model are considered as constants.
2. Determining of expected intervals of values of key variables (eg. $\pm 15\%$ of the base value).
3. Calculation of the value of the effectiveness indicators for the intervals of values of key variables, after which the percentage change of the efficiency indicator is estimated in relation to the base case and the sensitivity indicator is calculated. On the basis of these calculations the variables are ranked according to the degree of importance and the expert assessment of the predicted values of the variables.

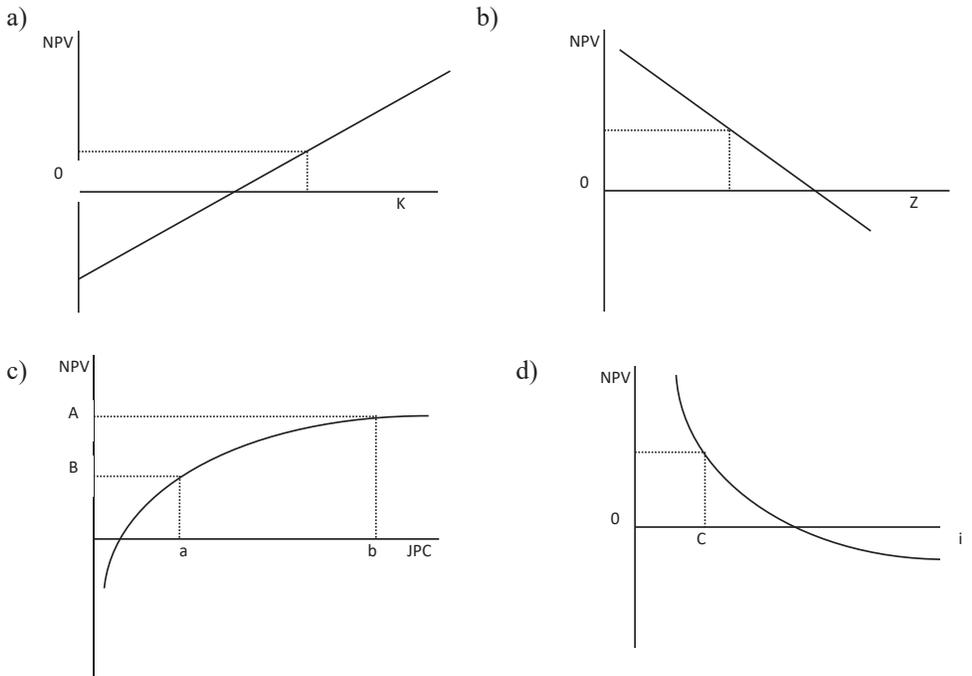
The results can be presented in tabular form or in the form of sensitivity graphs for all uncertain factors, which allows to single out the most critical factors, on which the special attention is focused during the implementation of the investment project in order to reduce the risk of the investment project. If, for example, the price of the production is a critical factor, during the realization it is necessary to improve the marketing programme or to increase the quality of goods. If the project is sensitive to changes in the volume of the production, it is necessary to pay more attention to training of the management of the company and introduce the measures to increase the production. If the critical factors are material costs, it should try to reduce the price of raw materials, by improving the relationships with the suppliers of raw materials by concluding the long term contracts and so on.

In order to facilitate the calculation spread sheet computer programmes are used which enable faster calculation and transparency. The usage of these programmes provided faster analysis of the impact of changes of important factors on the effectiveness indicators.

The graphs below, characterize the dependence of net present value (NPV) from:

- a) Changes in annual production volume (K)
- b) Annual volume of operating costs (Z);

- c) Prices per unit of production (JPC);
 d) Capital price levels (i) if all model variables are fixed.



Graph 1. Sensitivity of the project to changes in uncertain factors (Четыркин 2001, 286)

Example: A company plans to produce a new product. For its production it is necessary to procure the new equipment, which requires the initial capital expenditure of $A_0=150.000$ €. The economic turn of the investment (n) is six years, after which it is estimated that there is no residual value.

Relevant data for decision making are:

- The estimated annual sales volume is $Q=5000$ units.
- The planned cost of the product is $JPC=30$ €.
- Labour costs are $L=12$ € per product.
- Material costs are $M=9$ € per product.
- Other costs do not have significant impact on decision making.
- The price of capital is $i=11\%$.
- Income tax $T=20\%$.

The annual amount of amortization is $A_m=150000/6=25000$ €.

Based on the previous data NPV will be calculated and the sensitivity of NPV will be analyzed according to the above listed factors.

Based on the baseline data, the annual net cash flow will be:

$$P_i = \{K \cdot [JPC - (L + M)] \cdot (1 - T) + A_m \cdot T\} = \{5000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} = 41000.$$

It is about equal net cash flows during the 6 years of the duration of the project, so that the NPV will be calculated by using of IV financial tables:

$$NPV = -A_0 + \{K \cdot [JPC - (L + M)] \cdot (1 - T) + Am \cdot T\} \cdot IV_i^n \quad (1.5.)$$

$$NPV = -150000 + \{5000[30 - (12 + 9)]0,8 - 25000 \cdot 0,2\} IV_{11}^6 = -150000 + 41000 \cdot 4,2305 = 23450,5$$

The net present value is positive and a project on the basis of this calculation can be accepted.

In order to examine the sensitivity of the net present value on the changes of individual variables, the values of the variables that give $NPV=0$ are calculated.

◆ Initial investment:

$$-P_0 + \{5000[30 - (12 + 9)]0,8 - 25000 \cdot 0,2\} \cdot 4,2305 = 0$$

$$P_0 = 173450,5$$

◆ Annual sales volume:

$$-150000 + \{K[30 - (12 + 9)]0,8 - 25000 \cdot 0,2\} \cdot 4,2305 = 0$$

$$K = \frac{P_0}{\{[JPC - (L + M)] \cdot (1 - T) - Am \cdot T\} \cdot IV_k^n} = \frac{150000}{\{[30 - (12 + 9)] \cdot 0,8 - 25000 \cdot 0,2\} \cdot 4,2305}$$

$$K = 4230 \text{ units}$$

◆ Sales price per unit of product:

$$JPC = \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} + (L + M) = \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} + (12 + 9) = 28,61$$

◆ Labour costs per unit of product:

$$L = (JPC - M) - \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} = (30 - 9) - \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} = 13,39$$

◆ Material costs per unit of product:

$$M = (JPC - L) - \frac{\frac{P_0}{IV_i^n} - Am \cdot T}{K \cdot (1 - T)} = (30 - 12) - \frac{\frac{150000}{4,2305} - 25000 \cdot 0,2}{5000 \cdot 0,8} = 10,39$$

◆ The price of capital:

$$IV_i^6 = \frac{A_0}{\{K \cdot [JPC - (L + M)](1 - T) - Am \cdot T\}} = \frac{150000}{\{5000 \cdot [30 - (12 + 9)] \cdot 0,8 - 25000 \cdot 0,2\}}$$

$$IV_i^6 = 3,6585$$

The price of capital is between 16 and 17%.
We will get the requested price by interpolation:

Table 1. Interpolation (Authors, 2020)

i (%)	Value IV tables	i (%)	Value IV tables
16	3,6847	K	3,6585
17	3,5892	17	3,5892
1	-0,0956	17-k	-0,0693

$$1: (17-i)=0,0956:0,0693$$

$$i=16,2745$$

◆ Project duration

At a given price of capital 11% $IV_{11}^n=3,6585$

In IV tables we find $IV_{11}^4=3,1024$, a za $IV_{11}^5=3,6959$.

Project duration at a given price of capital of 11% will give $NPV=0$ and it is between 4 and 5 years.

By interpolation we get that it is 4,9369, that is, 4 years 11 months and 7 days.

Project duration can only be established when the project is completed and it is then possible to assess whether the expected duration of the project was optimistically estimated (McLaney 2003, 149).

The previous results are shown in the table:

Table 2. Display of results (Authors 2020)

Factor	Original data	Values that give $NPV=0$	Deviation (%)
Initial investment	150000	173450,50	15,63%
Annual sales volume	5000	4230	-15,40%
Selling price per unit of the product	30	28,61	-4,63%
Labour costs per unit of the product	12	13,39	11,58%
Material costs per unit of the product	9	10,39	15,44%
Cost of capital	11%	(IRR) 16,2745%	47,95%
Duration of the project	6	4,9369	-17,72%

Based on the percentage deviation of the initial values from the values that individually give zero NPV it is possible to determine the sensitivity of NPV on changes in these values. If the stated factors of the project would move to the stated limits the project could be accepted.

The project is the most sensitive to changes in the selling price and labour costs. The reduction of the selling price per unit of the product for only 4,63% with other unchanged conditions, makes the project unprofitable. That fact could cause that the company gives up from the investment.

There is no need to analyze the sensitivity of the increase in the initial capital expenditure because it is an expenditure that is happening in the present and its value is familiar.

In this way it is possible to determine the critical factors of the project and the impact of individual factors on the final result of the project.

The main disadvantage of sensitivity analysis is that the change of one factor is observed isolated, because in practice all economic factors are in one way or another correlated.

The method can be modified by taking into account the correlation between the key indicators.

Sensitivity analysis of effectiveness indicators to changes of more variables requires that after the calculation of effectiveness indicators for each expected value of an individual factor, to evaluate the efficiency indicators for a combination of key project factors. In this way it is possible to determine how big is the sensitivity of the project effectiveness indicator on the changes in a single factor and the changes in a combination of factors.

Sensitivity analysis (Mičić and Trtić 2015; Duvnjak 2014; Duvnjak and Babić 2014) is useful for identification of variables for whose changes are expected to have the greatest influence on the net present value or on the internal rate of return of the project. It facilitates the identification of possible decisions if the basic assumptions of the model have to be changed. It can be used in conditionally accepted investment projects in order to determine whether they should be continued, modified or rejected.

There are also certain drawbacks in this analysis. First, it is hard to determine precisely the relationship between a particular variable and the indicators of effectiveness. Second, the final decision is subjective, because this analysis does not provide a decision rule that can be used for accepting or rejecting of the investment projects. The application of this method in practice, as an independent instrument of risk analysis, is by the opinion of many authors very limited.

2. SCENARIO METHOD FOR EVALUATION OF THE EFFECTIVENESS OF THE INVESTMENT PROJECT IN RISK CONDITIONS

Scenario method (scenario building) is based on predicting of variants of possible values of factors that influence on the realization of the investment project and the calculation of the effectiveness of investments for each scenario. By attributing certain probabilities to scenarios enables the formation of probability distributions, estimation of expected values and standard deviation and schedule asymmetry.

The allocation probability approach assumes that the premium of risk related to project is included in estimated allocation of probability.

The steps of this analysis are:

- Step 1: The key factors of the investment project are selected and the probabilities of occurrence of these factors are determined.
- Step 2: For each combination of factors, an effectiveness indicator is calculated by using a risk free rate.
- Step 3: Based on the calculated effectiveness indicators and their probabilities, statistical risk indicators are calculated, a probability distribution curve is formed and a final decision is made.

An approximate estimate of the effectiveness of the net present value or internal rate of return is provided by the elaboration of „pessimistic“, „the most probable“ and „optimistic“ scenarios. The pessimistic variant of the prediction implies an assessment of the conditions for the realization of the investment project at the worst expectations (eg. small volume of product realization). The optimistic variant implies an assessment of the conditions at the best expectations, for example at the largest volume of product realization, which makes it possible to assess the needs for working capital. Along with the basic information about the project the sequence of other data are considered, which in the opinion of the project manager may appear in the process of realization.

In the following examples we will show the calculation principle, so that project risk will be observed as variability in the sales volume and variability in labour costs. The model is further complicated when a bigger number of factors are included which affect on net cash deadlines.

Example: It is estimated that the possible sales volume is:

- A) 4000 units with probability 0,2
- B) 5000 units with probability 0,5
- C) 5500 units with probability 0,3.

For each expected sales volume NPV will be calculated.

$$NPV = -P_0 + \{K \cdot [JPC - (L + M)] \cdot (1 - T) + Am \cdot T\} \cdot IV_k^n \quad (2.1.)$$

$$A) NPV = -150000 + \{4000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 33800 \cdot 4.2305 = -7009,1$$

$$B) NPV = -150000 + \{5000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 41000 \cdot 4.2305 = 23450,5$$

$$C) NPV = -150000 + \{5500[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\} IV_{11}^6 = \\ = -150000 + 44600 \cdot 4.2305 = 38680,3$$

It is estimated that there are three possible values of labour costs:

1. 11 € per product with a probability of 0,15
2. 12 € per product with a probability of 0,60
3. 13 € per product with a probability of 0,25

Table 3. Scenarios depending on sales volume, costs and probability (Authors 2020)

Production volume (unit of product)		Labour costs (per unit of product)		Common probability	Scenarios
4000	0,20	11	0,15	0,03	1
		12	0,60	0,12	2

		13	0,25	0,05	3
5000	0,50	11	0,15	0,075	4
		12	0,60	0,3	5
		13	0,25	0,125	6
5500	0,30	11	0,15	0,045	7
		12	0,60	0,18	8
		13	0,25	0,075	9

The calculation is complicated because there are 9 possible combinations.

The net present values of these nine cash flows will be:

1. $NPV = -150000 + \{4000[30 - (11 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 6.528,5$
2. $NPV = -150000 + \{4000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = -7009,1$
3. $NPV = -150000 + \{4000[30 - (13 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = -20546,7$
4. $NPV = -150000 + \{5000[30 - (11 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 40372,5$
5. $NPV = -150000 + \{5000[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 23450,5$
6. $NPV = -150000 + \{5000[30 - (13 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 6528,5$
7. $NPV = -150000 + \{5500[30 - (11 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 57294,5$
8. $NPV = -150000 + \{5500[30 - (12 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 38680,3$
9. $NPV = -150000 + \{5500[30 - (13 + 9)]0.8 - 25000 \cdot 0.2\}IV_{11}^6 = 20066,1$

The sequence of nine possible net present values is obtained.

For making of a final decision it is necessary to assess the risk of the project by calculating of the expected value and the standard deviation of the net present values, which is done in the following table:

Table 4. The calculation of expected value and standard deviation of the net present values (Author, 2020)

Probabilities	NPV	P _i	NPV · P _i	$(NPV_i - \overline{NPV})^2 \cdot P_i$
3	-20546,7	0,050	-1027,34	83227683,42
2	-7009,1	0,120	-841,09	89181692,12
1	6528,5	0,030	195,86	5650232,83
6	6528,5	0,125	816,06	23542636,81
9	20066,1	0,075	1504,96	2598,66
5	23450,5	0,300	7035,15	3068656,27
8	38680,3	0,180	6962,45	61126797,90
4	40372,5	0,075	3027,94	30361858,65
7	57294,5	0,045	2578,25	61745799,50
Σ			20252,24	357907956,16
			σ	18918,46

◆ The expected net present value will be:

$$\overline{\text{NPV}} = \sum_{i=1}^n (\text{NPV}_i \cdot P_i) = 20252,24$$

The expected net present value is possible to calculate directly if the average values of the key variables are calculated (McLaney 2003, 155) (in this case the volume of demand and labour costs):

$$\text{An average demand volume} = (4000 \cdot 0,2) + (5000 \cdot 0,5) + (5500 \cdot 0,3) = 4950 \text{ product units}$$

$$\text{Average labour costs} = (11 \cdot 0,15) + (12 \cdot 0,60) + (13 \cdot 0,25) = 12,1$$

$$\text{NPV} = -150000 + \{4950 [30 - (12,1 + 9)]\} \text{IV}_{10}^6 = 20252,24$$

◆ The standard deviation is:

$$\sigma_{\text{NPV}} = \sqrt{\sum_{i=1}^n (\text{NPV}_i - \overline{\text{NPV}})^2 P_i} = \sqrt{357907956,16} = 18918,46$$

◆ Coefficient of variation is:

$$K_v = \frac{\sigma_{\text{NPV}}}{\overline{\text{NPV}}} = 0,9341$$

The project can be assessed as high risk. The decision whether to accept a project depends on the investor's tendency to risk.

As a whole, the model enables obtaining of a fairly clear picture for different variants of the project realization, by giving information about possible deviations from the desired result. The application of tabular programmes allows us to significantly increase the effectiveness of the analysis through an unlimited increase in the number of scenarios and the introduction of additional variables. If the number of scenarios is large, immitation modelling is recommended. Investment risk assessment is directly connected with the possibility of determining of information about uncertainty. If the initial parameters are presented in the form of possibilities, then the efficiency indicators will also have the form of random variables with their probable distribution. However, the lower the degree of statistical conditionality of project parameters, the less informed about the market situation and the lower the degree of intuitive ability of the expert, the assessment of probable parameters is inadequate and carries a high risk of error analysis.

In that case the method of fuzzy intervals can be used. It is necessary to choose three scenarios in which the project reaches its minimum (NPV_{\min}), average (NPV_{avg}) and maximum (NPV_{\max}) of the net present value.

The degree of risk (V&M) of inefficiency of investments is obtained from the equation:

$$V \& M = R \left(1 + \frac{1-a}{a} \ln(1-a) \right) \quad (2.2.)$$

Where:

$$a = -\frac{NPV_{\min}}{NPV_{\text{avg}} - NPV_{\min}} \quad (2.3.)$$

$$R = -\frac{NPV_{\min}}{NPV_{\max} - NPV_{\min}} \quad (2.4.)$$

The degree of risk V&M can be found in the range from 0 do 1. Every investor can, on the bases of risk tendency to classify values V&M, and to determine the acceptance criteria.

Example: The project is taken into consideration and its duration is estimated to be about two years. The initial capital expenditure is 150.000 €. The discount rate during the planned period can vary from min=10% to imax=15%. The expected net cash flows range from 100000 to 150000 €.

The minimum, maximum and average NPV are evaluated according to the following formulas:

$$NPV_{\min} = P_0 + \frac{A_{\min}}{(1+i_{\min})} + \frac{A_{\min}}{(1+i_{\min})^2} = 12570,88$$

$$NPV_{\max} = P_0 + \frac{A_{\max}}{(1+i_{\max})} + \frac{A_{\max}}{(1+i_{\max})^2} = 110330,58$$

$$NPV_{\text{avg}} = P_0 + \frac{A_{\text{avg}}}{(1+i_{\text{avg}})} + \frac{A_{\text{avg}}}{(1+i_{\text{avg}})^2} = 59876,54$$

Where:

$$P_{\text{avg}} = \frac{P_{\max} + P_{\min}}{2}$$

$$i_{\text{avg}} = \frac{i_{\max} + i_{\min}}{2}$$

The degree of risk according to the previous formula is V&M=0,0188 (1,88%)

The degree of risk of V&M is not an accurate indicator and represents a field of interval values with its schedule of expectations.

The advantage of this method is that the solution is made on the basis of the minimum and maximum value of project effectiveness and it allows us to evaluate the integral measure of negative results of the investment project, that is the degree of investment risk.

CONCLUSION

Sensitivity analysis is the most common method of individual project risk analysis and does not require information about the trend of key variables flow, that is, their probability distribution. This means that it does not require data about the real probability that some change in the variable will occur. Yet, the fact that it does not take into account the distribution of the probability of some changes is considered to be the main drawback of the sensitivity analysis. However, by changing the percentage of a certain variable it can be established that the project is not very sensitive to the change of that variable, but if the distribution of the change of that variable shows that there is no high probability of changing that variable, our sensitivity

analysis is unnecessary. For example, varying the percentage of income tax may be shown by sensitivity analysis that the observed project is sustainable even if the rate increases by 80%, but in legally safe countries, it is unlikely that the income tax would grow by 80%. This makes the analysis unnecessary; it can even be misleading if it is presented to someone who does not have good economic knowledge, and if he is told that the project is insensitive to changes up to 80% of the amount of profit tax. Or, for example, if a sensitivity analysis is performed with a projection of a decrease in the volume of the sold products for 30% and it is concluded that the project is sustainable even with a decrease in the volume of products sold by 30%, and if it is not included in the analysis of the trend of a decline in the volume of the products sold because of obsolescence (eg. information industry) where a decrease in sales by probability distribution is expected up to 70%; it can be wrongly concluded about the sensitivity of the project. Therefore, in addition to sensitivity analysis, it is recommended to make the probability analysis. The aim of the probability analysis is to find the probability range of the values of the key variables, and thus the probability range of the expected values of the project performance indicators. The probability distribution of the key project parameters is not some fact that can be obtained from the books. It is the result of professional work based on the knowledge, experience and following of trends of the investment designer.

The main characteristics of the sensitivity analysis are presented; the main advantage of the sensitivity analysis over other methods of measuring of project risks is the simplicity of development and the importance of conclusions that draws. The main disadvantage of sensitivity analysis is that it does not examine the probability distribution of variables. That shortcoming is corrected by the scenario method and that is why these two methods are often conducted together, that is, the sensitivity analysis first, and after that the scenario method.

Scenario method is an upgraded sensitivity analysis. Unlike sensitivity analysis, which varies in some individual key variables and monitors their impact on the project as a whole, scenario method also calculates probability of that changes. Therefore it takes into account the probability and amount of changes in some key variables. In that way we get the data about the range of values of the net present value of some project with the values of standard deviation, that is, deviations from that base net present value from the project. In the scenario model, three scenarios are usually composed: base as the most probable, pessimistic and optimistic. The base scenario takes into account the most probable values of individual variables. The pessimistic scenario takes into account the values of individual variables that are worse than the most probable, and the optimistic values that are better than probable. Based on such determined scenarios the deviation of the worse and the best net present value with the base or the most probable net present value can be compared.

Many projects seem perfect, the payback period is acceptable, the net present value is high, the internal rate of return is satisfactory, they are good for environment, but they break down to the slightest change in business conditions. This happens because the quality sensitivity analysis has not been made to possible changes in project variables. There are no projects that can be insensitive to market, political or economic influences. There are no investors that can be clairvoyant so they could certainly know the future trends. That is why a good idea should be „put“ through simulations of possible events, to know what are the maximum limits that are sustainable. To pay attention on the market, to predict the changes and to adapt to new conditions. The best example of uncertainty is the pandemic that affected the whole world and changed the business conditions on the market in three months for all, even the most prepared business systems. In many ways, the pandemic has influenced the sensitivity analysis and scenario method to be used more in assessing of the effectiveness of investment projects. The biggest global investors have been criticized just because they predicted some possible scenarios in the world and they were criticized by many political leaders and the public that they created some scenarios that are now being realized. It remains to be seen whether they predicted the possible scenarios or created them by themselves and influenced on the realization of such scenarios. The question is whether globalization has reached the point where global

investors have become so influential and powerful that they can stop the entire business world and introduce their own business rules according to the scenario that suits them the best.

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IZNENADNI DOGAĐAJ (COVID-19 PANDEMIJA) - UTICAJ NA FINANSIJSKU KRIZU U PREDUZEĆU I PRIVREDU U CJELINI

Rezime: *Ovim radom nastoji se prikazati povezanost nekoliko hipoteza iz naučnog rada „Coping with Business Crisis in the EU Periphery: A Case of Bosnia and Herzegovina“ i krizom prouzrokovanom iznenadnim događajem COVID-19, koja se odrazila kako na preduzeća, tako i na privredu u cjelini. Ovim radom nastoje se dokazati i nove postavljane hipoteze.*

Korištene metode prilikom istraživanja su: Hi kvadrat test (Pirsonov test), deskriptivna metoda, kabinetsko istraživanje, anketni upitnik i metoda scenarija.

Pokušaće se dati odgovor zašto su se preduzeća širom svijeta, nakon samo nekoliko sedmica „karantina“, susrela sa problemom nelikvidnosti, što je imalo direktan negativan uticaj na makroekonomske agregate. U radu se nastoji dati teorijski doprinos, te proširiti postojeća fundamentalna saznanja iz navedene oblasti, te prikazati koje mjere finansijskog restrukturiranja mogu pomoći prevazilaženju krize u stabilnom okruženju i okruženju koje je narušeno usljed iznenadnog događaja COVID-19.

Ključne riječi: *preduzeće, kriza, COVID-19 pandemija, finansijsko restrukturiranje, makroekonomski agregati*

Jel klasifikacija: *E22, E24, G34, G35*

UVOD

Ovim radom predstavice se rezultati ranijeg istraživanja preduzeća u krizi i uticaja krize u preduzeću na privredu u cjelini. Rezultati istraživanja će se povezati sa krizom koja je nastala usljed pandemije COVID-19. Posebna pažnja će se usmjeriti na analizu nelikvidnosti preduzeća u periodu pandemije. U radu će se predstaviti najčešće mjere finansijskog restrukturiranja preduzeća u cilju prevazilaženja krize. Poslije povezivanja ranije postavljenih hipoteza sa iznenadnim događajem COVID-19 nastojaće se potvrditi sljedeće postavljene hipoteze:

- Usljed iznenadnog događaja informacije o novčanom toku za predviđanje poslovnog neuspjeha su irelevantne;
- Odlaganje plaćanja ili reprogram duga je mjera finansijskog restrukturiranja preduzeća, čiji efekti zavise od okruženja u kom preduzeće posluje.

1. OSVRT NA RANIJE POSTAVLJENE HIPOTEZE

Krizu u preduzeću prouzrokuju mnogobrojni faktori koji mogu biti interni i eksterni. Kriza u preduzeću, koja vremenski dugo traje, negativno se odražava na preduzeće bez obzira kom sektoru ono pripada (Duvnjak 2018, 199). Ono što je potvrđeno ranijim istraživanjem na osnovu Hi kvadrat testa (Pirsonov test) jeste da trajanje krize ne zavisi od toga da li se preduzeće bavi uslužnom ili proizvodnom djelatnošću. „Vjerovatnoća je veća od 0,05 i iznosi 0,548, što ukazuje da varijable nisu međusobno povezane“ (Duvnjak 2018, 199). Kriza (Vladušić i Rebić

i Hršum 2016) nikad nije monokauzalna. Kriza stvara sekvencijalnu reakciju na sve segmente poslovanja. Kriza unutar preduzeća ima indirektno posljedice na druga preduzeća, ali i na cijelu nacionalnu privredu. Neadekvatno upravljanje mikroekonomskim instrumentima, loš menadžment, neuspjela akvizicija, neefikasno vođenje finansija, marketinga, proizvodnje i neefikasna organizaciona kultura ne predstavljaju samo probleme unutar jednog preduzeća, nego stvaraju negativan multiplikativan efekat na makroekonomske agregate i privredu u cjelini. S druge strane, država kao regulator tržišta i uslova poslovanja treba da stvori ambijent da preduzeća mogu normalno i uspješno da posluju.

Ranijim istraživanjem na osnovu Hi kvadrat testa (Pirsonov test) odbačena je nulta hipoteza da su nezavisne varijable trajanje krize u preduzeću i koliko i koji dijelovi su obuhvaćeni krizom (Duvnjak 2018, 200). „Vjerovatnoća je manja od 0,05 i iznosi 0,000, što ukazuje da su varijable međusobno povezane. Hi kvadrat je 20,023. Odbacili smo nultu hipotezu i uključice se tumačenje pomoću korigovanih standardnih reziduala i to obratiće se pažnja gdje su veći od 2 kod malih tabela, a od 3 kod većih tabela (apsolutne vrijednosti). Testiranje je pokazalo da su skoro svi veći od 2. Takođe, ovdje pomažu i procenti. Od ukupno 56,52% preduzeća koja su cjelokupna obuhvaćena krizom, 65,4% se nalazi u krizi duži vremenski period“ (Duvnjak 2018, 200).

Kriza u preduzeću se mora na vrijeme prepoznati, tačnije uzroci krize, kako bi se na vrijeme reagovalo, jer u suprotnom dolazi do galopirajućeg širenja krize po svim segmentima poslovanja te negativnih posljedica na privredu u cjelini. Veličina negativnih posljedica na makro nivou zavisi od veličine preduzeća, uticaja na druga povezana preduzeća i izvoznu orijentaciju.

Većina preduzeća trebala bi da imaju krizni plan (Hough and Spillan 2005; Darling 1994; Rainer 1985), kako bi se spriječile negativne posljedice kako na nivou preduzeća, tako na nivou cijele nacionalne privrede. Ranijim istraživanjem Hi kvadrat testom je potvrđeno da krizni plan ne utiče na karakter krize ako je prisutna politička i ekonomska nestabilnost (Duvnjak 2018, 205). „Vjerovatnoća je veća od 0,5, što ukazuje da varijable nisu međusobno povezane“ (Duvnjak 2018, 205).

Prevazilaženje problema unutar preduzeća, koja su izazvana eksternim uzrocima na koje preduzeće nije moglo uticati, zavisi od privredne razvijenosti zemlje. Preduzeća koja posluju u stabilnom okruženju mogu dugoročno planirati.

Ranijim istraživanjem Hi kvadrat testom (Pirsonov test) je potvrđeno da mjere restrukturiranja ne moraju da zavise od plana sanacije i razvojnog plana ako je nestabilno okruženje. „Vjerovatnoća je veća od 0,057, što ukazuje da varijable nisu međusobno povezane, međutim pošto je razlika 0,007 može se reći da ima donekle povezanosti. Ova tvrdnja polazi od pretpostavke da u nestabilnom okruženju planiranje se radi od danas do sutra i neplanirani i iznenadni događaji mogu da poremete planirane aktivnosti preduzeća“ (Duvnjak 2018, 205).

2. IZNENADNI DOGAĐAJ (COVID-19) SA ASPEKTA RANIJE POSTAVLJENIH HIPOTEZA – UTICAJ NA KRIZU U PREDUZEĆU I PRIVREDU U CJELINI

Primjer eksternog faktora uzroka krize u preduzećima je pandemija COVID-19, koji se može posmatrati u svojstvu iznenadnog događaja koji se odrazio kako na poslovanja preduzeća, tako i na privredu u cjelini. Iznenadni događaj odrazio se na veliki broj preduzeća bez obzira kom sektoru privrede pripadaju. „Usljed straha, neizvjesnosti i projekcije da će profiti preduzeća biti manji zbog uticaja COVID-19, globalne su berze u jednoj sedmici od 24.02. do 28.02. izbrisale bogatstvo od oko šest biliona američkih dolara. S&P 500 indeks izgubio je više od 5 biliona dolara vrijednosti iste sedmice u SAD-u, dok je 10 najvećih kompanija S&P 500 doživjelo kombinovani gubitak od preko 1,4 biliona dolara, iako su neki od njih oporavljeni u narednoj sedmici“ (Ozili i Arun 2020, 2). Međunarodno udruženje za vazdušni saobraćaj (IATA) imalo je projekcije da bi industrija avioprevoznika izgubila 113 milijardi američkih dolara, ukoliko se kriza izazvana pandemijom COVID-19 ne bi brzo zaustavila (Ozili i Arun 2020, 2). Ranije

projekcije rasta globalne ekonomije, urađene od strane Međunarodnog monetarnog fonda, su odbačene nakon izbijanja COVID-19. Pojava COVID-19 snažno se odrazila na turističku industriju. „Kinezi, kao jedni od najvećih potrošača u turističkoj industriji, koji godišnje troše milijarde, su prestali da putuju. Letovi su otkazani, otkazane su rezervacije hotela i otkazani lokalni i međunarodni događaji koji vrijede više od 200 milijardi dolara. Protok robe kroz globalne lance snabdijevanja znatno se smanjio s obzirom na to da je Kina najveći svjetski proizvođač i izvoznik, a kineska vlada je bila naredila zatvaranje glavnih tvornica u zemlji“ (Ozili i Arun 2020, 2). S obzirom na to da skoro svi sektori privrede pogođeni krizom (izuzev farmaceutske industrije), a naročito saobraćaj, industrijska proizvodnja i turizam imaju multiplikativno dejstvo na druge sektore privrede i makroekonomske agregate kao što su bruto društveni proizvod, bruto nacionalni dohodak, zaposlenost, investicije, izvoz i uvoz, iznenadni događaj se odrazio na opštu privrednu ravnotežu. Neka preduzeća su profitirala (Alon 2020) i došlo je do preraspodjele profita, dok samostalni preduzetnici, mala i srednja preduzeća su osjetila najveće posljedice krize prouzrokovane COVID-19.

Kriza prouzrokovana COVID-19, zavisno od dužine trajanja, odražava se na preduzeće, segmente njegovog poslovanja i na privredu u cjelini. Svaka nacionalna država kao regulator tržišta i uslova poslovanja svojim mjerama može da utiče na ublažavanje posljedica i izlazak iz krize, naročito kada je ona uzrokovana eksternim faktorom koji predstavlja iznenadni događaj. S obzirom na to da poremećaji platnog bilansa nisu posljedica strukturne i fundamentalne neravnoteže, kao što je slučaj kod zemalja u kojima preduzeća ne mogu da pronađu inostrana tržišta niti mogu biti konkurentna unutar nacionalne privrede, nego su posljedica slučajne, odnosno jednokratne neravnoteže, ovi poremećaji se mogu ublažiti finansiranjem i iz monetarnih rezervi.

Nakon iznenadnog događaja preduzeća moraju na vrijeme reagovati da ne bi došlo do produbljanja krize unutar preduzeća i galopirajućih posljedica na privredu u cjelini. Preduzeća koja imaju krizni plan, usljed iznenadnog događaja (COVID-19) moraju da planiraju od danas do sutra, tako da krizni plan ne može uticati na karakter krize. Prevazilaženje problema unutar preduzeća, koji su izazvani COVID-19, a na koje preduzeća nisu mogla uticati, zavisi od privredne razvijenosti zemlje.

Mjere restrukturiranja ne moraju da zavise od plana sanacije i razvojnog plana ako je uzrok krize pandemija COVID-19, jer iznenadni događaj može da poremeti sve aktivnosti preduzeća.

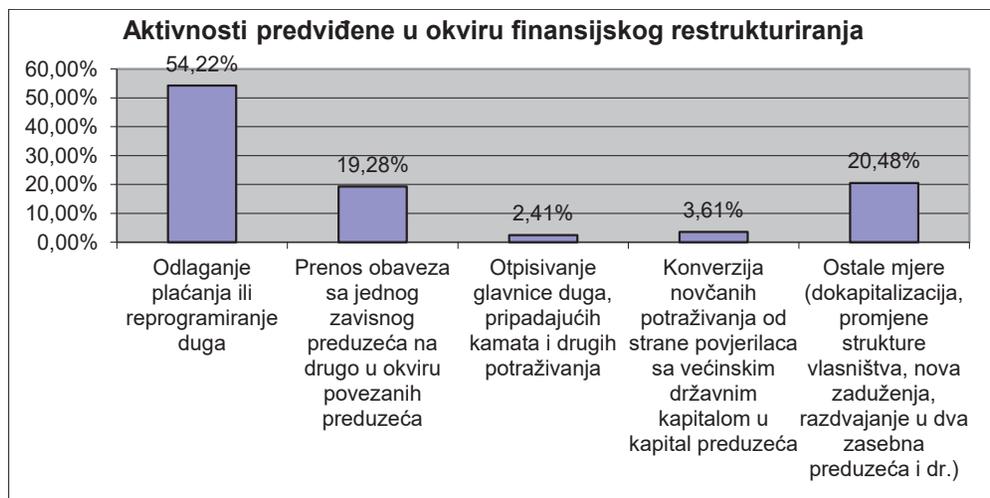
3. ANALIZA NELIKVIDNOSTI PREDUZEĆA PROUZROKOVANA COVID-19

Finansijsko restrukturiranje preduzeća treba da doprinese postizanju odgovarajućeg odnosa vlastitog i pozajmljenog kapitala, koji bi omogućio preduzeću primjenu strategije revitalizacije i postizanje solventnosti (Duvnjak i Babić 2014, 91). Osnovna definicija finansijskog restrukturiranja stavlja u fokus postizanje solventnosti. Na osnovu pandemije COVID-19 uvidjelo se da veliki broj preduzeća usljed neplaniranog događaja ne mogu da se izbore sa trenutnom, ubrzanom, optimalnom i tekućom likvidnošću. Nelikvidnost spada u finansijske pokazatelje poslovnog neuspjeha. Nelikvidnost nije uzrok krize, ali ukazuje u kom segmentu poslovanja se javljaju problemi. Mnoge države, zavisno od privredne razvijenosti, svojim mjerama su uticale na ublažavanje krize u preduzećima. Međutim, nelikvidnost velikog broja preduzeća širom svijeta već u nekoliko sedmica pandemije predstavljala je studiju slučaja za analizu rješavanja finansijskih problema. Finansijski problemi su se rješavali na način da su se aktivnosti preduzeća usmjeravale na organizaciono restrukturiranje, i to kroz set aktivnosti strategije *downsizing* (Cameron 1994) čija organizaciona akcija podrazumijeva smanjenje broja zaposlenih sa ciljem da se time utiče na proces rada koji vodi ka redizajniranju procesa rada i usmjeravanju ka efikasnost i efektivnost preduzeća. Ovu činjenicu potvrđuju masovna otpuštanja radnika širom svijeta. Međutim, primarno rješavanje problema nelikvidnosti otpuštanjem radnika stvara negativno multiplikativno dejstvo na opadanje potrošnje, što se dalje odražava na opadanje makroekonomskih agregata (Mankiw 2000; Giovanni 2016;

Ercolani and Azevedo 2018). Pandemija COVID-19 je pokazala da nelikvidnost preduzeća u kratkom vremenskom periodu može da stvori ozbiljne društvene posljedice. Mjerama države, koja je regulator tržišta i uslova poslovanja, mogu da se spriječe negativne posljedice na privredu koje su nastale zbog reakcije mnogih preduzeća koja imaju visoke profite, ali zbog trenutnih/iznenadnih problema sa novčanim tokom strategijom *downsizing* u pravcu smanjenja broja zaposlenih rješavaju nelikvidnost koja je nastala kao posljedica COVID-19. Postavlja se pitanje da li ta ista preduzeća usljed ekstraprofita proporcionalno nagrađuju i zapošljavaju radnike. Otpuštanje radnika je posljedica mišljenja građanske teorije i politike da su troškovi rada enormno porasli i da dominiraju u strukturi troškova proizvodnje ugrožavajući efikasnost. Time izdaci za nadnice (Jovičić 2005) su uvijek na nivou koji ne bi ugrožavao profit i ekstraprofit. Dugotrajna nelikvidnost, vodi ka insolventnosti. Stoga, sa druge strane postoje mnoga preduzeća, naročito mala preduzeća i samostalni preduzetnici čiji je opstanak poslije pandemije COVID-19 upitan i teško da se mogu vratiti u normalno poslovanje. Novčani tok je predmet planiranja u cilju održavanja likvidnosti i instrument kontrole plana novčanih tokova. Novčani tok se koristi kao instrument finansijske analize za mjerenje prinostne snage u pogledu dopune dobitka i za analizu investicionih projekata. Tokom postojanja preduzeća očekuje se da će profit i vrijednost neto sredstava biti jednaki neto novčanom toku. Analiza novčanog toka je bitna za diferenciranje preduzeća sa problemima od vitalnih preduzeća. Efekti ukupnog novčanog toka i njegovih komponenti na predikciju tačnosti neuspjeha obezbjeđuje bolje shvatanje veze između likvidnosti i finansijskih teškoća. Novčani tok je korisna informacija za procjenjivanje solventnosti preduzeća, posebno u uslovima velike neizvjesnosti. Kratkoročna likvidnost zavisi od efikasnosti upravljanja gotovinom. Izvještaji o primanjima i izdavanjima gotovine su instrumenti koji služe u opšte svrhe, što direktno proizlazi iz suprotstavljanja prihoda i troškova, koje se rade na obračunskoj, a ne na gotovinsko bazi. Izvještaj o novčanim tokovima izuzetno je koristan za upravljanje kratkoročnim finansijskim položajem, a naročito za ocjenu kratkoročne likvidnosti i procjenu solventnosti. S jedne strane postoji logična veza između novčanog toka i bankrota (Sharm 2001). S druge strane, usljed iznenadnog događaja informacije o novčanom toku za predviđanje poslovnog neuspjeha su irelevantne, jer novčani tok iz redovne aktivnosti ne mjeri se na odgovarajući način, ne koriste se analize vremenskih serija, ne uzima se u obzir značaj varijabli i komponenti novčanog toka. Ispitivanje veze između komponenti novčanog toka omogućava shvatanje njegove promjenjivosti.

4. MJERE FINANSIJSKOG RESTRUKTURIRANJA ZA PREVAZILAŽENJE KRIZE U STABILNOM OKRUŽENJU I OKRUŽENJU KOJE JE NARUŠENO IZNENADNIM DOGAĐAJEM COVID-19

U Bosni i Hercegovini u 2019. godini uzorkovano je 100 preduzeća u cilju utvrđivanja mjera finansijskog restrukturiranja. Aktivnosti predviđene u okviru finansijskog restrukturiranja obuhvataju niz aktivnosti (Grafikon 1).



Grafikon 1. Aktivnosti u okviru finansijskog restrukturiranja (Autor)

Nalaz istraživanja je pokazao da većina anketiranih menadžera (54,22%) smatra pod finansijskim restrukturiranjem odlaganje plaćanja ili reprogramiranje duga preduzeća, 19,28% menadžera smatra prenos obaveza sa jednog zavisnog preduzeća na drugo u okviru povezanih preduzeća, 2,41% menadžera smatra otpisivanje glavnice duga, pripadajućih kamata ili drugih potraživanja, 3,61% menadžera smatra konverziju novčanih potraživanja od strane povjerilaca sa većinskim državnim kapitalom u kapital preduzeća i 20,48% menadžera smatra da su to ostale mjere. Ostale mjere podrazumijevaju dokapitalizaciju, cjenovnu politiku, podizanje tužbe prema neplatišama, mjere naplate potraživanja u saradnji sa državom, promjenu strukture vlasništva, povezivanje naplate potraživanja sa obavezama prema državi i zaposlenima, finansijsku injekciju, nove pozajmice od Investiciono razvojne banke Republike Srpske i Razvojne banke Federacije BiH po posebnoj odluci vlada, razdvajanje preduzeća u dva zasebna preduzeća.

Predikcije vraćanja u normalno poslovanje ne mogu se posmatrati na isti način za preduzeća koja duži vremenski period imaju finansijsku politiku pretjeranog zaduživanja kako bi riješila finansijske probleme prouzrokovane neracionalnim trošenjem sredstava i neadekvatnom finansijskom politikom, zatim preduzeća koja zbog lošeg poslovnog ambijenta imaju problem naplate potraživanja, a rastuće obaveze prema državi i preduzeća koja su iznenadnim događajem COVID-19 zapala u krizu.

Istraživanje je pokazalo da većina anketiranih menadžera smatra odlaganje plaćanja i reprogram duga kao mjeru koja bi omogućila uspostavljanje solventnosti. Ukoliko preduzeće posluje u stabilnom okruženju, pravno institucionalnoj državi, koja svojim mjerama stimuliše rast i razvoj, navedeno razmišljanje menadžera nije ispravno. Neadekvatna politika finansiranja opraštanjem dugova imala bi rezultat da menadžeri, koji svoj posao nisu dobro radili, budu nagrađeni umjesto kažnjeni. Ovakav oblik finansijskog restrukturiranja usporava postupak revitalizacije preduzeća, jer finansijska disciplina preduzeća slabi.

Ukoliko preduzeće posluje u okruženju gdje je neadekvatna saradnja državne administracije i nepouzdan pravni i institucionalni okvir, dolazi do opadanja privrednih aktivnosti i gubitka tržišta. U takvim okolnostima iako je ograničeno tržište dolazi do povećanja obaveza prema državi. Zbog lošeg poslovnog ambijenta preduzeća imaju problem naplate potraživanja. Iz svega navedenog proizlazi da se preduzeća pretjerano zadužuju. U takvim okolnostima da bi se uspostavila likvidnost, a zatim solventnost jedino prelazno rješenje jeste odlaganju plaćanja ili reprogramiranje dugova. Istraživanje je pokazalo da najmanji broj menadžera smatra da treba

da se otpišu glavnice duga, kamate i ostala potraživanja, što je još jedna potvrda da preduzeća ne preferiraju da teret lošeg poslovanja prebace na državu ili neke druge interesne grupe. Preduzeća preferiraju da se uspostavi pravno-institucionalni okvir koji će donijeti lakše propise o poslovanju i štititi preduzeća. Međutim, smatra se da je broj preduzeća koja imaju realne šanse da im se putem reprogramiranja dugova pruži osnova za uspostavljanje solventnosti mnogo manji, nego očekivanja koja su menadžeri izrazili. Obzirom na finansijsku situaciju većine anketiranih preduzeća postavlja se pitanje da li ova mjera može doprinijeti revitalizaciji preduzeća.

Drugim mjerama kao što je smanjenje troškova i generisanjem prihoda od prodaje dijelova preduzeća treba omogućiti vraćanje dijelova dugova. Prenos obaveza sa jednog zavisnog preduzeća na drugo ima za cilj da motiviše potencijalne investitore da kupe dio preduzeća. Zamjena dugova za udio u kapitalu preduzeća vrše samo povjerioci sa većinskim državnim kapitalom i država u cilju naplate budžetskih obaveza preduzeća. Ova mjera je formulisana smatrajući da se najveći dio dugova društvenih preduzeća odnosi na dugove prema državi, a zamjenom dugova za udio u kapitalu tih preduzeća država postaje vlasnik jednog dijela kapitala datih preduzeća prije procesa privatizacije.

Odlaganje plaćanja ili reprogram duga je mjera finansijskog restrukturiranja, koja je u slučaju COVID-19 najadekvatnija u cilju prevazilaženja problema i sprječavanja produbljenja krize. Odlaganje plaćanja ili reprogramiranje dugova je mogućnost za preduzeća koja imaju potencijala da u kraćem vremenskom periodu, odnosno u bliskoj budućnosti ostvare prihode kojima će servisirati dugove. Ako se uzme u obzir da su problemi nastali usljed iznenadnog događaja, gdje je svijet „stao“, kao i aktivnost preduzeća, a ne zbog nemogućnosti da se izbore sa konkurentnošću, jer tržište je postojalo prije pandemije COVID-19, takva preduzeća odlaganjem plaćanja i reprogramiranjem duga mogu da se vrate u normalno poslovanje. Ovoj mjeri zbog pandemije COVID-19 ne samo da su pristupila preduzeća u BiH, nego i preduzeća u većini država svijeta. Vraćanje preduzeća u normalno poslovanje pozitivno se odražava na privredu u cjelini, tako da nacionalne države moraju biti u pozitivnoj interakciji sa preduzećima kako bi došlo do rasta makroekonomskih agregata.

ZAKLJUČAK

Pandemija COVID-19 odrazila se na veliki broj preduzeća bez obzira kom sektoru preduzeća pripadaju. Kriza prouzrokovana COVID-19 zavisno od dužine trajanja odražava se na preduzeće, segmente njegovog poslovanja i privredu u cjelini. Usljed iznenadnog događaja (COVID-19) krizni plan ne može uticati na karakter krize, u tom periodu preduzeća moraju planirati od danas do sutra. Mjere restrukturiranja ne moraju da zavise od plana sanacije i razvojnog plana ako je uzrok krize pandemija COVID-19, jer iznenadni događaj može da poremeti sve aktivnosti preduzeća.

S obzirom na to da su problemi u preduzećima nastali usljed iznenadnog događaja, jer je svijet „stao“, informacije o novčanom toku za predviđanje poslovnog neuspjeha su irelevantne. Odlaganje plaćanja ili reprogram duga je mjera finansijskog restrukturiranja preduzeća, koju menadžeri najviše primjenjuju. Međutim, da li je to adekvatna mjera zavisi od okruženja u kom preduzeće posluje.

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A REAL SHOCK (COVID-19 PANDEMIC) - IMPACT ON THE FINANCIAL CRISIS IN THE COMPANY AND THE ECONOMY AS A WHOLE

Summary: *This paper seeks to show the connection among several hypotheses from the scientific paper "Coping with Business Crisis in the EU Periphery: A Case of Bosnia and Herzegovina" and the crisis caused by an unexpected and unpredictable event COVID-19, which affected both enterprises and to the economy as a whole. This paper seeks to prove new hypotheses.*

The methods used during the research are: Hi square test (Pearson test), descriptive method, cabinet research, survey questionnaire and scenario method.

This paper attempts to answer why enterprises worldwide, after only a few weeks of "quarantine", face the problem of illiquidity, which has had a direct negative impact on macroeconomic aggregates. The purpose of the present study is to make a theoretical contribution and expand the existing fundamental knowledge in this area and show which financial restructuring measures can help to overcome the crisis in a stable environment and the environment that was disturbed by the sudden change as COVID-19 outbreak.

Key words: *company, crisis, COVID-19, financial restructuring, macroeconomic aggregates*

JEL classification: *E22, E24, G34, G35*

INTRODUCTION

This paper will present the results of the previous research on enterprises in crisis and the impact of the crisis in enterprises on the economy as a whole. The results of the research will be related to the crisis caused by the COVID-19 pandemic. Special attention will be paid to the analysis of the illiquidity of companies during the pandemic period. The paper will present the most common measures of financial restructuring of companies in order to overcome the crisis. After linking the previously set hypotheses with a real shock COVID-19 pandemic, we will try to confirm the following set hypotheses:

- Due to a sudden change, predicting business failure using cash flow information is irrelevant;
- Deferred payment or debt rescheduling is a measure of financial restructuring of a company whose effects depend on the environment in which the company operates.

1. REVIEW OF PREVIOUSLY SET HYPOTHESES

A company crisis is caused by numerous factors that can be internal and external. A company crisis that lasts for a long time has negative effects on the company regardless of the sector to which it belongs (Duvnjak 2018, 199). "Our Chi-square test (Pearson's test) confirmed the null

hypothesis that the duration of a crisis does not depend on whether the companies are production or service companies. Probability is higher than 0.05 and equals 0.548, showing that variables are not inter-connected" (Duvnjak 2018, 199). A crisis (Vladušić i Rebić i Hršum 2016) is never monocausal. The crisis creates a sequential response to all business segments. The crisis within the company has indirect consequences on other companies, but also on the entire national economy. Inadequate management of microeconomic instruments, poor management, failed acquisition, inefficient management of finances, marketing, production and inefficient organizational culture are not only problems within one company but create a negative multiplier effect on macroeconomic aggregates and the economy as a whole. On the other hand, the state as a regulator of the market and business conditions should create an environment so that companies can operate normally and successfully.

An earlier study based on the Chi-square test (Pearson's test) rejected the null hypothesis that the independent variables are the duration of the crisis in the company and how many and which parts are covered by the crisis (Duvnjak 2018, 200). "The probability is lower than 0.05 and equals 0.000, implying that variables are mutually connected. The Chi-square equalled 20.023. We rejected the null hypothesis and will include the interpretation with corrected standardized residuals, paying attention to them being higher than 2 in small tables, and higher than 3 in large tables (absolute values). Our tests showed that almost all were higher than 2. Percentage-wise, out of the total 56.52% of the companies that are entirely engulfed in crisis, 65.4% have been in crisis for a long time" (Duvnjak 2018, 200).

A company crisis must be recognized, namely the causes of the crisis, in order to timely respond, otherwise, there is a galloping spread of the crisis by all business segments, and negative effects on the economy as a whole. The size of the negative consequences at the macro level depends on the size of the company, impact on other related companies and the export orientation.

Most companies should have a crisis plan (Hough and Spillan 2005; Darling 1994; Rainer 1985), in order to prevent negative consequences both, at the company level and the entire national economy. "Our Chi-square test confirmed the null hypothesis that the existence of a crisis plan has no effect on the character of crisis if there is economic and political instability (Duvnjak 2018, 205). The probability is higher than 0.05, showing that the variables are not mutually connected" (Duvnjak 2018, 205).

Overcoming problems within the companies that are caused by external causes that the company could not influence depends on the economic development of the country. Businesses operating in a stable environment can plan for the long term.

"Our Chi-square test (Pearson's test) further confirmed the null hypothesis that restructuring measures need not depend on the recovery and development plans if the environment is unstable. The probability is higher than 0.05 as it equals 0.057, showing that variables are not mutually connected. However, since the difference is 0.007, it can be concluded that there is some connection, so the data should be analysed. This claim is based on the presumption that in an unstable environment, planning is often done on a day-to-day basis, and unplanned and sudden events may disrupt the planned activities of the company". (Duvnjak 2018, 205).

2. A REAL SHOCK (COVID- 19) FROM THE ASPECT OF PREVIOUSLY SET HYPOTHESES - IMPACT ON A CRISIS IN A COMPANY AND THE ECONOMY AS A WHOLE

An example of an external factor causing the crisis in companies is the COVID-19 pandemic, which can be seen as an unpredictable event that affected both the company's operations and the economy as a whole. An unexpected event affected a large number of companies, regardless of which sector of the economy they belong to. "Due to fear and uncertainty, and to rational assessment that firms' profits are likely to be lower due to the impact of COVID-19, global

stock markets erased about US\$6 trillion in wealth in one week from 24th to 28th of February. The S&P 500 index lost over \$5 trillion in value in the same week in the US while the S&P 500's largest 10 companies experienced a combined loss of over \$1.4 trillion, although some of these were recovered in the subsequent week'' (Ozili and Arun 2020, 2). ''The International Air Transportation Association (IATA) stated that the air travel industry would lose US\$ 113 billion if the COVID-19 outbreak was not quickly contained '' (Ozili and Arun 2020, 2). ''The IMF downgraded its growth projection for the global economy as the COVID-19 outbreak threw its earlier projection into serious doubt. The tourism industry was affected as the travel opportunities for Chinese tourists, who usually spend billions annually, were severely curtailed. There were increased flight cancellations, cancelled hotel bookings and cancelled local and international events worth over \$200billion. The flow of goods through global supply chains vastly reduced significantly given that China was the world's largest manufacturer and exporter, and the Chinese government ordered the closure of major factories in the country'' (Ozili and Arun 2020, 2). Given that almost all sectors of the economy affected by the crisis (excluding pharmaceuticals), and in particular transport, industrial production and tourism have a multiplicative effect on other sectors of the economy and macroeconomic aggregates such as gross domestic product, gross national income, employment, investment, exports and import, the sudden event was reflected in the overall economic balance. Some companies have benefited (Alon 2020) and there has been a redistribution of profits, while the self-employed, small and medium enterprises have felt the biggest impact of the crisis caused by Covid-19. The crisis caused by COVID-19, depending on the duration, affects the company, spreads to all the segments of the business and the economy as a whole. Each government as the regulator of the market and business conditions with its measures may affect the mitigation and overcoming the crisis, particularly when it is caused by an external factor which is a sudden event. Since the balance of payments disruptions are not the result of structural and fundamental imbalances, as it is the case in countries where companies cannot find foreign markets, nor they can be competitive within the national economy but are the result of accidental or one-off imbalances, these disruptions can be mitigated by financing from monetary reserves.

After unexpected events, companies must react in time to avoid a deepening crisis within the company and galloping effects on the economy as a whole. Companies that have already had a contingency plan due to unexpected events (COVID-19) need to plan from day to day so that contingency plans can not affect the character of the crisis. Overcoming the problems within the companies that were caused by COVID-19, and which the companies could not influence, depends on the economic development of the country. Restructuring measures do not have to depend on the rehabilitation plan and development plan if the cause of the crisis is the COVID-19 pandemic which as an unexpected event can disrupt all activities of the company.

3. ANALYSIS OF COMPANY ILLIQUIDITY CAUSED BY COVID-19

The financial restructuring of the company should contribute to achieving an appropriate ratio of equity and borrowed capital, which would enable the company to apply a strategy of revitalization and achieve solvency (Duvnjak and Babić 2014, 91). The basic definition of financial restructuring focuses on achieving solvency. Based on the COVID-19 pandemic, it was realized that a large number of companies could not cope with the current, accelerated, optimal and current liquidity due to the unplanned event. Illiquidity is one of the financial indicators of business failure. Illiquidity is not the cause of the crisis but indicates the segment of business problems can occur. Many countries, depending on their economic development, have taken measures to alleviate the crisis in companies. However, the illiquidity of a large number of companies around the world in just a few weeks of the pandemic was a case study for the analysis of solving financial problems. Financial problems were solved in a way that the company's activities were focused on organizational restructuring, through a set of activities of the downsizing strategy (Cameron 1994) whose organizational action involves reducing the

number of employees in order to redesign the work processes leading to guidance to the efficiency and effectiveness of the company. This fact is confirmed by mass layoffs worldwide. However, the primary solution to the problem of illiquidity by laying off workers creates a negative multiplier effect on the decline in consumption, which is further reflected in the decline in macroeconomic aggregates (Mankiw 2000; Giovanni 2016; Ercolani and Azevedo 2018). The COVID-19 pandemic has shown that the illiquidity of companies in a short period of time can create serious social consequences. Measures of the state that regulates the market and business conditions can prevent negative consequences for the economy that have been arisen due to the reaction of many companies that used to have high profits, but due to current/sudden cash flow problems, through downsizing strategy reduced the number of employees in order to solve the illiquidity as a consequence of COVID-19. The question is whether these same companies, due to extra profits, proportionally reward and employ workers. The layoff is a result of modern economic theory and policy that labour costs are enormously increased and to dominate in the structure of production costs compromising efficiency. Thus, wage expenditures (Jovičić 2005) are always at a level that would not jeopardize profit and extra profit. Long-term lack of liquidity, leading to insolvency. Therefore, on the other hand, there are many companies, especially small enterprises and individual entrepreneurs whose survival after the COVID-19 pandemic is questionable and they can hardly return to normal business. Cash flow is the subject of planning in order to maintain liquidity and a cash flow plan control instrument. Cash flow is used as an instrument of financial analysis to measure yield strength in terms of profit replenishment and to analyze investment projects. During the existence of the company, it is expected that the profit and value of net assets will be equal to the net cash flow. Cash flow analysis is essential to differentiate companies with problems from vital companies. The effects of total cash flow and its components on the prediction of the accuracy of failure provide a better understanding of the relationship between liquidity and financial difficulties. Cash flow is useful information for assessing the solvency of a company, especially in conditions of great uncertainty. Short-term liquidity depends on the efficiency of cash management. Statements of cash receipts and disbursements are considered to be instruments of general purpose, which results directly from the opposition of income and expenses, which is done on an accrual rather than on a cash basis. Statement of cash flows is extremely useful for managing the short-term financial situation, and especially for assessing short-term liquidity and assessing solvency. On the one hand, there is a logical connection between cash flow and bankruptcy (Sharm 2001). On the other hand, due to unexpected events statements of cash flows to predict business failure are irrelevant because cash flow from ordinary activities is not measured properly, time series analyzes are not used, the importance of variables and cash flow components is not taken into account. Examining the relationship between cash flow components allows an understanding of its variability.

4. FINANCIAL RESTRUCTURING MEASURES TO OVERCOME THE CRISIS IN A STABLE ENVIRONMENT AND AN ENVIRONMENT DISTURBED BY AN UNEXPECTED EVENT COVID-19

In Bosnia and Herzegovina in 2019, 100 companies were sampled in order to determine the measures of financial restructuring. Activities envisaged within the financial restructuring include a number of activities (Figure 1).

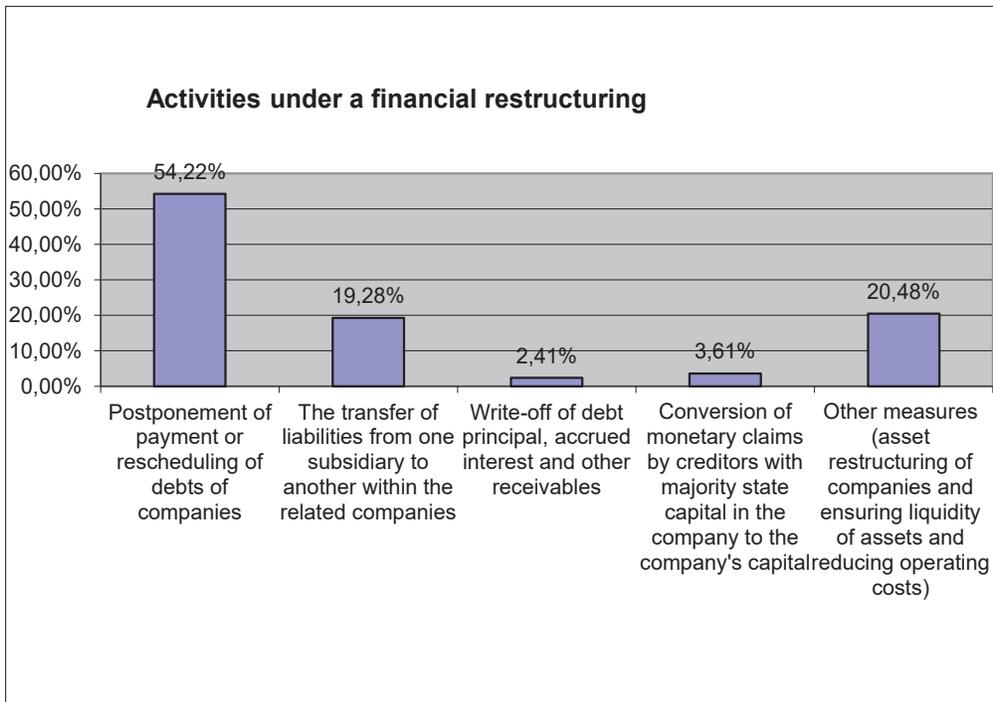


Figure 1. Activities under a financial restructuring (Author)

The research findings showed that the majority of surveyed managers (54.22%) consider financial restructuring to postpone payment or rescheduling of corporate debt, 19.28% of managers consider the transfer of liabilities from one subsidiary to another within related companies, 2.41% of managers consider write-off of debt principal, accrued interest or other receivables, 3.61% of managers consider the conversion of monetary claims by creditors with majority state capital into company capital and 20.48% of managers consider other measures. Other measures include recapitalization, pricing policy, filing lawsuits against defaulters, receivables collection measures in cooperation with the state, change in ownership structure, linking the collection of receivables with liabilities to the state and employees, financial injection, new loans from the Investment and Development Bank of the Republic of Srpska and the Development Bank of the Federation of B&H by a special decision of the Government, separation of companies into two separate companies.

Prediction of returning to normal operations can not be regarded in the same way for the companies which had been having a financial policy of excessive borrowing to solve the financial problems caused by irrational spending of funds and inadequate financial policy, then companies that have a problem of debt collection due to poor business environment and growing liabilities to the state and companies that fell into crisis due to unexpected event of COVID-19. The survey found that most of the managers surveyed considered deferred payment and debt rescheduling as a measure that would allow solvency to be established. If the company operates in a stable environment, to a legally institutional state that stimulates growth and development with its measures, the stated thinking of the manager is not correct. Inadequate policy to finance debt relief would have the result that the managers who did not do their job well would be rewarded instead of punished. This form of financial restructuring slows down the process of revitalization of the company, as it weakens the financial discipline of enterprises. If a company operates in an environment where there is inadequate cooperation between the state administration and an unreliable legal and institutional framework, there is a decline in

economic activity and a loss of the market. In such circumstances, although the market is limited, there is an increase in liabilities to the state. Due to the poor business environment, companies have a problem collecting receivables. All this implies that companies are over-indebted. In such circumstances, in order to establish liquidity and then solvency, the only transitional solution is to defer payment or reschedule debts. Research has shown that the minimum number of managers is considered to be the write off of debt principal, interest and other receivables, which is further evidence that companies do not prefer to shift the burden of bad business to the state or some other interest groups. Companies prefer to establish a legal and institutional framework that will enact easier business regulations and protect businesses. However, it is considered that the number of companies that have a realistic chance of establishing their solvency through debt rescheduling is much smaller than the expectations expressed by managers. Given the financial situation of the majority of the surveyed companies, the question is whether this measure can contribute to the revitalization of companies.

Other measures such as reducing costs and generating revenue from the sale of parts of the company should enable the repayment of parts of the debts. The transfer of liabilities from one subsidiary to another aims to motivate potential investors to buy part of the company. Substitute debt for an equity stake in the company is made only by creditors with majority state capital and by the state to collect budgetary obligations of companies. This measure is formulated considering that most of the debts of the social enterprises refer to debts to the state and by substituting debt for a share of these companies in the equity, the state becomes the owner of a portion of the capital of these companies before the privatization process.

Deferred payments or debt rescheduling is a financial restructuring measure that in the case of COVID-19 is the most adequate in order to overcome the problems and prevent a deepening crisis. Deferring payments or rescheduling debts is an opportunity for companies that have the potential to generate income in a shorter period of time or achieve revenue in the near future which will service the debt. If we consider that the problems arose due to a sudden event where the world "stopped" as well as the activity of companies, and not because of the inability to cope with competitiveness because the market existed before the COVID-19 pandemic, such companies by delaying payments and rescheduling debt can return to normal operations. Due to the COVID-19 pandemic, this measure was joined not only by companies in BiH, but also by companies in most countries of the world. The return of enterprises to normal operations has a positive effect on the economy as a whole, so the policies of the nation-state must be in positive interaction with enterprises in order for macroeconomic aggregates to grow.

CONCLUSION

The COVID-19 pandemic has affected a large number of companies, regardless of the sector. The crisis caused by COVID-19, depending on the duration, affects the company, its business segments and the economy as a whole. Due to the unexpected events (COVID-19) a crisis plan cannot affect the character of the crisis. During this period the company must plan from day to day. Restructuring measures do not have to depend on a business recovery plan and development plan if the cause of the crisis is the COVID-19 pandemic, as a sudden event can disrupt all activities of the company.

Given that problems in companies have arisen as a result of an unexpected event because the world has "stopped", cash flow statements to predict business failure are irrelevant. Deferred payments or debt rescheduling is the measure of the financial restructuring of companies that managers apply the most. However, whether this is an adequate measure depends on the environment in which the company operates.

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MODERNO ROPSTVO KAO GLOBALNI FENOMEN

Rezime: Procjenjuje se da je više od 40 milijuna muškaraca, žena i djece u svijetu u nekom od oblika ropuskog odnosa. Premda su službeno ropstvo i prisilni rad ukinuti u cijelom svijetu, može se ustvrditi da nema države na svijetu u kojoj se ne može naići na neki od oblika modernog ropstva. Moderno ropstvo postalo je globalni fenomen. U skladu s tim, cilj ovoga rada je istražiti povezanost između ekonomske nejednakosti država, broja stanovnika i broja osoba koje se nalaze u nekom od oblika modernog ropstva. Polazne pretpostavke ovoga rada jesu da je broj osoba u nekom od oblika modernog ropstva veći u državama koje prema metodologiji Svjetske banke za obnovu i razvoj spadaju u grupu nižih dohodovnih skupina kao i u državama koje broje veći broj stanovnika. Da bi se dokazale postavljene hipoteze u različitim kombinacijama primijenjene su brojne znanstvene metode od kojih se izdvajaju metoda analize i sinteze, metoda indukcije i dedukcije, metoda deskriptivne statistike i metoda korelacijske analize. Rezultati istraživanja temelje se na sekundarnim izvorima podataka.

Ključne riječi: moderno ropstvo, ekonomska nejednakost, broj stanovnika, dohodovne grupe država

JEL klasifikacija: J46, K38

UVOD

Najčešće citirani dio Američke deklaracije o neovisnosti (1776) i jedna od najpoznatijih rečenica na engleskom jeziku: „Mi držimo ove istine samorazumljivim: svi su ljudi stvoreni jednakima i obdareni od svojeg Tvorca određenim neotuđivim pravima, među kojima su život, sloboda i potraga za srećom“ (*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.*) – postavila je temelje za borbu protiv ropstva. Ideja Francuske revolucije (1789) o jednakosti svih ljudi, bez obzira na rasu, spol ili stalež, inspirirana Američkom deklaracijom o neovisnosti, snažno je utjecala na ukidanje ropstva. Dvije godine kasnije (1791) u noći između 22. i 23. kolovoza muškarci i žene koji su dovedeni iz Afrike i koji su radili kao robovi u ondašnjoj francuskoj koloniji na Haitiju, započeli su prvu pobunu robova u moderno vrijeme. Kao spomen na taj događaj Ujedinjeni narodi su uspostavili „Međunarodni dan sjećanja na trgovinu robljem i njezino ukidanje“.

Suzbijanje ropstva započinje 1807. godine u Velikoj Britaniji, donošenjem zakona kojim je prodaja robova s obje strane Atlantika postala nezakonita (Van Der Liden 2011, 47). Godine 1820. i Sjedinjene Američke Države donose zakon kojim trgovinu robova kažnjavaju smrću. U britanskim kolonijama ropstvo je ukinuto 1833. godine, tada je oslobođeno više od 750 000 robova (Musa 2017:92). Sjedinjene Američke Države to su učinile 1865. godine. Mauritanija je posljednja država na svijetu koja je ukinula ropstvo i to tek 1981. godine. Procjenjuje se da i danas 20% posto stanovništva ove države čine robovi.

Ropstvo (Herceg-Pakšić i Jurić 2016, 285) je prvi put definirano Konvencijom o zabrani ropstva i trgovine robljem iz 1926. u čl. 1. st. 1. kao status ili stanje osobe nad kojom se vrše neka ili

sve ovlasti koje proizlaze iz prava vlasništva (*Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised*). Europska konvencija za zaštitu ljudskih prava i temeljnih sloboda čl. 4 izričito zabranjuje ropstvo i prisilni rad. Zabrana je apsolutna. U načelu, moderno ropstvo označava situacije iskorištavanja koje osoba nema mogućnost odbiti ili napustiti zbog prijetnji, nasilja, prisile, zlorabe moći i prijave. Moderno ropstvo velik je i unosan *business*. U skladu s tim, u ovome radu analiziraju se i elaboriraju pojavni oblici modernog ropstva te se istražuje povezanost ekonomske nejednakosti država mjerene BDP/p.c. i broja stanovnika s procijenjenim brojem osoba koje se nalaze u nekom od oblika modernog ropstva.

1. TEORIJSKI OKVIR I KONCEPTUALNI MODEL ISTRAŽIVANJA

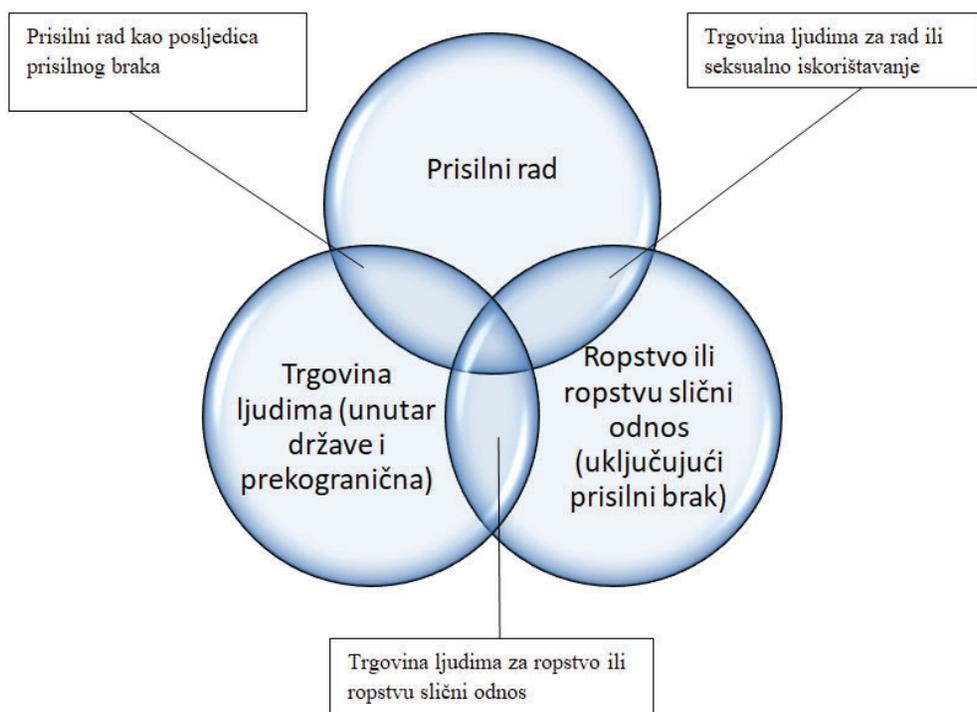
Procjenjuje se da je tijekom 2016. godine u svijetu 40,3 milijuna muškaraca, žena i djece bilo u nekom od oblika ropškog odnosa. To je čak tri puta više nego što je između XV i XIX stoljeća bilo zarobljeno i prodano robova (cf. tablicu 1).

Tabela 1. Transatlantska trgovina robljem (Slave Voyages 2020)

Španjolska/Urugvaj	Portugal / Brazil	GB	Nizozemska	USA	Francuska	Danska / Baltić	Ukupno	
1501-1525	6,363	7,000	0	0	0	0	0	13,363
1526-1550	25,375	25,387	0	0	0	0	0	50,762
1551-1575	28,167	31,089	1,685	0	0	66	0	61,007
1576-1600	60,056	90,715	237	1,365	0	0	0	152,373
1601-1625	83,496	267,519	0	1,829	0	0	0	352,844
1626-1650	44,313	201,609	33,695	31,729	824	1,827	1,053	315,050
1651-1675	12,601	244,793	122,367	100,526	0	7,125	653	488,065
1676-1700	5,860	297,272	272,200	85,847	3,327	29,484	25,685	719,675
1701-1725	0	474,447	410,597	73,816	3,277	120,939	5,833	1,088,909
1726-1750	0	536,696	554,042	83,095	34,004	259,095	4,793	1,471,725
1751-1775	4,239	528,693	832,047	132,330	84,580	325,918	17,508	1,925,315
1776-1800	6,415	673,167	748,612	40,773	67,443	433,061	39,199	2,008,670
1801-1825	168,087	1,160,601	283,959	2,669	109,545	135,815	16,316	1,876,992
1826-1850	400,728	1,299,969	0	357	1,850	68,074	0	1,770,978
1851-1875	215,824	9,309	0	0	476	0	0	225,609
Ukupno:	1,061,524	5,848,266	3,259,441	554,336	305,326	1,381,404	111,040	12.521,337

Trgovci suvremenim robljem u XXI stoljeću zarađuju 25 do 30 puta više od trgovaca robljem iz XVIII i XIX stoljeća (Kelly 2017). To je sigurno jedan od razloga zašto je ropstvo, premda u izmijenjenom obliku, prisutno i u moderno doba. Tako možemo ustvrditi da je na svakih 200 osoba u svijetu jedna osoba u nekom obliku modernog ropstva. Od ukupnog broja osoba koje se nalaze u nekom od oblika suvremenog ropstva njih 24,9 milijuna nalazi se na prisilnom radu, dok njih 15,4 milijuna živi u prisilnom braku. Žene i djevojčice posebno su ranjiva skupina i procjenjuje se da čine 28,7 milijuna ili 71% posto od ukupnog broja osoba koje se nalaze u modernom ropstvu. Svaka četvrta osoba je dijete. Moderno ropstvo najviše je zastupljeno u Africi (7,6 osoba na tisuću stanovnika), slijede Azija i Pacifik (6,1 osoba na tisuću stanovnika) te Europa i Središnja Azija (3,9 osoba na tisuću stanovnika).

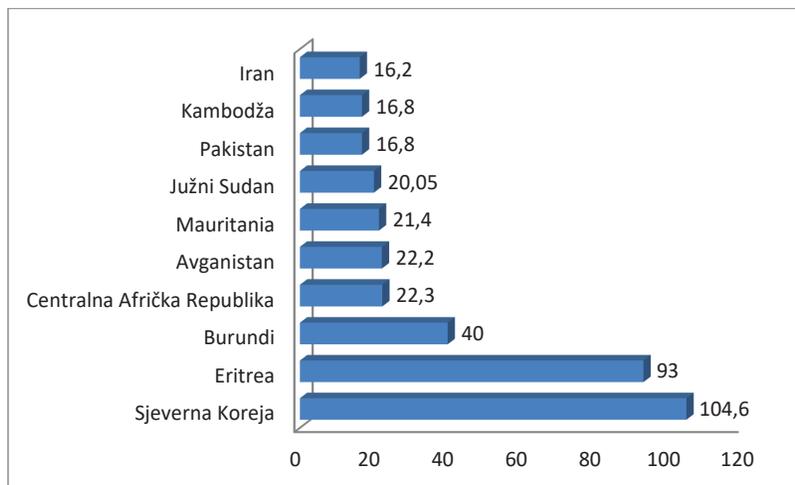
Pojam modernog ropstva (cf. shemu 1) obuhvaća: 1) prisilni rad, 2) trgovinu ljudima i 3) ropstvo ili ropstvu sličan odnos.



Slika 1. (Dizajnirali autori prema: The Global Slavery Index 2018, Walk Free Foundation)

Što se tiče prisilnog rada (Duvnjak 2009; Duvnjak 2018; Pupavac i Budić i Marinac 2019; Pupavac i Maršanić i Krpan 2019; Pupavac 2015; Pupavac 2015; Rafajac i Pupavac 2017; Vukmirović i Pupavac i Šehanović 2016; Duvnjak 2018), on je najzastupljeniji u državama Azije i Pacifika (4 osobe na tisuću stanovnika), Europi i Središnjoj Aziji (3,6 osoba na tisuću stanovnika), Africi (2,8 osoba na tisuću stanovnika), Arapskim državama (2,2 osobe na tisuću stanovnika) i Americi (1,3 osobe na tisuću stanovnika). Procjenjuje se da je od ukupnog broja ljudi na prisilnom radu njih 16 milijuna angažirano na radu u privatnom gospodarskom sektoru, 4,8 milijuna u seksualnoj industriji i 4,1 milijuna u državnom sektoru. Tipične za odnose ropstva jesu različite poljoprivredne djelatnosti, proizvodnja cigala i ugljena, tekstilna manufaktura, kućanski poslovi, krčenje šuma i sl. Prema nekim procjenama (Bales 2017) 15% od ukupne ilegalne dobiti odnosi se na prisilni rad. Prisilni brak najzastupljeniji je u Africi (Sarich, Olivier, Bales 2016). Više od 70% od 4,8 milijuna osoba u seksualnoj industriji žrtve su seksualne eksploatacije u azijsko pacifičkoj regiji.

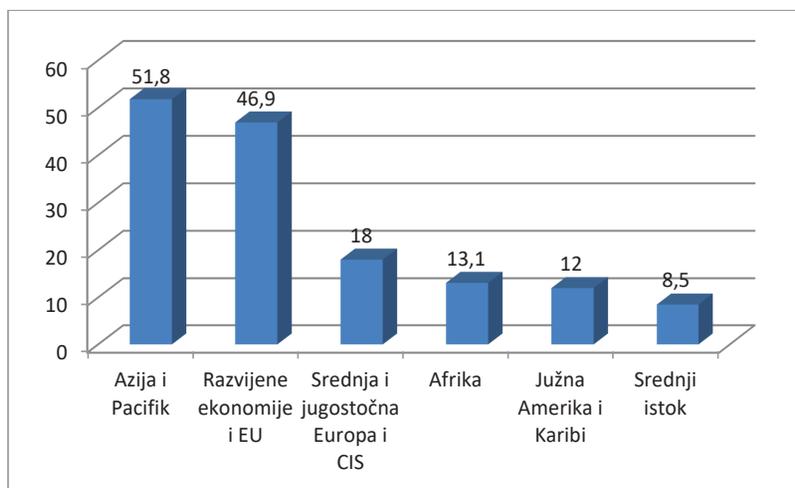
Po broju žrtava prisilnog ropstva na tisuću stanovnika prednjače sljedeće države (cf. grafikon 1).



Grafikon 1. Broj žrtava modernog ropstva na 1,000 stanovnika (Dizajnirali autori prema: Global Slavery Index)

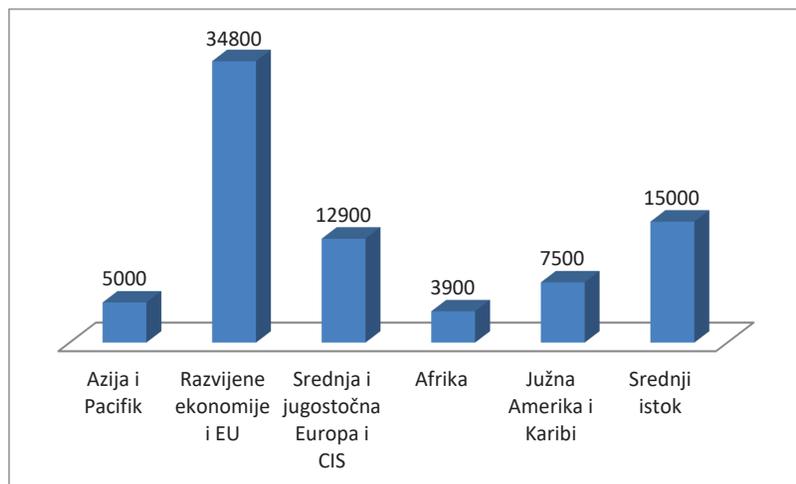
Na temelju grafikona 1. razvidno je da po broju žrtava modernog ropstva na tisuću stanovnika prednjače gospodarske nerazvijene države.

Prema nekim procjenama moderno ropstvo godišnje generira profit veći od 150 milijardi svake godine od čega se gotovo jedna trećina ostvaruje u razvijenim državama svijeta uključujući i Europsku uniju (cf. grafikon 2).



Grafikon 2. Godišnja dobit od prisilnog rada po svjetskim regijama (mlrd. USD) (ILO 2014, 14)

Kara (2009) procjenjuje da seksualna trgovina čini 50% ukupne ilegalne dobiti modernog ropstva. Prosječna dobit po jednoj osobi za njihove eksploatore iznosi oko 4 000 USD. No, kako je seksualna industrija najprofitabilnija procjenjuje se da prosječna dobit po jednoj osobi koja se nalazi u ropstvu za seksualno iskorištavanje kreće od 35 000 do 80 000 USD (Baker 2018). Prosječna godišnja dobit po jednoj osobi na prisilnom radu najveća je u razvijenim ekonomijama (cf. grafikon 3).



Grafikon 3. Godišnja dobit po osobi na prisilnom radu (ILO 2014, 14).

Čini se primjerenim naglasiti da i brojnost stanovništva, također, utječe na procjenu broja osoba koje se nalaze u nekom od oblika modernog ropstva. Tako su primjerice neke od najmnogoljudnijih država svijeta istodobno i države s najvećim brojem osoba u nekom od oblika modernog ropstva (cf. tablicu 2).

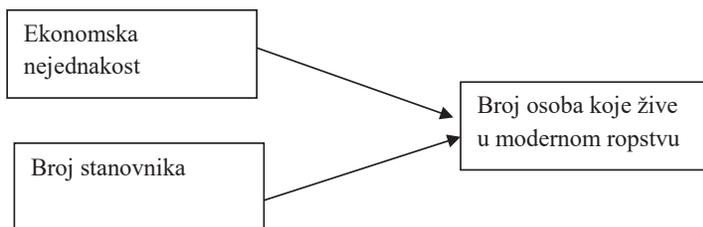
Tabela 2. Deset vodećih država po broju osoba u nekom od oblika modernog ropstva u svijetu za 2018. (Statista 2020)

Država	Broj osoba u nekom od oblika modernog ropstva
Indija	7989000
Kina	3864000
Pakistan	3186000
Sjeverna Koreja	2640000
Nigerija	1386000
Iran	1289000
Indonezija	1220000
Demokratska Republika Kongo	1045000
Rusija	794000
Filipini	784000

Oko 60% osoba, koje se nalaze u nekom od oblika modernog ropstva, su u ovih 10 država u kojima istodobno živi više od polovice svjetskog stanovništva.

Na temelju proučene dostupne literature definiran je konceptualni model istraživanja (cf. shemu 2).

Slika 2. Konceptualni model istraživanja modernog ropstva u svijetu (Autori)



Njime se definira broj osoba koje žive u modernom ropstvu u pojedinim državama svijeta. Broj osoba koje u pojedinim državama svijeta žive u nekom od oblika modernog ropstva određen je ekonomskom nejednakošću mjereno BDP/p.c. i brojem stanovnika u toj državi. U skladu s tim, postavljene su sljedeće hipoteze:

H1: Države s nižom razinom BDP/p.c. imaju veći broj stanovnika pogođenih modernim ropstvom.

H2: Države s većim brojem stanovnika imaju veći broj osoba koje se nalaze u nekom od oblika modernog ropstva.

2. METODOLOGIJA

Da bi se ostvarili cilj i svrha istraživanja prikupljeni su podaci iz sekundarnih izvora podataka i to: 1) podaci Međunarodnog monetarnog fonda o bruto domaćem proizvodu po glavi stanovnika za 2018. godinu i 2) podaci fondacije Walk Free o Indeksu globalnog ropstva, broju stanovnika i broju osoba koje se nalaze u nekom od oblika modernog ropstva prema izvješću iz 2018. godine.

Prikupljeni podaci obrađeni su pomoću statističkog programa za obradu podataka Statistica. Analizom je obuhvaćeno 149 država svijeta za koje su se mogli utvrditi i BDP/p.c. i Indeks globalnog ropstva.

Od primijenjenih metoda izdvajaju se metode analize i sinteze, metoda indukcije i dedukcije, metode deskriptivne statistike te statistička metoda korelacijske analize.

Metode deskriptivne statistike koristit će se za analizu i ocjenu BDP/p.c. i Indeksa globalnog ropstva na globalnoj razini.

Pomoću metode korelacijske analize utvrdit će se postojanje vrste i jačine statističke veze najprije između ekonomske nejednakosti mjerene BDP/p.c., broja stanovnika i broja osoba koje se nalaze u nekom od oblika modernog ropstva na globalnoj razini, a potom između BDP/p.c., broja stanovnika i broja osoba koja se nalaze u nekom od oblika modernog ropstva u državama s niskom razinom dohotka, državama sa nižom-srednjom razinom dohotka, državama s višom-srednjom razinom dohotka i državama s visokom-razinom dohotka.

3. REZULTATI ISTRAŽIVANJA I DISKUSIJA

Na temelju prikupljenih podataka za 149 država svijeta (cf. tablicu 3) sačinjena je kratka deskriptivna analiza BDP/p.c. broja stanovnika (POP) i procijenjenog broja žrtava modernog ropstva (ENV).

Tabela 3. Deskriptivna statistika BDP/p.c, broja stanovnika i broja žrtava modernog ropstva (N=149) (Autori)

	GDP/p.c.	POP	ENV
Aritmetička sredina	13968,2695	47974255	250825,503
Vrijednost medijana	5032,9	10725000	44000
Standardana devijacija	18979,9499	160374362	811200,51
Ukupan zbroj	2081272,16	7148164000	37373000
Minimalna vrijednost	305,5	330000	1000
Maksimalna vrijednost	101376,5	1397029000	7989000
Prvi kvartil (25%)	1337,8	4874000	15000
Treći kvartil (75%)	17715,6	31557000	137000

Analizom u navedenih 149 država obuhvaćeno je 37 373 000 ili oko 93% od ukupno procijenjenog broja osoba koje su žrtve modernog ropstva. Na temelju podataka iz tablice 3 može se za sve tri varijable vidjeti veliki raspon varijacije. Tako, primjerice, procijenjeni minimalni broj osoba koje su žrtve modernog ropstva iznosi 1 000, a maksimalni čak 7 989 000. Kako je najmanja vrijednost 1 000 može se zaključiti da među 149 analiziranih država ne postoji niti jedna u kojoj ne postoje osobe koju su žrtve modernog ropstva. Najmanji broj žrtava modernog ropstva prisutan je u europskim državama Luksemburgu i Islandu (1 000), a najveći u Indiji 7 989 000. Izračunani koeficijent kvartilne devijacije iznosi 0,80 te svjedoči o visokom stupnju disperzije. Prvi četvrtinu (kvartil) čine države za koje se procjenjuje da imaju manje od 15 000 žrtava modernog ropstva, a posljednju četvrtinu (kvartil) one države za koje se procjenjuje da imaju više od 137 000 žrtava modernog ropstva. U preostalim 50% država broj žrtava modernog ropstva kreće se od 15 000 do 137 000. Izračunana vrijednost medijana (M=44 000) pokazuje je u prvoj polovici država procijenjeni broj žrtava modernog ropstva manji od 44 000, a u drugog polovici veći od 44 000. O velikom stupnju varijabilnosti svjedoče i velike vrijednosti standardne devijacije, odnosno velika odstupanja od aritmetičkih sredina analiziranih varijabli. Tako, primjerice, prosječno odstupanje procijenjenog broja žrtava modernog ropstva iznosi SD=811 200 ili 323% (koeficijent varijacije).

U nastavku ove znanstvene rasprave istražuje se stupanj jakosti veza između ekonomske nejednakosti mjerene BDP/p.c, broja stanovnika (POP) i procijenjenog broja osoba (ENV) koje se nalaze u nekom od oblika modernog ropstva (cf. tablicu 4).

Tabela 4. Rezultati korelacijske analize između BDP/p.c, broja stanovnika i procijenjenog broja osoba koje su žrtve modernog ropstva (N=149) (Autori)

Correlations (Modern_Slavery) Marked correlations are significant at $p < ,05000$ N=149 (Casewise deletion of missing data)					
	Aritmetička sredina	Std.dev.	GDP/p.c.	POP	ENV
GDP/p.c.	13968	18980	1,000000	-0,056821	-0,147314
POP	47974255	160374362	-0,056821	1,000000	0,853982
ENV	250826	811201	-0,147314	0,853982	1,000000

Na temelju podataka iz tablice 4 može se utvrditi postojanje čvrste korelacije između broja stanovnika i procijenjenog broja osoba koje su žrtve modernog ropstva ($r=-0,85$; $p<0,05$) te slaba povezanost između BDP/p.c. i procijenjenog broja osoba koje su žrtve modernog ropstva ($r=-0,14$; $p<0,05$).

Rezultati korelacijske analize potvrdili su hipotezu 2 te se može pouzdano ustvrditi da broj žrtava modernog ropstva ovisi o broju stanovnika u određenoj državi. Slaba korelacija između ekonomske nejednakosti mjerene BDP/p.c. i procijenjenog broja žrtava modernog ropstva ne daje nam zapravo da prihvatimo hipotezu 1, odnosno da tvrdimo da se povećanjem BDP/p.c. statistički značajno smanjuje broj žrtava modernog ropstva. No, kako je koeficijent korelacije

negativnog predznaka čini se primjerenim istražiti međuovisnost i jačinu veza između navedenih varijabli za ekonomski različito razvijene države, koje prema metodologiji Svjetske banke za obnovu i razvoj, spadaju u različite dohodovne skupine i to: 26 država s niskom razinom dohotka, 37 država s nižom-srednjom razinom dohotka, 38 država s višom-srednjom razinom dohotka i 47 država s visokom razinom dohotka (cf. tablicu 4).

Tablica 4. Rezultati korelacijske analize između BDP/p.c. i broja žrtava modernog ropstva za različite dohodovne grupe država (Autori)

	GDP/p.c.- prosjeck	ENV-prosjeck	Korelacija	p
Države s niskom razinom dohotka (1025\$ ili manje)	674,44	279 889	R = 0,24	p < 0,05
Države s nižom-srednjom razinom dohotka (od 1026 do 3995\$)	2273,64	496 730	R = -0,14	p < 0,05
Države s višom-srednjom razinom dohotka (od 3996 do 12373\$)	7391,92	249 421	R = 0,06	p < 0,05
Države s visokom razinom dohotka (12 376\$ ili više)	36128,60	41 681	R= 0,02	p < 0,05

Na temelju podataka iz tablice 4 razvidno je postojanje negativne veze između BDP/p.c. i broja žrtava modernog ropstva samo u skupini država s nižom-srednjom razinom dohotka ($r=-0,14$; $p<0,05$). To je istodobno skupina s najvećim prosječnim brojem žrtava modernog ropstva. Za skupinu 38 država s višom-srednjom razinom dohotka i skupinu 47 država s visokom razinom dohotka može se konstatirati odsustvo bilo kakve veze između BDP/p.c. i broja žrtava modernog ropstva. U državama s visokom razinom dohotka evidentan je najmanji prosječni broj žrtava modernog ropstva (41 681). U državama s visokom razinom dohotka procjenjuje se da je 1 959 000 žrtava modernog ropstva. No, kako je u skupini država s višom-srednjom razinom 9 478 000 žrtava modernog ropstva može se konstatirati da od ukupnog broja žrtava modernog ropstva njih 30,60% živi u gospodarski razvijenom svijetu. U skupini država s niskom razinom dohotka zamjetna je najveća (premda slaba i pozitivna veza) povezanost BDP/p.c. i broja žrtava modernog ropstva. Dobiveni podatak može se tumačiti kao spremnost građana ovih država da kada jednom „otplate svoj dug“ i značajnije sami povećaju svoje prihode i sami budu spremni druge osobe iz svoje države podvrgnuti nekom od oblika modernog ropstva.

Što se tiče korelacije između broja stanovnika i procijenjenog broja žrtava modernog ropstva po različitim dohodovnim skupinama država, može se konstatirati da je ona pozitivna u svim dohodovnim skupinama, a najniža u skupini država s niskom razinom dohotka ($r=-0,27$; $p<0,05$). U skupini država s nižom-srednjom razinom dohotka ($r=-0,96$; $p<0,05$), skupini država s višom-srednjom razinom dohotka ($r=-0,95$; $p<0,05$) i skupini država s visokom razinom dohotka ($r=-0,89$; $p<0,05$) zamjetna je vrlo jaka i pozitivna veza između broja stanovnika i procijenjenog broja žrtava u modernom ropstvu.

Prema nekim procjenama za eliminiranje modernog ropstva potrebna su dva desetljeća i iznos od oko 23 milijarde dolara (Bales 2017). Od samih početaka borbe protiv ropstva pa sve do

danas Velika Britanija nalazi se u vrhu država svijeta čije vlade poduzimaju značajne napore u suzbijanju ropstva (cf. tablicu 5).

Tabela 5. Pregled država čije vlade poduzimaju najviše/najmanje u borbi protiv modernog ropstva, 2018. (The Global Slavery Index 2018, 41)

Redni broj	Visoka angažiranost u poduzimanju mjera za sprječavanje modernog ropstva	Niska angažiranost u poduzimanju mjera za sprječavanje modernog ropstva
1.	Nizozemska	Sjeverna Koreja
2.	SAD	Libija
3.	Velika Britanija	Eritreja
4.	Švedska	Srednjoafrička Republika
5.	Belgija	Iran
6.	Hrvatska	Ekvatorijalna Gvineja
7.	Španjolska	Burundi
8.	Norveška	Kongo
9.	Portugal	Sudan
10.	Crna Gora	Mauritanija

Prema globalnom indeksu ropstva za 2018. godinu procjenjuje se da je u deset država koje su najmanje angažirane u borbi protiv modernog ropstva bilo 6,9 milijuna ljudi koji su se nalazili u nekom od oblika modernog ropstva. Na temelju podataka iz tablice 5 može se zaključiti da je niska angažiranost u poduzimanju mjera za sprječavanje modernog ropstva jedan od glavnih čimbenika opstojnosti modernog ropstva u suvremenom društvu.

ZAKLJUČAK

Moderno ropstvo globalni je fenomen suvremenog svijeta. Glavni oblici modernog ropstva prisilni su rad, trgovina ljudima i ropstvo ili ropstvu sličan odnos. Broj žrtava modernog ropstva sve više se povećava. Razloge tome treba tražiti u prekomjernom iskorištavanju prirodnih resursa siromašnih država, velikim globalnim migracijskim tokovima, razvoju informacijsko-komunikacijskih tehnologija, niskim transportnim troškovima, niskom riziku, relativno niskoj cijeni modernih robova i činjenici da se radi o iznimno unosnom *businessu*. Žene i djevojčice glavne su žrtve modernog ropstva. Unatoč činjenici da gospodarski nerazvijene države prednjače po broju žrtava modernog ropstva, na tisuću stanovnika, ne može se pouzdano utvrditi da postoji veza između ekonomske nejednakosti mjerene BDP/p.c. i procijenjenog broja žrtava modernog ropstva. Istraživanje povezanosti između BDP/p.c. i žrtava modernog ropstva unutar različitih dohodovnih skupina država, također, nam ne daje za pravo da potvrdimo hipotezu 1. U skladu s tim hipoteza 1, koja sugerira da države s višom razinom BDP/p.c. imaju manji broj žrtava pogođenih modernim ropstvom se odbacuje. Hipoteza 2 koja sugerira da broj žrtava modernog ropstva izravno i bitno ovisi o broju stanovnika, može se prihvatiti s viskom pouzdanosti. Moderno ropstvo moglo bi i trebalo biti ukinuto u narednih par desetljeća kada bi za to postojala čvrsta politička volja na globalnoj razini. U budućim istraživanjima istraživački fokus bi trebalo usmjeriti na povezanost siromaštva i broja žrtava modernog ropstva.

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MODERN SLAVERY AS A GLOBAL PHENOMENON

Summary: *It is estimated that over 40 million men, women and children worldwide are in some form of slavery. Although formal slavery and forced labour have been abolished in all the world, there is no country in the world that doesn't have at least some form of modern slavery. Modern slavery has become a global phenomenon. Thus, the objective of this research is to investigate the relationship between economic inequality of countries, population and number of people in some form of modern slavery. This research starts with the assumptions that the number of people in some form of modern-day slavery is higher in the countries that, according to the methodology of the International Bank for Reconstruction and Development, belong to the group of countries with a lower income and in the countries with a larger population. Many scientific methods were used in various combinations to confirm the set hypotheses, of which the most important are the method of analysis and synthesis, method of induction and deduction, the method of descriptive statistics and the method of correlation analysis. The results of this research are based on secondary data sources.*

Key words: *modern slavery, economic inequality, population, income groups of countries*

JEL classification: *J46, K38*

INTRODUCTION

Most cited part of the *United States Declaration of Independence* (1776) and one of the most known lines in English, *We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness* – laid the foundations in fighting slavery. Greatly inspired by the United States Declaration of Independence, French Revolution (1789) and its postulates on the equality of all people, regardless of their race, gender or class, had a strong influence on the abolition of slavery. Two years later (1791) on the night between 22 and 23 August, the men and women that were brought from Africa were they had been working as slaves in what was at the time French colony of Haiti, started the first rebellion of slaves in modern times. To commemorate the event, the United Nations established the *International Day for the Remembrance of the Slave Trade and its Abolition*.

The suppression of slavery began in 1807 in the UK with the enactment of the law that made the slave trade illegal on both sides of the Atlantic (Van Der Liden 2011, 47). In 1820, the United States also passed a law making the slave trade punishable by death. In the British colonies slavery was abolished in 1833 at what time more than 750,000 slaves were freed (Musa, 2017: 92). The United States did so in 1865. Mauritania is the last country in the world that abolished slavery only in 1981. It is estimated that in Mauritania even today slaves represent 20% of the population.

Slavery (Herceg-Pakšić and Juric 2016, 285) was first defined by the 1926 *Slavery Convention* or the *Convention to Suppress the Slave Trade and Slavery* in art. 1 (1) as *the status or condition*

of a person over whom any or all of the powers attaching to the right of ownership are exercised.

European Convention on Human Rights expressly prohibits slavery and forced labour (art. 4). The ban is absolute. In principle, modern slavery refers to severe exploitation of people where a person does not have the ability to refuse or leave because of threats, violence, coercion, abuse of power and fraud. Modern slavery is big and lucrative business. This research will elaborate on the emerging forms of modern slavery and will examine the connection between economic inequality of countries as is measured by GDP/p.c., country population and estimated number of people who are in some form of modern slavery.

1. THEORETICAL FRAMEWORK AND CONCEPT OF RESEARCH

40.3 million men, women and children worldwide were estimated to be in some form of slavery in 2016. Three times more than the number of slaves enslaved and sold between the 15th and 19th century (cf. Table 1).

Table 1. Trans-Atlantic Slave Trade – estimates (Slave Voyages 2020)

Spain / Uruguay	Portugal / Brazil	Great Britain	Netherlands	U.S.A.	France	Denmark / Baltic	Totals	
1501-1525	6,363	7,000	0	0	0	0	0	13,363
1526-1550	25,375	25,387	0	0	0	0	0	50,762
1551-1575	28,167	31,089	1,685	0	0	66	0	61,007
1576-1600	60,056	90,715	237	1,365	0	0	0	152,373
1601-1625	83,496	267,519	0	1,829	0	0	0	352,844
1626-1650	44,313	201,609	33,695	31,729	824	1,827	1,053	315,050
1651-1675	12,601	244,793	122,367	100,526	0	7,125	653	488,065
1676-1700	5,860	297,272	272,200	85,847	3,327	29,484	25,685	719,675
1701-1725	0	474,447	410,597	73,816	3,277	120,939	5,833	1,088,909
1726-1750	0	536,696	554,042	83,095	34,004	259,095	4,793	1,471,725
1751-1775	4,239	528,693	832,047	132,330	84,580	325,918	17,508	1,925,315
1776-1800	6,415	673,167	748,612	40,773	67,443	433,061	39,199	2,008,670
1801-1825	168,087	1,160,601	283,959	2,669	109,545	135,815	16,316	1,876,992
1826-1850	400,728	1,299,969	0	357	1,850	68,074	0	1,770,978
1851-1875	215,824	9,309	0	0	476	0	0	225,609
Ukupno:	1,061,524	5,848,266	3,259,441	554,336	305,326	1,381,404	111,040	12,521,337

Contemporary 21st-century slave traders make 25 to 30 times more money than the 18th and 19th-century slave traders (Kelly, 2017). This is certainly one of the reasons why slavery, although in its altered form, is still present in modern times. Thus, we can state that for every 200 people in the world, one is in some form of modern slavery relationship. Out of the total number of people in modern slavery, 24.9 million are on forced labour, while 15.4 million are in forced marriage. Women and girls form a particularly vulnerable group that, estimated to number 28.7 million, represents 71% of the total number of people in modern slavery. Every fourth person in the world is a child. Modern slavery is most prevalent in Africa (7.6 people per thousand), followed by Asia Pacific (6.1 people per thousand) and Europe and Central Asia (3.9 people per thousand).

The concept of modern slavery (cf. Figure 1) includes: 1) forced labour, 2) human trafficking, and 3) slavery or slavery-like relationship.

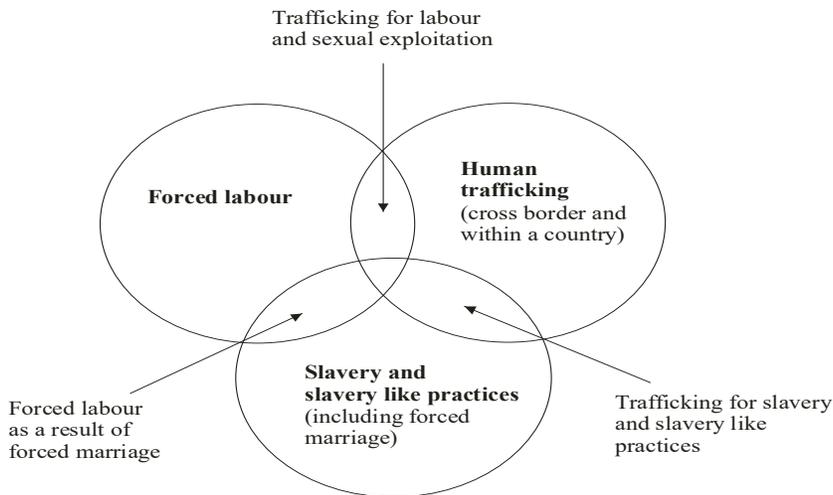


Figure 1. Forms of Modern slavery (Made by authors according to The Global Slavery Index 2018, Walk Free Foundation)

In relation to forced labour (Duvnjak 2009; Duvnjak 2018; Pupavac and Budić and Marinac 2019; Pupavac and Maršanić and Krpan 2019; Pupavac 2015; Pupavac 2015; Rafajac and Pupavac 2017; Vukmirović and Pupavac and Šehanović 2016; Duvnjak 2018), it is most common in countries of Asia and the Pacific (4 people per thousand), Europe and Central Asia (3.6 people per thousand), Africa (2.8 people per thousand), and Arab countries (2.2 people per thousand) and America (1.3 people per thousand). It is estimated that out of the total number of people in forced labour, 16 million are employed in the private economic sector, 4.8 million in the sex industry and 4.1 million in the public sector. Typical businesses where slavery relationships are forming involve various agricultural activities, production of bricks and coal, textile manufacturing, household chores, deforestation and so on.

According to some estimates (Bales, 2017) 15% of all illegal profits are related to forced labour. Forced marriage is most prevalent in Africa (Sarich, Olivier, Bales, 2016). More than 70% of the 4.8 million people in the sex industry are victims of sexual exploitation in the region of Asia-Pacific.

Countries with the highest number of victims of forced slavery are the following (cf. Figure 2).

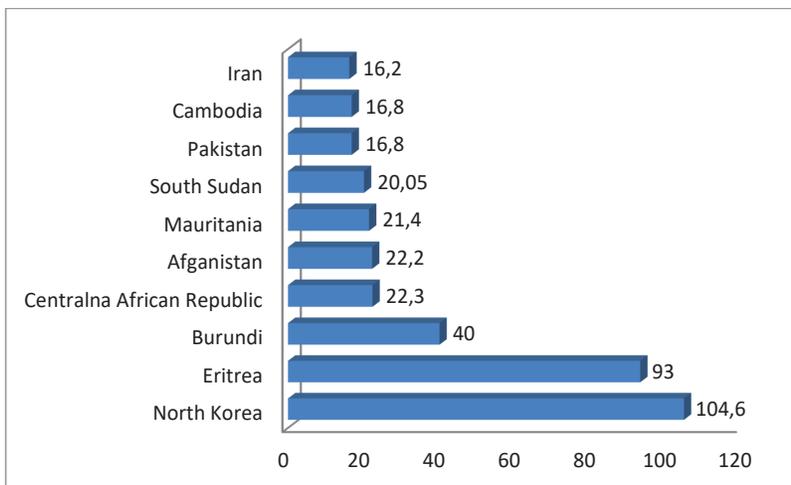


Figure 2. Number of victims of forced slavery per 1.000 inhabitants (Made by authors according to Global Slavery Index)

It can be concluded from Figure 2 that the number of victims of modern slavery per thousand inhabitants is the highest in economically underdeveloped countries.

According to some estimates, modern slavery annually generates more than 150 billion dollars in profit each year, with a third is realized in the developed countries of the world, including the European Union (cf. Figure 3).

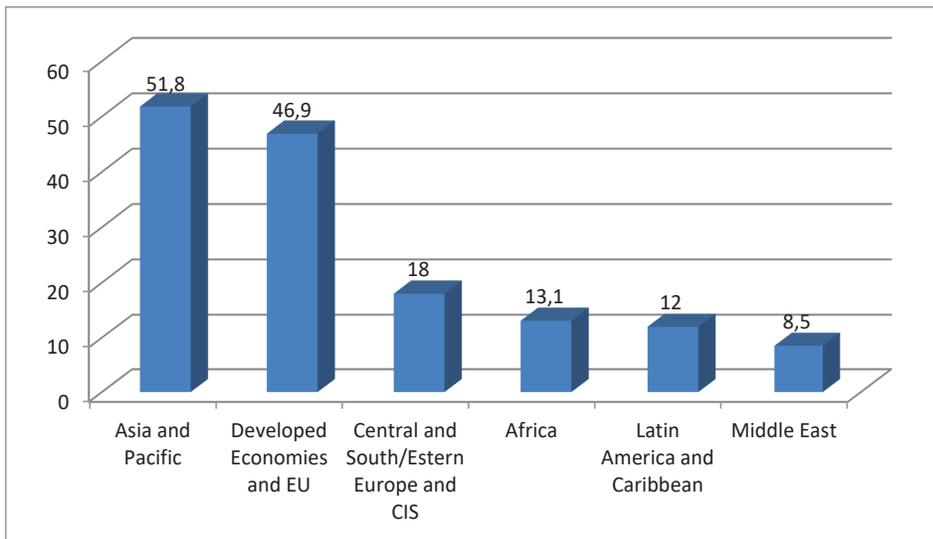


Figure 3. Annual profits of forced labour per region (USD \$ billion) (ILO 2014, 14)

Kara (2009) estimates that 50% of the total illegal profit of modern slavery comes from the sex trade. The average profit per person for their exploiters is about \$ 4,000. But as the sex industry is the most profitable, the average profit per person in sexual exploitation slavery is estimated to range from \$ 35,000 to \$ 80,000 (Baker, 2018). The average annual profit per person in forced labour is highest in developed economies (cf. Figure 4).

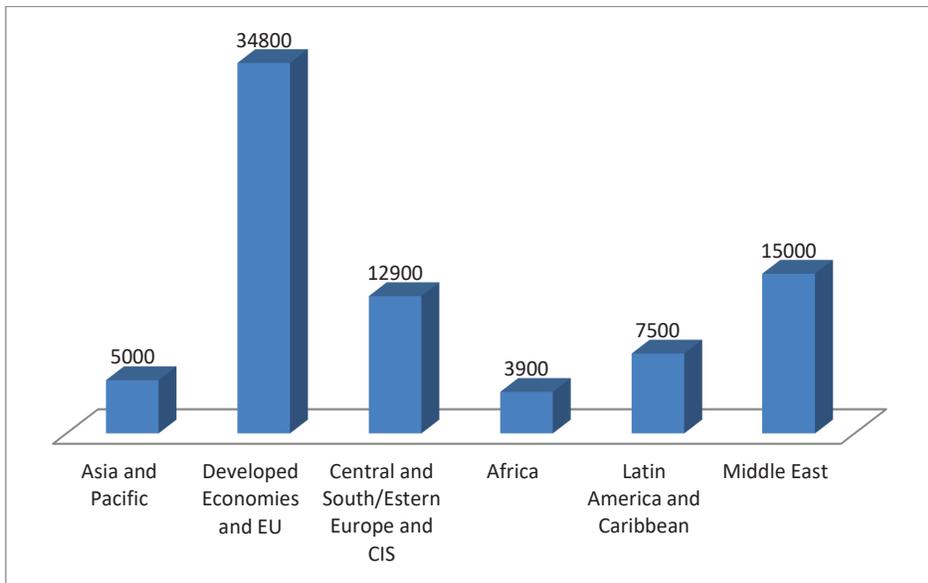


Figure 4. Annual profit per victim of forced labour per region (USD \$) (ILO 2014, 14)

It is important to point out how the estimations regarding the number of people in modern-day slavery are also being affected by the country population size. Thus, for instance, some of the most populated countries in the world are at the same time also the countries with the largest number of people in some form of modern slavery (cf. Table 2).

Table 2. Ten leading countries in the number of people in some form of modern slavery in the world, 2018 (Statista 2020)

Country	Number of persons in some form of modern slavery
India	7989000
China	3864000
Pakistan	3186000
North Korea	2640000
Nigeria	1386000
Iran	1289000
Indonesia	1220000
Democratic Republic of the Congo	1045000
Russia	794000
Philippines	784000

About 60% of people in some form of modern slavery are in these 10 countries where, at the same time, more than half of the world's population lives.

A conceptual research model was founded on grounds of the available literature (cf. Figure 5).

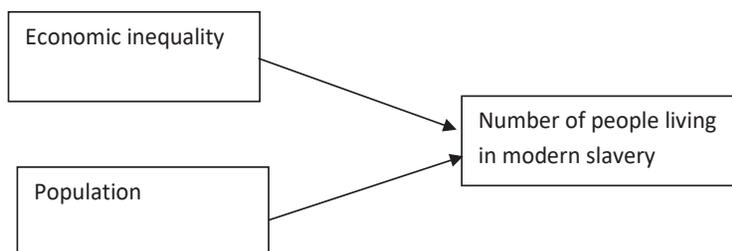


Figure 5. Conceptual model of research of modern slavery in the world
(Authors)

It defines the number of people living in modern slavery in different countries of the world. The number of people living in some form of modern slavery in a country is determined by economic inequality measured by GDP/p.c. and its population. Therefore, the following hypotheses were set:

H1: Countries with a lower GDP/p.c. have a larger part of the population affected by modern slavery.

H2: Countries with a larger population have a higher number of people who are in some form of modern slavery.

2. RESEARCH METHODOLOGY

For research purposes, data were collected from secondary data sources, as follows: 1) *International Monetary Fund* data on gross domestic product per capita (also GDP/p.c.) for 2018 and 2) *Walk Free* foundation data on *Global Slavery Index*, population and number of people in some form of modern slavery in the 2018 report. The data collected were analyzed using the statistical data processing software *Statistica*. The analysis included 149 countries of the world that were with accessible data on GDP/p.c. and the *Global Slavery Index*.

Among the methods applied in this research were the method of analysis and synthesis, method of induction and deduction, descriptive statistics method and the statistical method of correlation analysis. Method of descriptive statistics will be used in the analysis of GDP/p.c. and the *Global Slavery Index* at the global level. The method of correlation analysis will determine the type and strength of the statistical relationship first between economic inequality, measured by GDP/p.c., population and number of people in some form of modern slavery globally, and then between GDP/p.c., population and number of people in some form of modern-day slavery in low-income countries, lower-middle-income countries, high-middle-income countries and high-income countries.

3. RESEARCH RESULTS AND DISCUSSION

A brief descriptive analysis of GDP/p.c., population (POP) and the estimated number of modern slavery victims (ENV) was based on the data collected for 149 countries of the world (cf. Table 3).

Table 3. Descriptive statistics of GDP/p.c., population and number of modern slavery victims (N = 149) (Authors)

	GDP/p.c.	POP	ENV
Mean case 149	13968,2695	47974255	250825,503
Median case 149	5032,9	10725000	44000
Standard deviation	18979,9499	160374362	811200,51
Sum case 149	2081272,16	7148164000	37373000
Min case 149	305,5	330000	1000
Max case 149	101376,5	1397029000	7989000
25th case 149	1337,8	4874000	15000
75th case 149	17715,6	31557000	137000

37 373 000 that is, 93% of the total estimated number of victims from modern slavery were incorporated in the analysis of these 149 countries. A wide range in variations is evident from Table 3 for all three variables. For instance, the minimum ENV is 1 000, while the maximum ENV goes up to 7 989 000. The minimum value being 1 000, one can conclude that there is not one country, out of all 149 countries been analyzed with no victims of modern slavery. The lowest number of modern slavery victims is present in the European countries of Luxembourg and Iceland (1 000), and the highest is in India (7 989 000). The calculated coefficient of quartile deviation is 0.80 and states a high degree of dispersion. The first quarter (quartile) is comprised of countries that are estimated to be with less than 15 000 victims of modern slavery, while the last quarter (quartile) is comprised of countries estimated with more than 137 000 modern slavery victims. In the remaining 50% of countries, the number of victims is in between and ranges from 15 000 to 137 000. The calculated median value ($M = 44\ 000$) indicates that in the first half of countries ENV is less than 44 000 and in the second greater than 44 000. Variables to have a large degree of variability can also be concluded by their value of standard deviation, as being high and thus, stating that the variable has large deviations from its arithmetic mean. For example, the average deviation of ENV is $SD = 811\ 200$ or 323% (coefficient of variation). Following below is the correlation analysis between economic inequality measured by GDP/p.c., population (POP) and ENV in some form of modern slavery (cf. Table 4).

Table 4. Correlation analysis results between GDP/p.c., population and estimated number of modern slavery victims (N = 149) (Authors)

Correlations (Modern_Slavery) Marked correlations are significant at $p < ,05000$ N=149 (Casewise deletion of missing data)					
	Mean	Std.Dev.	GDP/p.c.	POP	ENV
GDP/p.c.	13968	18980	1,000000	-0,056821	-0,147314
POP	47974255	160374362	-0,056821	1,000000	0,853982
ENV	250826	811201	-0,147314	0,853982	1,000000

The results of the correlation analysis in Table 4 demonstrate the correlation between population and ENV to be strong ($r = -0.85$; $p < 0.05$), and correlation between GDP/p.c. and ENV to be weak ($r = -0.14$; $p < 0.05$).

Correlation analysis has confirmed Hypothesis 2, therefore, it can reliably be stated that the number of victims of modern slavery depends on the population of a given country. In terms of Hypothesis 1, correlation analysis showed there is a weak correlation between economic inequality measured by GDP/p.c. and ENV and so Hypothesis 1 could not be accepted.

Hypothesis 1 hasn't been confirmed by the correlation analysis and so, to claim that increasing GDP/p.c. the number of victims of modern slavery will statistically significantly be reduced, isn't reliable.

However, coefficient of correlation being of a negative sign gives grounds to research further the strength of correlation between these variables, but for differently economically developed countries, and their place in different income groups according to the methodology of the *International Bank for Reconstruction and Development*: 26 low-income countries, 37 countries with lower-middle-income levels, 38 high-middle income countries and 47 high-income countries (cf. Table 5).

Table 5. Results of correlation analysis between GDP/p.c. and the number of victims of modern slavery for different income groups of countries (Authors)

Country classification	GDP/p.c.-average	ENV-average	Correlation	p
Low-income economies (1025\$ or less)	674,44	279 889	R = 0,24	p < 0,05
Lower-middle income economies (1026 to 3995)	2273,64	496 730	R = -0,14	p < 0,05
Upper-middle-income economies (3996 to 12373)	7391,92	249 421	R = 0,06	p < 0,05
High-income economies (12 376 or more)	36128,60	41 681	R= 0,02	p < 0,05

According to the correlation analysis results set in Table 5, the negative correlation between GDP/p.c. and the number of victims of modern slavery is present only in the lower-middle-income group of countries ($r = -0.14$; $p < 0.05$). That group simultaneously is also the one with the highest average number of victims of modern slavery. The absence of any connection between GDP/p.c. and the number of modern slavery victims can be stated for 38 higher-middle income and 47 high-income group of countries. High-income group of countries are the group with the lowest average number of modern slavery victims (41 681). However, 1 959 000 victims of modern slavery are estimated to be present in high-income countries, with additional 9 478 000 victims estimated to be in the higher-middle income countries, together makes 30.60% of the total number of victims of modern slavery living in the economically developed world. Low-income group of countries are with the largest (although weak and positive) correlation between GDP/p.c. and the number of victims of modern slavery. This instance could be interpreted as wiliness of people in low-income countries to subject others from their country to the same modern slavery they've endured once they "pay off their debt" and significantly increase their own income.

Correlation between the population and ENV in different income groups of countries, is in all income groups positive, while it is the lowest in the low-income group of countries ($r = -0.27$; $p < 0.05$). In the group of countries with lower-middle level of income ($r = -0.96$; $p < 0.05$), then with higher-middle level of income ($r = -0.95$; $p < 0.05$) and a high level of income ($r = -$

0.89; $p < 0.05$) group of countries, correlation between the population and ENV is very strong and positive.

According to some estimates, the abolition of modern-day slavery would take two decades and require the amount of about 23 billion dollars (Bales, 2017). From the very beginning until today, Great Britain has been among countries whose governments are making significant efforts in the suppression of slavery (cf. Table 6).

Table 6. Overview of countries whose governments are doing the most/least in fighting modern slavery, 2018. (The Global Slavery Index 2018, 41)

Ordinal number	Most action	Least action
1.	The Netherlands	North Korea
2.	United States	Libya
3.	United Kingdom	Eritrea
4.	Sweden	The central African Republic
5.	Belgium	Iran
6.	Croatia	Equatorial Guinea
7.	Spain	Burundi
8.	Norway	Congo
9.	Portugal	Sudan
10.	Montenegro	Mauritania

According to the *Global Slavery Index* for 2018, 6.9 million people estimated to be in some form of modern slavery are from the top ten countries whose governments are the least invested in fighting modern slavery. Table 6 data points to the low engagement of governments in taking measures to prevent modern slavery as one of the main factors for the modern slavery.

CONCLUSION

Modern slavery is a global phenomenon. The main forms of modern slavery are forced labour, human trafficking and slavery or slavery-like relations. The number of victims of modern slavery is increasing more and more. There are many reasons for this phenomenon, like excessive exploitation of natural resources in poor countries, large global migration flows, the development of communication technologies, low transportation costs, low risks involved, relatively low cost of modern slaves and the fact that it is an extremely lucrative business. Women and young girls are common victims of modern slavery. Despite the fact that economically underdeveloped countries lead in the number of victims of modern slavery per thousand inhabitants, the relationship between economic inequality measured by GDP/p.c. and the estimated number of victims of modern slavery cannot be fully confirmed. The correlation between GDP/p.c. and the estimated number of victims of modern slavery was researched further within different income groups of countries. However, it also has not confirmed Hypothesis 1. Accordingly, Hypothesis 1 which suggests that countries with higher levels of GDP/p.c. have a smaller number of victims affected by modern slavery is rejected. Hypothesis 2, which suggests that the number of victims of modern slavery directly and significantly depends on the population, can with high confidence be accepted. In the next few decades modern slavery could be abolished but only with a strong political and global will. The future research should place focus on the relationship between poverty and the number of victims of modern slavery.

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MOTIVACIJA I BARIJERE ŽENSKOM PREDUZETNIŠTVU U SRBIJI I BOSNI I HERCEGOVINI

Rezime: *Ovaj rad bavi se ženskim preduzetništvom, motivacionom faktorima, ali i barijerama sa kojima se žene u preduzetništvu suočavaju. Specifičnim pristupom ovoj temi prikazano je suočavanje motivacionih faktora i prepreka omogućavajući na taj način uočavanje uzročno-posljedičnih odnosa motivacije i barijera za razvoj ženskog preduzetništva. Osnovni cilj ovog rada jeste prepoznavanje motiva kod žena preduzetnica, kao posebno značajne grupe u savremenom društvu, i ukazivanje na barijere sa kojima se one suočavaju u razvoju preduzetničkog biznisa. Istraživanje je provedeno u Srbiji i Bosni i Hercegovini (B&H) u drugoj polovini 2017. i prvoj polovini 2018. godine.*

Ključne riječi: *preduzetništvo, žene preduzetnice, motivacija i barijere, poslovna kultura, Srbija, Bosna i Hercegovina (B&H)*

JEL klasifikacija: *M20, M50*

UVOD

Preduzetništvo je oblik stalnog traganja za prilikama koje se nalaze van sredstava i resursa koje trenutno kontrolišemo (Stevenson i Jarillo-Mossi 1990). Ovaj stav se može odnositi na pojedince, grupe, ali i na cijelo društvo. Pojedinaac treba da prepozna priliku za svoju aktivnost, a zatim da traga za resursima i putevima realizacije svoje poslovne zamisli, u uslovima i društvenom okruženju u kome se u tom trenutku nalazi. Preduzetništvo je glavni pokretač ekonomskog rasta, posebno, imajući u vidu da se ekonomska održivost određenog društva zasniva na kontinuiranom ekonomskom rastu (Audretsch 2007). Preduzetništvo je uspješnije u onim zajednicama koje odgovaraju pozitivno na poslovne promjene. Preduzetnik je onaj koji je sposoban da pretvori ideje u projekte i praksu te onaj koji otkriva priliku za profit i dobit na mjestima gdje to drugi nisu vidjeli, a to postaje stimulativno za ukupan razvoj preduzetništva u nekoj sredini.

Posebnu pažnju, u savremenoj teoriji i praksi, izaziva žensko preduzetništvo, odnosno uključenost žena u preduzetničke poduhvate i razvoj preduzetništva, svuda u svijetu pa i u Srbiji i BiH. Ovaj problem je veoma prisutan usljed malog broja i niskog procenta žena koje su uključene u preduzetništvo u ovim zemljama, posebno onih koje su samostalno pokrenule i uspješno vode i održavaju svoje vlastite preduzetničke poduhvate. U kategoriju žena preduzetnica ubrajamo žene koje su vlasnice više od 50% preduzeća (bez obzira na način na koji su stekle vlasništvo), koje su aktivno uključene u poslovanje firme kao menadžeri i koje kreiraju zaposlenje, kako za sebe, tako i za druga lica. Žene su išle različitim putevima kako bi preuzele vodeće uloge u poslu kojim se bave, kao vlasnici ili vodeći menadžeri, u malom i

srednjem biznisu. Ipak, većina žena, vlasnika preduzeća, je morala da uloži dodatni napor kako bi izbjegla prepreke i izazove koji stoje pred otvaranjem i razvojem vlastitog poslovanja. Pojava ženskog preduzetništva imala je značajan uticaj na povećanje zapošljavanja i širenje poslovne klime širom svijeta.

TEORIJSKA POZADINA ISTRAŽIVANJA

1.1 Uloga i perspektive ženskog preduzetništva u svijetu

Do početka XXI vijeka, u razvijenim zemljama, žene preduzetnice su ušle u mnoge industrije i sektore. Mnoge od ranijih prepreka poslovnom uspjehu žena su uklonjene, ali su neke i dalje prisutne. Postavljeni su mnogi istraživački projekti, a istraživači su ispitivali ekonomski i društveni uticaj ženskog preduzetništva. Proučavan je uticaj žena vlasnica malih i srednjih preduzeća na poslovnu aktivnost drugih žena. Broj istraživačkih studija je stalno rastao od osamdesetih godina prošlog vijeka, kada su stručnjaci i kreatori politike prvi put usmjerili pažnju na žene preduzetnice. Pitanja koja su se još postavljala u ovim istraživanjima bila su sljedeća: Kakav je status žena preduzetnika u njihovoj sredini? U kojim ekonomskim sektorima žene pronalaze svoj posao? Koje su karakteristike žena preduzetnika i njihovih preduzeća? Šta motiviše žene da se angažuju u oblasti preduzetništva? Koji faktori utiču na strateški rast preduzeća u vlasništvu žena? (Gundri i drugi 2002a, 2002b). Ipak, i dalje ostaje mnogo pitanja koje treba istražiti u budućnosti.

Široka klasifikacija vlasnika ženskih preduzeća uključuje žene koje pronalaze, nasljeđuju ili zatiču posao, zatim žene koje započinju poslovanje sa supružnicima, ili poslovnim partnerima i nalaze se u prvom planu, ili djeluju iza scene, kao i žene koje grade brzo rastuće firme, te one čiji su poslovi sporedni ili usporeni (Akehurst i Simarro i Mas-Tur 2012).

Kao i muškarci, žene preduzetnici posjeduju karakteristike kao što su prilagodljivost, inovativnost, kreativnost, snagu i unutrašnju kontrolu (Buttner i Moore 1997), zatim, sposobnost brzog odlučivanja, upornost u sticanju menadžerskih vještina, odgovornost i prepoznavanje kreditnog rizika (Robb i Coleman 2009). Ženska preduzeća imaju tendenciju da se usredsrede na pružanje usluga koje odgovaraju tradicionalno nezadovoljenim potrebama, a žene menadžeri slobodno traže informacije, razmjenjuju ideje sa drugima i omogućavaju kristalizaciju informacija prije donošenja konačne odluke. U razvijenijim zemljama, preduzeća koja u prošlosti nisu bila dostupna ženama, sada su pristupačnija zbog promjene stavova i veće dostupnosti kapitala.

1.2 Žensko preduzetništvo u Srbiji i Bosni i Hercegovini

Od ukupnog broja aktivnih (privatnih) privrednih društava i radnji u Srbiji, preduzetništvo žena čini tek 26%, dok u BiH je to 19% (2018), što je nisko poredeći svjetska iskustva (Babović 2012). Situacija je slična poredeći različite oblasti u Srbiji, što znači da ni urbane sredine ne prednjače. Takođe, u odnosu na neke druge aspekte rodne ravnopravnosti, manje je interesovanje za specifične probleme i barijere sa kojima se suočavaju žene preduzetnici, rukovodioci, inovatori, odnosno poslovne žene generalno.

Žene preduzetnici, u Srbiji i BiH, mogu biti ključne za privredni rast i razvoj zemlje, uključujući i razvoj nerazvijenih/ruralnih oblasti, doprinoseći povećanju zaposlenosti, boljem kvalitetu života i sveukupnom bogatstvu. Žensko preduzetništvo se samo sporadično prepoznaje kao nedovoljno iskorišćen potencijal, tako da još uvijek nema sistematičnu i sveobuhvatnu podršku. Svakako, ovdje postoji ogroman prostor za poboljšanje i društvo u narednom periodu, uključujući različite stejkholdere javnog i privatnog sektora, treba da uloži napore kako bi se žene u Srbiji u mnogo većem broju upustile u preduzetničke i inovativne aktivnosti.

U Srbiji i BiH se žene u biznisu suočavaju sa kompleksnim izazovima, počev od nepovoljnog privrednog okruženja, uzrokovanog još početkom devedestih godina. Preduzetnice i potencijalne preduzetnice se nose sa različitim barijerama i problemima u započinjanju i građenju njihovih preduzetničkih i inovativnih poduhvata. Pored izvjesnih napora javnog i privatnog sektora, uključujući i nevladine organizacije, postoji još značajan polni jaz u preduzetništvu koji postavlja žensku populaciju u slabiju poziciju. Ovo nije samo rezultat kompleksnog preduzetničkog okruženja sa kojim se suočavaju žene u Srbiji i BiH, već i posljedica različitih barijera, uključujući i osobine, stavove i motivaciju.

1.3 Motivacija za razvoj ženskog preduzetništva

Na pokretanje sopstvenog biznisa žene se opredjeljuju iz različitih motiva, a oni su uslovljeni i različitim faktorima. Preduzetnička motivacija je proces prema kome preduzetnici odlučuju da li da prihvate ili ne prihvate preduzetničko ponašanje (Naffziger i drugi 1994). Preduzetničko ponašanje se posmatra kao fokalna tačka preduzimanja akcije. Postoji mnogo definicija preduzetničkog ponašanja. Preduzetničko ponašanje je ljudsko ponašanje uključeno u identifikovanje i eksploataciju prilika, kroz stvaranje i razvoj novih poduhvata, kao i istraživanje i kreiranje prilika u procesu nastajanja firmi. Prema jednoj široj koncepciji, preduzetničko ponašanje je kompleksan pojam koji se odnosi na sve akcije koje preduzimaju članovi neke organizacije radi otkrića, evaluacije i eksploatacije preduzetničkih prilika (Shane i Venkataraman 2000).

Preduzetnička motivacija može biti povezana sa mnogim faktorima. Struktura motivacije zašto preduzetnici započinju biznis znatno varira (Wright i Robbie i Ennerw 1997). Stoga su istraživači nastojali da različite tipove motivacije i motivacione strukture grupišu u faktore, da se istraže efekti različitih diferencijacija motivacije na započinjanje i uspjeh preduzetničkog poduhvata. Za izbor i klasifikaciju ovih faktora, polaznu osnovu daju motivacione teorije. U literaturi, međutim, nije uspostavljena standardizovana klasifikacija motivacionih faktora. Zasnovano na teorijama motivacije faktori se često dijele na *intrinzične* i *ekstrinzične*. Ekstrinzični faktori se odnose na podsticaje iz okruženja, dok se intrinzični faktori odnose na potrebe i želje koje su unutar same osobe. U osnovi ekstrinzične motivacije su spoljne nagrade, a u osnovi, intrinzične motivacije su unutrašnje potrebe (Ryan i Deci 2000). Ekstrinzična motivacija dolazi od želje za rezultatima rada (Amabile 1993). Intrinzična motivacija dolazi od pretpostavljene vrijednosti rada i različita je za svaku osobu. Motivacija može biti istovremeno ekstrinzična i intrinzična, mada će se taj odnos da li neka od motivacija više ili manje dominira ili su približno jednake razlikovati od osobe do osobe.

Generalno, istraživači nalaze da pull faktori pretežu nad push faktorima (Segal i Borgia i Schoenfeld 2005; Shinnar i Young 2008; Kirkwood 2009). Međutim, mnoge situacione snage, individualne diferencije i drugi činioci mogu uticati na to koji faktori će dominirati. Istraživanjem je ustanovljeno da push i pull faktori istovremeno postoje kada pojedinci odluče da započnu poslovanje (Block i Sandner 2009).

U klasifikaciji push i pull faktora (Leszczyński 2014), identifikuju se četiri grupe pokretača koji utiču na žene da postanu preduzetnice: 1) faktori povezani sa nezavisnošću ili personalni faktori; 2) finansijski faktori; 3) faktori povezani sa porodicom i 4) faktori povezani sa radom i radnim okruženjem. Mnogo studija širom svijeta je nastojalo da identifikuje i istraži pull i push faktore, međutim, još uvek nema konsenzusa među istraživačima koji faktori imaju najveći uticaj (Poggesi i Mari i De Vita 2015).

Jedan od glavnih pull faktora preduzetničke motivacije jeste potreba za nezavisnošću i autonomijom (Wilson i Marlino i Kickul 2004; Badulescu 2010; Manolova i drugi 2011; Sloka i drugi 2014; Nhemachena i Murimbika 2018). Nezavisnost i samoostvarenje su najvažniji razlozi koji motivišu žene da pokreću preduzetnički biznis (Hughes 2006). Potreba za samoostvarenjem često je povezana sa ličnim razvojem (Chen i Li 2006). Pored toga, jedan od važnih faktora je i kontrola sopstvene sudbine (Akehurst i Simarro i Mas-Tur 2012)

odnosno, kontrola sopstvenog života (Lee-Goselin i Greese 1990; Nhemachena i Murimbika 2018). Među faktorima koji se ističu u studijama su još i ostvarenje sna (Jyoti i Jyoti i Kumari 2011; Tanveer i drugi 2013; Arasteh i drugi 2012; Tomski 2014); novi izazovi (Buttner i Moore 1997) i želja da se bude vlastiti gazda (Hughes 2006; Ismail i drugi 2012).

Od novčanih pull faktora želja za sticanjem bogatstva ili visokim prihodima je glavni motivator (Verheul i Carree i Thurik, 2009; Lewis 2013; Sloka i drugi 2014). Od socijalnih pull faktora ističu se društveni status i prestiž (Verheul i Carree i Thurik 2009; Tomski 2014), ali istraživanja pokazuju da je ovaj faktor jače izražen kod muških preduzetnika u odnosu na ženske i da zavisi od karakteristika nacionalne kulture (Shane i Kolvereid i Westhead 1991).

Glavni push faktor koji se ističe u literaturi je nezaposlenost, nemanje posla uključujući nemogućnost nalaženja adekvatnog posla usljed nepovoljnog stanja na tržištu rada (Hughes 2003; Kirkwood 2009; Verheul i drugi 2016; Jyoti i Jyoti i Kumari 2011). Potreba za većim prihodima, koji omogućavaju život van zone siromaštva, je faktor koji je često povezan sa prethodnim i koji je naveden u više studija (Dhaliwal 2008; Chen i Li i Matlay 2006; Jyoti i Jyoti i Kumari 2011). Važni faktori su i nezadovoljstvo primanjima na postojećem poslu, tj. niske demotivišuće plate (Yukongdi 2018) kao i nezadovoljstvo postojećim poslom i stresno i negativno radno okruženje (Heilman i Chen 2003; Hughes 2003; Haynes i Brockman 2009; Ismail i drugi 2012).

Nedovoljan dohodak porodice (Mallon i Kohen 2001) je jedan od najvažnijih faktora koji utiču na žene da se upuste u preduzetništvo (Ismail i drugi 2011; Yukongdi 2018).

Neki faktori mogu biti push ili pull u zavisnosti od situacije. Pull faktori su postojeća karijera i edukacija koja daje odgovarajuće znanje, a karijera i znanje nude preduzetničke mogućnosti. Postojeće znanje i iskustvo je u studiji (Murphy i Shleifer i Vishny 1992) rangirano kao prvorazredni pull faktor. Znanje i iskustvo učvršćuje kao pull faktor (Ismail i drugi 2012). Međutim, ovo može da bude i push faktor, budući da se znanje i iskustvo žena mogu nisko vrednovati i potcjenjivati u kompanijama. Takođe, push faktor može biti i neodgovarajuće iskustvo ili nedostatak iskustva (Iredale 2005).

U našem istraživanju primjenjujemo balansirani pristup push i pull faktorima i usljed činjenice da je u Srbiji i BiH već više od dve decenije nepovoljan privredni ambijent pa time i uslovi za razvoj ženskog preduzetništva.

1.4. Barijere na koje nailazi žensko preduzetništvo

Postoji više pristupa koji se mogu kombinovati pri istraživanju barijera i problema u ženskom preduzetništvu. Mi ćemo se u ovom radu fokusirati na sljedeća tri: 1) pristup osobina, koji se zasniva na psihološkim i biheviorističkim teorijama; 2) pristup koji ističe važnost bliskog i šireg okruženja, koje snažno utiče na preduzetničke aktivnosti i 3) funkcionalan pristup koji ističe kvalitet preduzetništva kao vitalne aktivnosti.

Pristup zasnovan na osobinama naglašava postojanje potrebnih osobina povezanih sa preduzetništvom, kao što su samopouzdanje, sklonost ka preuzimanju rizika, tolerancija na neodređenost, nedostatak inicijative, strah od neuspjeha, lokus kontrole, inovativnost i buduća orijentacija. Ukoliko se pokaže da žene nemaju potrebne osobine, onda se može objasniti njihovo manje učešće u preduzetništvu. Ovo znači da je neposjedovanje ovih osobina prepreka preduzetništvu.

Pristup koji se zasniva na okruženju je već dugo u fokusu pažnje istraživača. Ovdje ima dosta prostora za istraživanje, pošto okruženje može da utiče na mnoge načine. Okruženje može da se odnosi na blisko okruženje (porodicu i životne uslove), finansijsko okruženje (pristup resursima, mogućnost pribavljanja finansijskih sredstava), ekonomsko okruženje (privredni ambijent), političko-pravno okruženje (država i lokalna samouprava, pravne barijere), barijere koje se odnose na neodgovarajuću preduzetničku infrastrukturu, socio-kulturno okruženje (Heilbrun and Davidovitch).

Funkcionalni pristup naglašava vitalnu ulogu kvaliteta preduzetništva. Žene imaju manje iskustva na menadžerskim pozicijama, što djeluje kao prepreka postizanju iskustva i vještina u menadžmentu, koje mogu biti korišćene u preduzetništvu (Boden and Nucci 2000). Nedostatak menadžerskog i poslovnog iskustva je jedna od najvećih barijera sa kojima se susreću žene preduzetnici (McClelland i drugi 2005). Izbor zanimanja, uključujući obrazovanje, obuku i sticanje iskustva u nekoj oblasti, smanjuje mogućnost za žene preduzetnice da startuju poslovne poduhvate u tehnološki naprednim sektorima (Keser 2014). Među barijerama ženskom preduzetništvu koje se navode u literaturi su i nedostatak modela uloga i mentora (Orser i Riding 2015; Chatterjee i Ramu 2018).

METODOLOŠKI PRISTUP

2.1 Cilj i hipoteze

Cilj rada jeste otkriće, analiza i prezentovanje motiva za razvoj, kao i barijera koje stoje pred započinjanjem i razvojem ženskog preduzetništva Srbije i BiH.

H1: Započinjanie i razvoj ženskog preduzetništva u Srbiji i BiH nailaze na brojne barijere koje su širokog spektra od finansijskih do kulturnih prepreka.

H2: Bez obzira na nepovoljnu poslovnu klimu, u nekim segmentima, su uočljivi motivacioni faktori koji omogućavaju razvoj ženskog preduzetništva u ovim zemljama.

H3: Uslovi za razvoj ženskog preduzetništva ipak su povoljniji u Srbiji nego u BiH.

2.3 Istraživačka pitanja

1. Koji *motivacioni faktori* utiču na razvoj biznisa kod žena preduzetnica?
2. Da li postoje *barijere* koje sputavaju žene preduzetnike u pokretanju i razvoju biznisa?
3. Da li je nedostatak samopouzdanja jedna od barijera razvoju ženskog preduzetništva i da li je to izraženije kod mlađih preduzetnica?
4. Da li su barijere socijalnih uloga i modela uloga izraženije kod preduzetnica sa djecom?
5. Da li su barijere socijalnog kapitala, socijalne/poslovne/tehničke mreže povezane sa godinama?
6. Da li su barijere modela uloga izraženije kod mlađih preduzetnica?

2.4 Karakteristike uzorka

Istraživanje u Srbiji obuhvatilo je 100 ispitanika, koje čine žene preduzetnice, one koje se već bave biznisom, koje su same pokrenule, naslijedile ili na neki drugi način ušle u biznis. Istraživanje je vršeno u nekoliko većih gradova u Srbiji (Beograd, Novi Sad, Niš, Kragujevac, Šabac i Vršac) u privatnim preduzećima koja su unaprijed odabrana.

Istraživanje na području Bosne i Hercegovine vršeno je, takođe, u većim gradovima (Banja Luka, Sarajevo, Trebinje, Tuzla i Mostar). Uzorak je obuhvatao stotinu (100) ispitanika - preduzetnica koje predstavljaju žene koje se bave vlastitim biznisom bilo da su ga pokrenule samostalno, naslijedile ili ušle u zajednički ortački odnos sa drugom osobom.

Pitanja iz našeg istraživanja (pitanja iz upitnika) koncipirali smo u vidu promjenljivih varijabli (grupisanih u kategorije): **Opšte karakteristike preduzetnica; Opšti podaci o biznisu; Motivacioni faktori ispitanika i Barijere kao faktori koji sputavaju žene preduzetnike u pokretanju biznisa.** Svako pitanje iz upitnika, koje se odnosi na motivacione faktore i barijere, predstavlja varijablu koja je kodirana brojevima od 1 do 7 na sljedeći način: 1 - uopšte se ne slažem, 2 - ne slažem se, 3 - pomalo se ne slažem, 4 - niti se slažem niti ne slažem, 5 - pomalo se slažem, 6 - slažem se, 7 - potpuno se slažem.

Odgovori ispitanika dobijeni navedenom anketom obrađeni su *deskriptivnom statističkom metodom*, kao i *metodom za raspodjelu frekvencija* u programskom paketu

SPSS. Koristili smo, takođe, *hi-kvadrat test nezavisnosti* za analizu odnosa između kategorijskih promjenljivih. Rezultat je smatran statistički značajnim ukoliko je vjerovatnoća $p < 0,05$.

ANALIZA REZULTATA ISTRAŽIVANJA

3.1 Motivacioni faktori žena preduzetnica

Najjači motivacioni faktor je činjenica da su u preduzećima i poslovnim subjektima „niske plate” (Tabela 1) i da bi se naše ispitanice opredijelile da pokrenu vlastiti biznis upravo zbog toga. Nezaposlenost je drugi faktor prema rangu kod naših ispitanica, što govori da su u pitanju „prinudni” faktori koji motivišu žene da pokrenu biznis ili da se opredijele za lični preduzetnički poduhvat. Ovdje vidimo malu razliku među ispitanicama u dve posmatrane države. Naime, vidimo da su ova dva faktora nešto niže izražena kod žena u BiH, nego u Srbiji, ali su ipak i kod njih dominantni faktori. Frekvencija „nezaposlenosti” je veoma visoka i spada u kategoriju „slažem se” i „sasvim se slažem”, kao faktor koji motivišu žene preduzetnice. Ovaj faktor može imati dvostruku vrijednost: prvo, pokretanje biznisa iz „nužde” kako bi se na bilo koji način riješio problem nezaposlenosti; drugo, može upućivati na ono što je veoma važno za preduzetnike, a to je želja i namjera da se posao „stvara”, a ne samo da se čeka da se „negdje zaposli”. Vidimo da faktor „izbjeci zonu siromašta” predstavlja jedan od 5 najjačih motivatora za pokretanje biznisa kod žena u Srbiji i BiH. Interesantno je da je kod žena u BiH ovaj faktor jači za 0,36, nego kod žena u Srbiji. Treba napomenuti da, ako se preduzetnički poduhvati vezuju samo za taj motiv, kao što je to slučaj sa našim ispitanicama, onda to može biti i ograničavajući faktor, jer nas on stalno podsjeća da prijeti opasnost od pada u siromaštvo.

Interesantno je da „stres na poslu” spada u grupu najčešćih motivacionih faktora kod naših ispitanica u Srbiji, ali da je znatno niži kod žena u BiH, iako ima središnju vrijednost (4.62). Ovo nam govori o teškoćama na koje nailaze žene zaposlene kod drugih vlasnika (posebno u Srbiji) i njihovo neposredno i posredno iskustvo. Želja da se izbjegne situacija u kojima su žene izložene stresu tokom posla, motivišu ih da pokrenu vlastiti biznis, iako ih i tu očekuju poslovi koji donose stresne situacije.

Očekivali smo da faktori kao što su „društveni status”, „želja za sticanjem bogatstva”, „potreba za ličnim razvojem”, „kontrola vlastite sudbine” i „potreba za autonomijom” budu mnogo više motivišući faktori ženama preduzeticama, jer su to unutrašnji motivacioni faktori koji govore o pravoj spremnosti žena za pokretanje biznisa. Naše istraživanje pokazuje da su ovi faktori pri dnu ljestvice i spadaju u „slabe” motive za pokretanje ženskog preduzetništva u Srbiji. Međutim, kod ispitanica u BiH, ovi faktori pokazuju znatno veću unutrašnju motivisanost, posebno „potreba za autonomijom” (5.32) i „ostvarenje sna” (5.22), jer se dovode u vezu sa širim kontekstom društvene afirmacije i ličnog ostvarenja žena preduzetnica u BiH. Nešto niži prosek visine frekvencije (ali znatno viši od ispitanica u Srbiji) imaju kategorije „društveni status” (4.11), „kontrola sudbine” (4.27), kao i „želja za sticanjem bogatstva” (4.77). Kao što se vidi iz ovog prikaza, unutrašnji motivacioni faktori kod žena preduzetnica u BiH zauzimaju središnju poziciju, sa tendencijom ka gornjem dijelu skale vrijednosti, za razliku od preduzetnica u Srbiji kod kojih su ti motivi sasvim pri dnu skale vrijednosti.

Tabela 1. Motivacioni faktori ispitanika – deskriptivna statistika (Autori)

<i>Motivacioni faktori</i>	<i>Zemlja</i>	<i>N</i>	<i>Min</i>	<i>Max</i>	<i>Aritmet. sredina</i>	<i>Standard. devijacija</i>
Potreba za autonomijom	Serbia	100	1	3	2.17	.805
	B&H	100	3	6	5.32	.737
Prihod za život van siromaštva	Serbia	100	5	7	6.16	.721
	B&H	100	4	7	6.52	.766
Niske plate	Serbia	100	6	7	6.90	.302
	B&H	100	5	7	6.52	.322
Identifikovane prilike	Serbia	100	2	4	2.84	.721
	B&H	100	3	5	4.12	.572
Nezaposlenost	Serbia	100	5	7	6.77	.468
	B&H	100	4	7	6.22	.512
Potreba za fleksibilnim radnim vremenom	Serbia	100	5	7	6.25	.770
	B&H	100	4	6	5.88	.720
Ostvarenje sna	Serbia	100	1	4	2.05	.845
	B&H	100	4	6	5.22	.537
Nedovoljan dohodak familije	Serbia	100	5	7	6.11	.737
	B&H	100	5	7	6.82	.705
Društveni status	Serbia	100	1	4	1.67	.792
	B&H	100	3	6	4.11	.762
Kontrola sudbine	Serbia	100	1	3	1.51	.577
	B&H	100	3	7	4.27	.612
Želja za sticanjem bogatstva	Serbia	100	1	4	1.47	.688
	B&H	100	3	5	4.77	.588
Uticaj okoline	Serbia	100	1	3	1.41	.552
	B&H	100	2	4	3.25	.588
Pritisak familije	Serbia	100	4	7	5.68	.737
	B&H	100	1	4	2.88	.711
Potreba za ličnim razvojem	Serbia	100	1	4	1.72	.753
	B&H	100	3	5	3.88	.705
Stres na poslu	Serbia	100	5	7	6.42	.638
	B&H	100	3	5	4.62	.588
Prethodno iskustvo	Serbia	100	1	4	1.76	.866
	B&H	100	3	5	4.18	.772
Valid N (listwise)	Serbia	100				
	B&H	100				

„Potreba za fleksibilnim vremenom” ima postepeno povećanje frekvencije na desnoj strani grafikona (posebno u Srbiji) koja ukazuje da je fleksibilnije vrijeme jedan od „umjerenih” motiva (manje od 50% ukupnog izjašnjavanja) za pokretanje ženskog preduzetništva. „Pritisak familije”, takođe, spada u „umjerenе” motive koji imaju središnju frekvencijalnu raspršenost, što ukazuje da mogu biti jedan od motiva za pokretanje

preduzetništva, ali njihovo djelovanje nije efikasno i autentično kao neki drugi motivi. Ovdje je primjećena značajna razlika između ispitanica u dve posmatrane države, zato što kod ispitanica u BiH ovaj motiv zauzima poziciju od sredine ka donjem dijelu ljestvice vrijednosti motivišućih faktora.

3.2 Barijere ženskom preduzetništvu u Srbiji i BiH

Kada je riječ o barijerama koje stoje pred razvojem ženskog preduzetništva, vidimo da naše ispitanice (Tabela 2) percipiraju „finansijske barijere” kao naizraženije, potom „socijalne barijere”, „strah od neuspjeha”, „nedostatak samopouzdanja” i „barijere modela uloga”. Ovo su *visoke* barijere, jer se nalaze pretežno sa desne horizontalne strane u raspodjeli frekvencija ovih barijera („pomalo se slažem”, „slažem se” i „potpuno se slažem”). Razumljivo je da nedostatak finansija i slabi finansijski stimulansi stoje kao velika prepreka ukupnom preduzetništvu u Srbiji i BiH, pa time i ženskog preduzetništva, jer su ovo nedovoljno razvijene i siromašne zemlje pa su finansije opšti društveni problem. Ovome su bliske i „socijalne barijere” jer govore o niskom životnom standardu, slaboj poslovnoj klimi, niskom vrijednosnom rejtingu privatnog preduzetništva i slično. Kada je riječ o ovim i drugim spoljašnjim barijerama, uočena je značajna razlika između naše dve grupe ispitanika. Žene preduzetnice u BiH znatno jače percipiraju „barijere infrastrukture” (4.71), „barijere ambijenta” (5.82) i „barijere birokratije” (4.11), nego što je to slučaj kod žena preduzetnica u Srbiji.

Barijere kao što su „strah od neuspjeha”, „barijere samopouzdanja” i nedostatak povjerenja („barijere socijalnog kapitala”) spadaju u unutrašnje barijere koje ukazuju na slabe psihološke performanse, slabu informisanost i odlučnost žena u Srbiji i BiH da se opredijele za lične preduzetničke poduhvate. „Barijera samopozdanja” je jedna od najvažnijih unutrašnjih barijera koje sprječavaju opredjeljenost za preduzetništvo, posebno kod žena. Ova barijera ima punu horizontalnu frekventnost (1-7) u Srbiji, a to ukazuje da je svi ispitanici osjećaju kao veoma važnu. Ova barijera je koncentrisana više u sredini skale, kod ispitanica iz BiH, jer je ne percipiraju sasvim nisko niti sasvim visoko na skali vrijednosti. Ovo nam ukazuje da samopouzdanje jeste značajna barijera u ženskom preduzetništvu, ali da ona nema tako čvrstu strukturu te da se može određenim treningom i edukacijom značajno popraviti.

Tabela 2. Barijere koje sputavaju žene preduzetnice u pokretanju biznisa
– deskriptivna statistika (Autori)

<i>Barijere</i>	<i>Država</i>	<i>N</i>	<i>Min</i>	<i>Max.</i>	<i>Aritmet. sredina</i>	<i>Stand. devijacija</i>
Finansijske barijere	Serbia	100	6	7	6.78	.416
	B&H	100	5	7	6.62	.433
Barijere infrastrukture	Serbia	100	1	4	1.53	.643
	B&H	100	3	6	4.71	.582
Barijere samopouzdanja	Serbia	100	1	7	5.22	1.488
	B&H	100	3	6	5.02	.744
Barijere straha od neuspjeha	Serbia	100	5	7	6.31	.662
	B&H	100	2	5	4.38	.722
Barijere socijalne	Serbia	100	5	7	6.59	.740
	B&H	100	4	7	5.82	.652
Barijere modela uloga	Serbia	100	2	7	5.16	1.253
	B&H	100	4	6	5.22	.736

Barijere socijalnog kapitala	Serbia	100	1	7	4.98	1.310
	B&H	100	3	7	5.38	.882
Barijere edukacije	Serbia	100	1	4	1.80	.853
	B&H	100	2	5	4.08	.688
Barijere poslovnog iskustva	Serbia	100	1	7	5.18	1.466
	B&H	100	2	5	3.90	.774
Barijere mentora	Serbia	100	1	3	1.41	.534
	B&H	100	1	4	2.63	.682
Barijere ambijenta	Serbia	100	1	4	1.96	.852
	B&H	100	4	7	5.82	.573
Barijere birokratija	Serbia	100	1	5	2.84	.838
	B&H	100	3	5	4.11	.816
Valid N (listwise)		100				
		100				

Barijera „strah od neuspjeha” je najjača unutrašnja barijera i zauzima treće mjesto u ukupnom redoslijedu barijera kod naših ispitanica u Srbiji, dok je znatno manje izražena kod ispitanica u BiH. Njena koncentracija na desnoj strani frekventne horizontalne raspršenosti govori o mnoštvu psiholoških dilema koje stoje pred ženama preduzeticama u Srbiji. Na drugoj strani, postoji koncentracija ove barijere u središnjoj poziciji frekvencijalne distribucije. Kod ispitanica u BiH, nam govori o njenoj umjerenoj prisutnosti i uticaju na preduzetnice u BiH. Ova barijera može biti značajno obeshrabrujuća činjenica, kako za žensko, tako i za ukupno preduzetništvo u Srbiji. Barijere „poslovnog iskustva” imaju potpunu horizontalnu distributivnu raspršenost i visok vertikalni doseg u opcijama „pomalo se slažem” (24%) i „slažem se” (46%), kod ispitanica u Srbiji, dok je to manje izraženo kod preduzetnica u BiH. To nam govori da žene percipiraju poslovno iskustvo kao značajnu, odnosno srednje značajnu unutrašnju barijeru razvoju preduzetništva i vlastitog biznisa.

DISKUSIJA REZULTATA ISTRAŽIVANJA

Dve osnovne poluge našeg rada su *motivacioni faktori* žena preduzetnica u Srbiji i BiH, kao i *barijere* koje stoje pred njima i otežavaju započinjanje, razvoj i unapređenje preduzetništva. U teorijskom dijelu smo pronašli glavne oslonce za naše stavove o ova dva ključna problema ženskog preduzetništva, dok smo u istraživačkom dijelu prikupili indikatore za naše tvrdnje o važnosti motiva za žensko preduzetništvo, kao i barijera koje pred tim stoje. U ovom dijelu rada analiziramo ključne indikatore ove naše dve varijable i testiramo (kvalitativnim postupkom) naša polazna istraživačka pitanja.

Motivacioni faktori, koji najviše utiču na naše ispitanice, su niske plate, nezaposlenost, stres na poslu, potrebe za fleksibilnim radnim vremenom, prihod koji će obezbijediti „život van siromaštva”, nedovoljan dohodak familije i pritisak familije. Konstatovali smo prethodno da su ovo motivacioni „faktori iz nužde”, jer oni pokreću preduzetnike (u našem slučaju, žene preduzetnice) da „učine nešto”, da reaguju instiktivno, da reaguju pod pritiskom. Njihov izbor je nametnut spoljašnjim faktorima (niska plata, loši uslovi, stres, iscrpljujuće radno vrijeme), tako da preduzetnici djeluju prema principu „samo da se promijeni nešto” ili „samo da se nađe bilo koji drugi posao”. Ovi faktori mogu biti važni u pokretanju vlastitog biznisa, ali oni nisu dovoljni i njihovo trajanje i krajnji efekat nisu konstantan i stabilan izvor preduzetničkog poduhvata i preduzetničkih inovacija.

Mnogo su važniji unutrašnji motivi kao što su potreba za ličnim razvojem, potreba za autonomijom, preduzetnička ideja, želja da se napreduje u poslu i profesiji, kreativnost, inovacija, afirmacija, uticaj, bogaćenje i društveni status. Naše istraživanje je pokazalo da ovi motivi nedostaju kod žena preduzetnica u Srbiji, ali da su značajno prisutni kod žena preduzetnica u BiH.

Odgovor na naše prvo istraživačko pitanje („Koji motivacioni faktori utiču kod žena preduzetnica?”) bio bi da više utiču „faktori nužde”, spoljašnji faktori, rutinski i „stari” faktori, egzistencijalnog karaktera, dok mnogo manje utiču unutrašnji faktori (posebno kod ispitanica u Srbiji), faktori kreacije, ideje, inovacije, stvaranja novog, ličnog napretka i autonomije u radu. Dakle, postoji značajna disproporcija između spoljašnjih faktora (faktora „iz nužde”) i unutrašnjih faktora (faktora „stvaranja” i afirmacije), tako da je žensko preduzetništvo u Srbiji jednostrano usmjereno, ka zadovoljenju egzistencijalnih i kratkoročnih potreba, dok u BiH ima i važno značenje ličnog uspjeha, afirmacije i unutrašnjeg podsticaja.

Kada su u pitanju barijere koje ometaju, otežavaju i sprječavaju razvoj ženskog preduzetništva u Srbiji i BiH, naše istraživanje pokazuje da su osnovne barijere finansijske prirode (nedostatak sredstava, finansijskih resursa, kredita, podsticaja), zatim socijalne barijere i barijere socijalnog kapitala, društvene i kulturne barijere, kao i barijere „modela uloga”. Ove barijere, kao i u slučaju motiva, možemo označiti kao spoljašnje barijere, odnosno „barijere sredine” ili barijere okruženja. One svjedoče da u Srbiji i BiH nije razvijena preduzetnička klima, preduzetnička politika i da savremeno srpsko i bosansko društvo nemaju dominirajuće karakteristike preduzetničkog društva.

Što se tiče unutrašnjih barijera, naše ispitanice su percipirale „barijere samopouzdanja” (5.22 aritmetička sredina Srbija i 5.02 BiH) i „barijere poslovnog iskustva” (5.18 aritmetička sredina Srbija i 3.90 BiH) kao dominantne unutrašnje barijere. To nam govori da nema velikog preduzetničkog potencijala u zasnivanju i razvoju vlastitog biznisa kod ženske populacije u Srbiji, a da je nešto veći kod žena u BiH. Uočena je i jedna protivrječnost, naime, ispitanice u Srbiji su u niskom koeficijentu participirale „poslovnu infrastrukturu” (1.5), edukaciju (1.8) i mentorstvo (1.43), što upućuje da postoji potencijal sa te strane, ali nisko samopouzdanje i socijalni kapital, sa druge strane. Kod ispitanica u BiH je prisutna veća uravnoteženost između ovih faktora.

Naše drugo istraživačko pitanje („Da li postoje *barijere* koje sputavaju žene preduzetnike u pokretanju i razvoju biznisa?”) upućuje da postoje značajne objektivane, spoljašnje barijere, barijere društvene i kulturne prirode, ali da postoje i značajne unutrašnje barijere kao što je samopouzdanje i poslovno iskustvo. Ovdje su ove dvije vrste barijera približene, za razliku od motiva pokretača koji su značajno udaljeni.

Interesantno je napomenuti da je barijera „nedostatak samopouzdanja” praćena osjećajem nedostataka menadžerskih vještina te da je ona posebno prisutna u dobnom kvartilu žena starosti između 30 i 40 godina. Ovo nam ukazuje da se žene preduzetnice, posebno u Srbiji, susreću sa ovim odlučujućim pitanjem baš u periodu kada treba da steknu važno iskustvo i odlučujuću stabilnost u poslovanju i poslovnom poduhvatu. Ako pogledamo još neke barijere, onda uočavamo da „socijalne barijere” i „barijere modela uloga” imaju značajan uticaj na žene starosne grupe između 35 i 40 godina, kao i na udate i razvedene žene u obje posmatrane države. Njihova percepcija socijalnih barijera i barijera modela uloga je prilično visoka. To ukazuje na njihovu sputanost očekivanjima žene majke, žene supruge, dvojnosti uloga, dodatnog iscrpljivanja u kućnim i porodičnim poslovima, što utiče na njihovu spremnost da se duže i istrajnije posvete preduzetničkom poduhvatu. Iz ovoga proizilazi da je naše istraživačko pitanje, „Da li su barijere socijalnih uloga i modela uloga izraženije kod žena sa djecom?” pozitivno potvrđeno.

Ako dodatno razmorimo pitanje „Da li su barijere modela uloga izraženije kod mlađih preduzetnica?”, uočavamo da kod ispitanica u dobi između 30 i 35 godina taj faktor dominira, kao i kod žena u starosnoj grupi između 44 i 50 godina. Na drugoj strani, taj problem nije izražen kod žena mlađih od 30 godina. Ako se samo posmatra faktor označen kao

„dominacija muškaraca”, onda vidimo da je on izražen kod žena svih starosnih grupa sa visokom frekvencijom na desnoj strani skale slaganja. Takođe, svi obrazovni profili žena učesnica u našem istraživanju percipiraju sa visokom frekvencijom „dominaciju muškaraca”, kao prisutnu u poslovanju. Ovo nas upućuje na konstataciju da dominacija muškaraca u poslovanju predstavlja značajnu prepreku razvoju ženskog preduzetništva u Srbiji i BiH.

Konstatovali smo ranije da je socijalni kapital od velike važnosti za razvoj preduzetništva i biznisa, posebno kod žena. Naše istraživanje ukazuje da se ovo pojavljuje kao značajna barijera za preduzetnice u starosnoj dobi između 30 i 39 godina (naše pitanje: „Da li su barijere socijalnog kapitala povezane sa godinama starosti?”). Ovo je pomalo neočekivan nalaz, jer bi trebalo da žene u tom periodu uspostavljaju svestranije komunikacije i interakcije sa svim socijalnim i starosnim grupama. Korjene ovoj pojavi treba tražiti u okrenutosti žena porodici i porodičnim problemima u tim godinama.

ZAKLJUČAK

Jedna od esencijalnih tema u okviru ženskog preduzetništva odnosi se na motive koji pokreću i barijere sa kojima se suočavaju žene preduzetnici. U brojnoj i heterogenoj literaturi o preduzetništvu, polni jaz (gender gap) se prihvata kao realnost. Međutim, tek sa razumijevanjem barijera ženskom preduzetništvu možemo postići potrebna znanja o prirodi ovog jaza. Poznajući barijere sa kojima se suočavaju žene u preduzetničkim i inovacionim naporima mogu se tražiti putevi i načini njihovog eliminisanja ili barem značajnog smanjenja.

Analizirajući savremenu literaturu, utvrdili smo da postoji nekoliko značajnih barijera razvoju preduzetništva, kao što su polna razlika (dominacija muškaraca), samopouzdanje, strah od neuspjeha, pasivna orijentacija ka riziku, višestruke uloge i obaveze žena u kući i porodici, nedostatak resursa, posebno finansijskih, pravni i politički sistem i ukupna pozicija žena u savremenom društvu.

Istraživanje je zasnovano na dvije osnovne poluge: a) *motivacioni faktori* žena preduzetnica u Srbiji i BiH; b) *barijere* koje stoje pred njima i otežavaju započinjanje, razvoj i unapređenje ženskog preduzetništva. U istraživačkom dijelu prikupljeni su indikatori za tvrdnje o važnosti motiva za žensko preduzetništvo, kao i barijera koje pred tim stoje. Možemo zaključiti da postoji značajna disproporcija između spoljašnjih faktora (faktora „iz nužde”) i unutrašnjih faktora (faktora „stvaranja” i afirmacije), tako da je žensko preduzetništvo u Srbiji i BiH jednostrano usmjereno, ka zadovoljenju egzistencijalnih i kratkoročnih potreba, sa malom razlikom u odnosu na BiH, gdje postoji želja preduzetnica da se afirmišu i postignu lični uspjeh. U tim državama nije razvijena preduzetnička klima, preduzetnička politika i preduzetnička infrastruktura i podrška odgovarajućih institucija. Savremeno srpsko i bosansko društvo nemaju dominirajuće karakteristike preduzetničkog društva. To ukazuje da je u tim zemljama potrebno dosta preduzetničke edukacije, treninga, motivacije, kreativnosti, vještina komunikacije i drugih instrumenata koji podstiču samopouzdanje i odlučnost za bavljenje vlastitim biznisom. Istraživanje je pokazalo da ispitanici imaju visoku percepciju socijalnih barijera i barijera modela uloga. To ukazuje na sputanost očekivanjima žene majke, žene supruge, dvojnosti uloga, dodatnog iscrpljivanja u kućnim i porodičnim poslovima, što utiče na njihovu spremnost da se duže i istrajnije posvete preduzetničkom poduhvatu.

Prisustvo nekoliko faktora slabe motivacije, zatim izraženih barijera, smetnji, prepreka i problema na koje ukazuje ovo istraživanje, daju dovoljno indikatora da se konstatuje da je žensko preduzetništvo slabo razvijeno u Srbiji i BiH te da su mu potrebni značajni podsticaji, ozbiljna strategija i promjena svijesti o potrebi ženskog preduzetništva.

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MOTIVATION AND BARIERRS FOR FEMALE ENTREPRENEURS IN SERBIA AND BOSNIA AND HERZEGOVINA

Summary: *This paper deals with female entrepreneurship, motivational factors, as well as the challenges and barriers faced by female entrepreneurs. The specific approach to this topic shows the confrontation of motivational factors and barriers, thus explaining the causal link between motivation and barriers in relation to female entrepreneurship development. The main goal of this paper is to identify motivational factors influencing female entrepreneurs who present a significant part of contemporary society and to point out to the obstacles and challenges faced by female entrepreneurs in relation to entrepreneurship development. The research was conducted in Serbia and Bosnia and Herzegovina (hereinafter referred to as B&H) in the second part of 2017 and the first part of 2018.*

Key words: *entrepreneurship, female entrepreneurs, motivation and barriers, business culture, Serbia, Bosnia and Herzegovina (B&H)*

JEL classification: *Z1, Z13*

INTRODUCTION

Entrepreneurship is the pursuit of opportunity without regard to resources currently controlled (Stevenson and Jarillo-Mossi 1990). This classic definition is applied to individuals, groups as well as society itself. As an entrepreneur, one is supposed to recognize a new opportunity and search for all potential resources and methods aimed at realizing the set goals, in accordance with current social conditions. Entrepreneurship is the main driver of economic growth, since the economic sustainability of a society is based on constant economic growth (Audretsch 2007). Entrepreneurship is greater in communities that see business changes as positive. An entrepreneur is someone who is able to identify a business opportunity and recognize it as a potentially profitable one, which is a strong stimulation of entrepreneurship development within society.

Female entrepreneurship has attracted increasing attention in recent years, especially when it comes to modern theories, female entrepreneurs and entrepreneurship development all over the world, including Serbia and B&H. This is the topic of great significance since the percentage of women involved in entrepreneurship is rather low in these countries, especially women who start their own businesses and run their own companies successfully. Female entrepreneurs are the women who own more than 50% of their companies (regardless of the way that led to ownership), who are actively involved in running the companies, dealing with workplace and human resource management. There is a great variety of strategies implemented by women in order to achieve the leading positions in their own companies or small and medium

enterprises. However, most female owners of companies will go the extra mile in order to avoid various challenges and obstacles that get in the way of their success. Female entrepreneurship greatly contributed to an employment rate increase and business climate improvement throughout the world.

THEORETICAL FRAMEWORK

1.1 The roles and perspectives of female entrepreneurship in the modern world

The women of numerous developed countries had managed to be involved in industrial and other business sectors before the beginning of the 21st century. A great number of usual and expected obstacles and challenges were overcome. Yet, some of them are still present. There were a lot of research studies and many experts dealt with the economic and social effects of female entrepreneurship. Also, there was much research on female owners of small and medium enterprises and their influence on the business activities of other women. The number of conducted studies and researches has been increasing since the 1980s. It was the time when numerous experts and political influencers started to pay attention to female entrepreneurs for the first time. The issues to deal with were: Social attitudes toward female entrepreneurs in their societies; Economic sectors where women take part; The main characteristics of female entrepreneurs and their companies; What really motivates female entrepreneurs; What are the factors that affect the strategic development of the companies run by women (Gundri et al. 2002a, 2002b). However, there still remained a great number of other issues to deal with.

Broadly defined, women-owned companies include the women who get, inherit or find their jobs, the women who start businesses with their spouses or business partners (either overtly or behind the scenes), as well as the women who start rapidly growing businesses or some slow and secondary businesses (Akehurst and Simarro and Mas-Tur 2012).

Just like their male colleagues, these female entrepreneurs are adaptable, creative, powerful and self-disciplined (Buttner and Moore 1997). Also, they are able to make quick decisions, recognize and identify credit risks and apply the acquired management skills (Robb and Coleman 2009). Women-owned companies are focused on providing services that respond to traditionally unsatisfied needs. Female managers do not hesitate to ask for necessary information, share their ideas and clarify all the facts before making a final decision. When it comes to developed countries, the companies that used to be unavailable to women have changed their policies and attitudes due to the greater availability of capital.

1.2. Female entrepreneurs in Serbia and B&H

According to Babovic (2012), based on the total number of the active (private) companies and businesses in Serbia, female entrepreneurship takes 26%, whereas in B&H it takes only 19% (2018), which is a rather low percentage in comparison to the countries throughout the world. The situation is similar in other regions of Serbia, which means that the percentage is not higher in urban areas as well. Also, taking into consideration some other aspects of gender equality, specific problems and barriers faced by female entrepreneurs, managers and innovators are something that is rarely dealt with.

As for Serbia and B&H, female entrepreneurs could be crucial for economic development and growth, including the development of rural/underdeveloped regions, and they could also contribute to the increased employment rate, higher living standards and overall wealth. Societies do not recognize the value of this and female entrepreneurship is only occasionally dealt with and regarded as insufficiently used potential. Thus, there has been no systematic and comprehensive support to tackle these complex issues so far. Certainly, there is a lot to be done in order to improve the situation. The society itself (as well as stakeholders

within public and private sectors) should put a little bit of effort in order to increase the number of women entrepreneurs and innovators in Serbia.

Ever since the 1990s, when unfavourable economic conditions started, the female entrepreneurs in Serbia and B&H have faced some complex challenges. Female entrepreneurs and potential female entrepreneurs deal with a great variety of barriers and complex issues when trying to start and build their own entrepreneurship and innovative ventures. In spite of the support provided by public and private sectors as well as NGOs, there is a significant and obvious gender inequality in entrepreneurship, which means that female entrepreneurs are still in a low-power position. This is not only the result of a complex entrepreneurial environment faced by the women of Serbia and B&H, but also the consequence of different barriers in terms of beliefs, attitudes, motivation and personality traits.

1.3 Motivational factors of female entrepreneurship development

Women start their own businesses for many different reasons. Entrepreneurial motivation refers to an individual's decision to engage in entrepreneurial behaviour (Naffziger et al. 1994). Entrepreneurial behaviour is the focal point of taking action. There are many definitions of entrepreneurial behaviour. Entrepreneurial behaviour suggests that entrepreneurs are individuals taking part in creating new ventures, and it refers to human behaviours involved in identifying and benefitting the opportunities by venture creation and opportunity exploitation in the process of founding a company. Broadly defined, entrepreneurial behaviour is a complex issue that involves all the actions taken by the members of an organization in order to discover, evaluate and exploit business opportunities (Shane and Venkataraman 2000).

Entrepreneurial motivation may imply a great number of different factors. Structure and meaning of entrepreneurs' motivation are diverse (Wright and Robbie and Ennerw 1997). Therefore, the experts and researchers tried to classify different types of motivation and motivational structures in order to analyze the effects of different motivational factors leading to venture creation and success achievement. These factors were classified in accordance with the theory of motivation. However, literature does not provide a standardized classification of motivational factors. Based on the theory of motivation, the factors are usually divided into *intrinsic and extrinsic*. Extrinsic factors come from external sources and intrinsic factors refer to the needs and interests of individuals. Extrinsic motivation is driven by external rewards, as opposed to intrinsic motivation that is driven by internal rewards - needs and drives (Ryan and Deci 2000). According to Amabile (1993), extrinsic motivation is associated with job satisfaction. Intrinsic motivation is individual and personally rewarding – it is based on the individual value of work results. Motivation can be extrinsic and intrinsic at the same time, though the gap between them, equality or dominance of one is different for every person.

In general, the researchers have found out that pull factors are more prevalent than push factors (Segal and Borgia and Schoenfeld 2005; Shinnar and Young 2008; Kirkwood 2009). However, the situation demands, individual differences and other factors may determine the dominance of either push or pull factors. Research shows that the simultaneous existence of push and pull factors arises when individuals decide to enter businesses (Block and Sandner 2009).

Leszczyński (2014), classifies pull and push factors by identifying four driving groups that push women into becoming entrepreneurs: 1) independence factors or personal factors; 2) financial factors; 3) family-related factors, and 4) work and working environment factors. Much research has been conducted in order to identify and define pull and push factors. However, no clear consensus has been reached yet concerning what factors are most influential (Poggesi and Mari and De Vita 2015).

One of the main pull factors of entrepreneurship motivation is need for independence and autonomy (Wilson and Marlino and Kickul 2004; Badulescu 2010; Manolova et al. 2011; Sloka et al. 2014; Nhemachena and Murimbika 2018). Hughes (2006) points out that

independence and self-realization are the main factors that drive women to start their own businesses. The need for self-fulfilment is usually closely connected to personal growth and self-awareness (Chen and Li 2006). Also, another significant factor is control over one's own destiny (Akehurst and Simarro and Mas-Tur 2012) i.e. control over your life (Lee-Goselin and Greese 1990; Nhemachena and Murimbika 2018). Other important factors are achieving your goals (Jyoti and Jyoti and Kumari 2011; Tanveer et al. 2013; Arasteh et al. 2012; Tomski 2014); facing new challenges (Buttner and Moore 1997) and striving to be your own boss (Hughes 2006; Ismail et al. 2012).

One of the main financial factors and biggest motivators are getting rich and achieving financial success (Verheul and Carree and Thurik 2009; Lewis, 2013; Sloka et al. 2014). Among social pull factors, the most important ones are social status and prestige (Verheul and Carree and Thurik 2009; Tomski 2014), but most studies have shown that this factor is more pronounced among male entrepreneurs than female entrepreneurs and that it depends on the characteristics of national culture (Shane and Kolvereid and Westhead 1991).

The main push factor pointed out in the literature, is unemployment, the lack of job opportunities, the lack of adequate job positions due to unfavourable conditions of the labour market (Hughes 2003; Kirkwood 2009; Verheul et al. 2016; Jyoti and Jyoti and Kumari 2011). The need for increased income that ensures leaving the poverty zone, is the factor closely connected to the previous ones (Dhaliwal 2008; Chen and Li and Matlay 2006; Jyoti and Jyoti and Kumari 2011). Other important factors are salary dissatisfaction, i.e. workplace demotivation and low pay (Yukongdi 2018), as well as job dissatisfaction and stressful and negative working environment (Heilman and Chen 2003; Hughes 2003; Haynes and Brockman 2009; Ismail et al. 2012).

According to Mallon and Kohen (2001), a family, that is – insufficient household income, is one of the crucial factors that drive women to enter the world of entrepreneurship (Ismal et al. 2011; Yukongdi 2018).

Some of the other factors are either push or pull, depending on the situation itself. Pull factors are ongoing career and education that provide adequate knowledge, where career and knowledge ensure entrepreneurial opportunities. The research conducted by Murphy and Shleifer and Vishny (1992) showed that acquired knowledge and gained experience are superior pull factors. Islam et al. (2012) also confirms that knowledge and experience are powerful pull factors. However, this can also be a push factor, since knowledge and experience that women have are often diminished or underestimated. Also, a push factor can be inadequate experience or the lack of experience (Iredale 2005).

When it comes to our research, we have used a balanced approach to push and pull factors, due to the fact that a rather unfavourable economic environment has been present in Serbia and B&H for more than two decades, which complicates the development of female entrepreneurship as well.

1.4 Barriers to female entrepreneurship

There are a lot of different approaches to deal with barriers and challenges faced by female entrepreneurs. This paper is focused on the following three approaches: 1) trait approach to personality that is based on psychology and behavioural theories; 2) the approach that points out the importance of individual's environment and wider social environment and their effects on entrepreneurial activities, and 3) functional approach that concentrates on the quality of entrepreneurship as a vital activity.

The trait-based approach concentrates mainly on the individual traits needed for being involved in entrepreneurship, such as self-confidence, risk management, tolerance of uncertainty, the lack of initiative, the fear of failure, the locus of control, innovation and future orientation. If it turns out that women lack the mentioned necessary traits, it will explain a lower

percentage of female entrepreneurs. In other words, the lack of the listed qualities and traits is regarded as a barrier to entrepreneurship.

The approach based on the environment has been the subject of much research. A lot can be done and studied in relation to this topic since the effects of the environment are numerous. Environments can be personal (family and living conditions), financial (financial resources, acquiring and managing), economic environment (economy conditions), political-legal environment (state and local self-government, legal barriers), the barriers in relation to inadequate entrepreneurial infrastructure, sociocultural environment (Heilbrun and Davidovitch 2011).

The functional approach concentrates on the vital role of entrepreneurial quality. Women have less management related experience, which seems to be a barrier to gaining more experience and management skills development that can be implemented in entrepreneurship (Boden and Nucci 2000). According to McClelland et al. (2005), the lack of management experience is one of the most serious barriers experienced by female entrepreneurs. Career choice, education, training and experience gained in certain fields reduce the possibility for women to start their own businesses within technologically advanced sectors (Keser 2014). Other barriers to female entrepreneurship are the absence of role models and mentors (Orser and Riding 2015; Chatterjee and Ramu, 2018).

METHODOLOGY APPROACH

2.1 Objectives and hypotheses

The objective of the study is to discover, analyze and present the development motives and barriers experienced by women trying to start and develop female entrepreneurship in Serbia and B&H.

H1: Setting up a business and development of female entrepreneurship in Serbia and B&H are facing a great number of different barriers, ranging from financial to cultural ones.

H2: In spite of the unfavourable business climate, there are obvious motivational factors that ensure the development of female entrepreneurship in these countries.

H3: Conditions for female entrepreneurship development are more favourable in Serbia than in B&H.

2.2 Research questions

1. What *motivational factors* influence female entrepreneurship development?
2. Are there any barriers and challenges faced by female entrepreneurs in relation to starting their own business?
3. Is the lack of self-confidence one of the main barriers to female entrepreneurship, and is it particularly noticeable among younger female entrepreneurs?
4. Are the barriers in terms of social roles and role models more obvious when female entrepreneurs have children?
5. Are the barriers of social capital, social/business/technical networks in relation to age?
6. Do the barriers of role models typically occur among younger entrepreneurs?

2.3 Characteristics of the sample

The research in Serbia included 100 participants, i.e. female entrepreneurs. Some of them have already started their own business, some of them have taken over businesses or have entered into the world of entrepreneurship in another way. The research was conducted in

several towns in Serbia (Belgrade, Novi Sad, Nis, Kragujevac, Sabac and Vrsac), in the private companies selected beforehand.

The research in Bosnia and Herzegovina included some bigger towns and cities (Banja Luka, Sarajevo, Trebinje, Tuzla and Mostar). The sample involved 100 respondents – female entrepreneurs running their own businesses (independent, inherited or business cooperation).

The survey questions were designed in the form of variables (grouped into categories): **General characteristics of female entrepreneurs; General information on business; Motivational factors of the respondents and barriers and challenges that prevent female entrepreneurs from starting their businesses.** Each question about motivational factors and barriers is a variable coded from 1 to 7 scale in the following way: 1 – I completely disagree, 2 – I disagree, 3 – I partially disagree, 4 – I neither agree nor disagree 5 – I partially agree, 6 – I agree, 7 – I completely agree.

The responses provided by the respondents were analyzed and processed by *descriptive statistic*, as well as by *frequency distribution* within the software package SPSS. Also, we applied *Chi-square of independence* in order to determine a relation between two categorical variables. The result is statistically significant if the probability is less than 0.5 ($p < 0,05$).

DATA ANALYSIS AND FINDINGS

3.1 Motivational factors of female entrepreneurs

The most powerful motivator is a low salary (Table 1). Low-income positions motivated our respondents to enter into the world of entrepreneurship. Unemployment is the second factor, which means that it is a sort of ‘the factor of force’ since it motivates women to start their own business and launch their start-up. When it comes to this situation, there is a slight difference between these two countries’ respondents. In other words, these two factors are somewhat lower in B&H than in Serbia. However, they are still dominant factors. ‘Unemployment’ frequency is significantly low and belongs to the category ‘I agree’ and ‘I completely agree’, which is the factor that motivates female entrepreneurs. This can be a double value factor: first of all, starting a business out of necessity in order to solve the problem of unemployment; secondly, it can imply something that is of crucial importance for entrepreneurs – the intention to ‘create’ one’s own job opportunity instead of waiting for a vacancy somewhere, anywhere. When it comes to women from Serbia and B&H, it is obvious that the factor ‘avoid the poverty zone’ is one of the five most powerful motivators for starting a business. It is interesting to point out that this factor is 0.36 stronger among the women from B&H than the women from Serbia. It should also be said that, if entrepreneurial ventures are based exclusively on that motive, as is the case with our respondents, it could easily be a limiting factor, since it keeps reminding us of potential failures and diving into the world of poverty.

‘Work-related stress’ belongs to the group of the most common motivational factors faced by our respondents in Serbia. However, it is significantly lower among the women in B&H, although the average value is 4.62. This explains the difficulties and challenges experienced by women employed with other entrepreneurs (especially in Serbia) and their direct and indirect experience. Striving to avoid work-related stress, the women find motivation in starting their own businesses, in spite of the fact that they will have to face business-related stress as well.

We expected the factors ‘social status’, ‘strive to be rich’, ‘need for personal growth and development’, ‘control of your own destiny’ and ‘need for autonomy’ to be a lot more motivational for female entrepreneurs, since these are intrinsic motivation factors dealing with women’s readiness to start their businesses. Our research findings reveal that these factors are at the end of the scale and are regarded as ‘weak’ motives for starting female entrepreneurship in Serbia. However, among the respondents from B&H, these factors reveal a higher level of intrinsic motivation, especially ‘the need for autonomy’ (5.32) and ‘a dream come true’ (5.22),

because they are within a broader context of social affirmation and personal achievements among the women from B&H. A slightly lower frequency (but significantly higher among the respondents in Serbia) is observed in the categories ‘social status’ (4.11), ‘control of your own destiny’ (4.27), as well as ‘strive to be rich’ (4.77). As it can be seen, the intrinsic motivation factors among the female entrepreneurs from B&H are positioned in the middle, showing an increasing tendency toward the upper part of the scale, unlike the female entrepreneurs in Serbia, where these motives are at the bottom of the scale.

Table 1. Motivation factors of the respondents– descriptive statistics (Authors)

<i>Motivational factors</i>	<i>Country</i>	<i>N</i>	<i>Min</i>	<i>Max</i>	<i>Average</i>	<i>Standard deviation</i>
Need for autonomy	Serbia	100	1	3	2.17	.805
	B&H	100	3	6	5.32	.737
Income needed to live out of poverty	Serbia	100	5	7	6.16	.721
	B&H	100	4	7	6.52	.766
Low salaries	Serbia	100	6	7	6.90	.302
	B&H	100	5	7	6.52	.322
Identified opportunities	Serbia	100	2	4	2.84	.721
	B&H	100	3	5	4.12	.572
Unemployment	Serbia	100	5	7	6.77	.468
	B&H	100	4	7	6.22	.512
Need for flexible working hours	Serbia	100	5	7	6.25	.770
	B&H	100	4	6	5.88	.720
A dream come true	Serbia	100	1	4	2.05	.845
	B&H	100	4	6	5.22	.537
Insufficient family income	Serbia	100	5	7	6.11	.737
	B&H	100	5	7	6.82	.705
Social status	Serbia	100	1	4	1.67	.792
	B&H	100	3	6	4.11	.762
Cotrol of your own destiny	Serbia	100	1	3	1.51	.577
	B&H	100	3	7	4.27	.612
Getting rich	Serbia	100	1	4	1.47	.688
	B&H	100	3	5	4.77	.588
The influence of surroundings	Serbia	100	1	3	1.41	.552
	B&H	100	2	4	3.25	.588
Pressure imposed by family	Serbia	100	4	7	5.68	.737

	B&H	100	1	4	2.88	.711
Need for personal development	Serbia	100	1	4	1.72	.753
	B&H	100	3	5	3.88	.705
Work-related stress	Serbia	100	5	7	6.42	.638
	B&H	100	3	5	4.62	.588
Previous experience	Serbia	100	1	4	1.76	.866
	B&H	100	3	5	4.18	.772
Valid N (listwise)	Serbia	100				
	B&H	100				

‘Need for flexible working hours’ gradually increases its frequency toward the right side of the chart (especially in Serbia), which means that flexible working hours represent one of the ‘moderate’ motives (less than 50% of the overall responses) for starting female entrepreneurship. ‘Pressure imposed by family’ also belongs to the category of ‘moderate’ motives having a medium frequency split, which means that this factor might initiate entering into the world of entrepreneurship. However, they are not as efficient and authentic as other motives. It is obvious that there is a significant difference among the two countries’ respondents – as for the women in B&H, this motive is placed in the middle toward the lower end of the scale.

3.2 Barriers to female entrepreneurship in Serbia and B&H

When it comes to the barriers experienced by female entrepreneurs, we can conclude that our respondents (Table 2) find ‘financial barriers’ the most pronounced factors, followed by ‘social barriers’, ‘fear of failure’, ‘lack of self-confidence’, ‘role model barrier’. These are ‘higher’ barriers, since they are mostly positioned on the horizontal side (‘I partially agree’, ‘I agree’, ‘I completely agree’). It is understandable that the lack of finances and lower economic stimulus represent a great obstacle to the overall entrepreneurship of Serbia and B&H, including female entrepreneurship as well, since these countries are rather poor and underdeveloped, thus dealing with financial issues. Social barriers are similar because they reveal a rather low living standard, poor business climate, low-value rating of private entrepreneurship, etc. When it comes to these and other external barriers as well, there is an obvious difference between these two groups of respondents. The female entrepreneurs from B&H find ‘the infrastructure barriers’ (4.71), ‘business ambient barriers’ (5.82) and ‘bureaucracy barriers’ (4.11) more pronounced, in comparison to the female entrepreneurs in Serbia.

‘Fear of failure’, ‘lack of confidence’ and ‘lack of trust’ (‘social capital barriers’) belong to internal barriers that reveal weak psychological performances, the lack of information and determination of the women from Serbia and B&H to start their own entrepreneurial ventures. ‘Lack of self-confidence’ is one of the most significant internal barriers that prevent people from becoming entrepreneurs (especially pronounced among women). The frequency of this barrier is horizontal (1-7) in Serbia, which means that all the respondents find it significant. When it comes to the respondents from B&H, this barrier is placed in the middle of the scale, since the respondents place it neither low nor high on the scale. This means that lack of self-confidence really is a significant barrier to female entrepreneurship. However, since it has no solid structure, appropriate training and education might improve it a lot.

Table 2. Barriers experienced by female entrepreneurs – descriptive statistics (Authors)

<i>Barriers</i>	<i>Country</i>	<i>N</i>	<i>Min</i>	<i>Max.</i>	<i>Average</i>	<i>Stand. deviation</i>
Financial barriers	Serbia	100	6	7	6.78	.416
	B&H	100	5	7	6.62	.433
Infrastructure barriers	Serbia	100	1	4	1.53	.643
	B&H	100	3	6	4.71	.582
Self-confidence barriers	Serbia	100	1	7	5.22	1.488
	B&H	100	3	6	5.02	.744
Fear of failure barrier	Serbia	100	5	7	6.31	.662
	B&H	100	2	5	4.38	.722
Social barriers	Serbia	100	5	7	6.59	.740
	B&H	100	4	7	5.82	.652
Role model barriers	Serbia	100	2	7	5.16	1.253
	B&H	100	4	6	5.22	.736
Social capital barriers	Serbia	100	1	7	4.98	1.310
	B&H	100	3	7	5.38	.882
Education barriers	Serbia	100	1	4	1.80	.853
	B&H	100	2	5	4.08	.688
Business experience barriers	Serbia	100	1	7	5.18	1.466
	B&H	100	2	5	3.90	.774
Mentor barriers	Serbia	100	1	3	1.4 1	.534
	B&H	100	1	4	2.63	.682
Surroundings barriers	Serbia	100	1	4	1.96	.852
	B&H	100	4	7	5.82	.573
Bureaucracy barriers	Serbia	100	1	5	2.84	.838
	B&H	100	3	5	4.11	.816
Valid N (listwise)		100				
		100				

‘Fear of failure’ is the strongest internal barrier and the third of all barriers, as experienced by our respondents from Serbia. As for the women from Bosnia, this factor is less pronounced. This barrier is presented on the right side of the horizontal frequency split, which implies a great number of psychological dilemmas encountered by female entrepreneurs from Serbia. As for the respondents from B&H, this barrier is concentrated in the middle of the frequency split, which implies its moderate presence and influence on the female entrepreneurs from B&H. This barrier could be rather discouraging for both female entrepreneurship and general entrepreneurship of Serbia. ‘Business experience’ barriers are completely of horizontal distribution split and high vertical range within the options ‘I partially agree’ (24%) and ‘I agree’ (46%), among the respondents from Serbia, whereas the factor is less pronounced among the respondents from B&H. It means that women regard business experience as significant and moderate to the significant internal barrier to the development of entrepreneurship and their own businesses.

DISCUSSION OF RESEARCH FINDINGS

Two basic principles of our study are *motivational factors of female entrepreneurs* in Serbia and B&H, as well as the encountered *barriers* that hinder the beginning, development and growth of entrepreneurship. The theoretical part contains the main concepts that shape our vision of two key issues in female entrepreneurship, whereas the research part includes the collected data to support our claims concerning the importance of motivation factors for female entrepreneurship, as well as the barriers facing it. This study provides an analysis of the key indicators of our two variables, as well as the qualitative analysis that focuses on our initial research questions.

According to our respondents, the most influential *motivation factors* are low salaries, unemployment, work-related stress, need for flexible working hours, income that ensures leaving the poverty zone, insufficient family income, family pressure. As we have already mentioned, these factors are ‘necessity factors’ - a driving force for entrepreneurs (in this case - female entrepreneurs) that stimulates them to ‘do something,’ react instinctively, perform well under pressure. Their choices are forced by external factors (low salary, stress, exhausting working hours) and entrepreneurs act in accordance with the principle ‘change anything’, or ‘if only I could find any other job’. Although these factors could be significant for starting a business, they are not enough to achieve a purpose, since their duration and final effects are not a constant and stable source of an entrepreneurial venture and entrepreneurial innovations.

Intrinsic motivation is a lot more important, e.g. personal development and growth, autonomy, business idea, career goals, professional achievements, creativity, innovation, affirmation, influence, wealth, social status. The research findings revealed that the female entrepreneurs from Serbia lack these motives, unlike the female entrepreneurs from B&H - their intrinsic motivation is significantly strong.

The response to our first survey question (“What are the motivational factors of female entrepreneurs?”) is: ‘necessity factors’, external, regular and ‘old’ factors related to existence, are significantly influential, whereas internal factors (especially among the respondents from Serbia) are less influential: creation factors, ideas, innovations, personal growth and development, workplace autonomy. Therefore, there is an obvious disproportion between external factors (necessity factors) and internal factors (creation and affirmation factors), which means that female entrepreneurship in Serbia is directed only towards fulfilling all existential and short-term needs, whereas female entrepreneurship in B&H represents personal achievements, affirmation and internal stimuli.

When it comes to the barriers that hinder and prevent the development of female entrepreneurship in both Serbia and B&H, our research findings reveal that the most common barriers are financial (lack of financial resources, loans and credits, financial support), social and social capital barriers, cultural and society barriers, ‘role model’ barriers. These barriers are regarded as external, i.e. ‘social environment barriers’. It means that both Serbia and B&H

lack a more developed entrepreneurial climate as well as entrepreneurial politics. Also, modern Serbian and B&H societies do not possess any characteristics of entrepreneurial societies.

When it comes to internal barriers, our respondents emphasized ‘self-confidence barriers’ (average for Serbia is 5.22, and 5.02 for B&H) and ‘business experience barriers’ (average for Serbia is 5.18 and 3.90 for B&H) as dominant internal barriers. It means that there are no favourable conditions for entrepreneurial potential in terms of starting and developing female entrepreneurship in Serbia. As for the female entrepreneurs from B&H, this potential is slightly larger. Also, there have been some contradictions: the participation coefficient for ‘business infrastructure’ (1.5), education (1.8) and mentorship (1.43) is low among the respondents from Serbia, which indicates increasing potential as well as low self-esteem and social capital. On the other hand, there is a greater balance between these factors among the respondents from B&H.

Our second survey question (“Are there any *barriers* that prevent female entrepreneurs from starting their own businesses?”) implies the existence of significant, objective, external barriers, social and cultural barriers, as well as internal ones, such as self-confidence and business experience. These types of barriers appear to be mutually closer than motivation factors, which are significantly different from one another.

It is interesting to point out that the ‘lack of self-confidence’ barrier also includes the feeling of poor management skills, and it is especially evident among the women aged 30 to 40. This means that female entrepreneurs, especially in Serbia, deal with this issue at the time when they are supposed to gain valuable experience and determining stability in their businesses and ventures. Taking some other barriers into consideration, we can see that ‘social barriers’ and ‘role model barriers’ are influential for the women aged 35 to 40, either married or divorced, from both observed countries. Their perception of social barriers and role model barriers is significantly high. It implies they are being restricted by gender role expectations – women as wives, mothers, housewives, exhausted while performing all family responsibilities and household chores. It certainly affects their ability to devote themselves to entrepreneurship within a long-term framework. Therefore, we can conclude that our survey question “Are social role barriers and role model barriers more pronounced among the women with children?” is positive.

If we look further into the matter “Are the role model barriers more pronounced among younger female entrepreneurs?”, we realize that this factor is dominant among the women aged 30 to 35, as well as the women of 44 to 50. On the other hand, this factor is not pronounced among women younger than 30. If we focus on the factor ‘male dominance’, we can see that it is a dominant factor among the women of all ages, considering its high frequency on the right side of the scale. Also, all educational profiles of the women who participated in our research, identify a high frequency of ‘male dominance’ in business. Therefore, we can conclude that the male-dominated business world is regarded as a significant barrier to the development of female entrepreneurship in both Serbia and B&H.

As we have concluded before, social capital is of great importance for the development of entrepreneurship, especially when it comes to women. Our study reveals that it is a significant barrier encountered by female entrepreneurs aged 30 to 39 (our question: “Are social capital barriers in relation to age?”). This is a somewhat unexpected result, because women of that age should communicate in a more versatile way and interact with different social and age groups. The root cause of this phenomenon is women’s focus on family and family issues, which is their priority at that age.

CONCLUSION

One of the most significant issues regarding female entrepreneurship deals with motivational factors and barriers faced by female entrepreneurs. The entrepreneurial literature provides plenty of insights into the gender gap in reality. However, not until we understand the

barriers to female entrepreneurship can we acquire essential and basic knowledge of the gender gap characteristics. The awareness of the barriers encountered by female entrepreneurs will provide necessary solutions and ways to eliminate or reduce these barriers.

Based on modern literature, we concluded that there are several significant barriers to the development of entrepreneurship, such as gender differences (male dominance), self-confidence, the fear of failure, passive orientation to risk-taking efforts, women's multiple roles and responsibilities in relation to family and home, the lack of financial resources, legal and political system, the overall position of women in modern society.

The conducted research is based on two main principles: a) *motivational factors* of female entrepreneurs in Serbia and B&H, and b) *barriers* that prevent them from starting and developing their female entrepreneurship. The research part of this study included all the indicators of the significance of the mentioned motivation as well as the barriers to female entrepreneurship. Therefore, we can conclude that there is an obvious disproportion between external factors (necessity factors) and internal factors (creation and affirmation factors), which means that female entrepreneurship in both Serbia and B&H is primarily directed toward fulfilling existential and short-term needs, although there is a minor difference among the respondents from B&H, who need to affirm themselves and achieve their goals. As for these countries, the business climate is underdeveloped and business politics, infrastructure and necessary institutional support is inadequate and insufficient. Modern Serbian and B&H societies do not possess any dominant characteristics of entrepreneurial societies. It means that it is necessary to apply and develop entrepreneurial education, training, motivation, creativity, communication skills and other factors that stimulate self-confidence and determination to start one's own businesses. The research findings revealed that the respondents showed a high-level perception of social barriers and role model barriers. This implies the women being restricted by gender role expectations – the roles of women, mothers, wives, multiple roles, exhaustion from family issues and household chores, which takes a toll on their ability to devote themselves to their own businesses within a long-term framework.

Several factors of poor motivation as well as pronounced barriers, obstacles, challenges and problems, as indicated by this study, provide enough facts and proofs to conclude that female entrepreneurship in Serbia and B&H is undeveloped and that it requires significant stimulation, efficient strategy and awareness of the need for female entrepreneurship.

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POSLOVNA FUNKCIJA KONTROLINGA U ODNOSU NA PROCES DIGITALNE TRANSFORMACIJE POSLOVANJA

Rezime: *Sa ovim istraživačkim radom se ukazuje na značaj digitalne transformacije poslovanja preduzeća u savremenom dobu poslovanja, kao i izazovima koji se stavljaju pred kontroling funkciju u tom kontekstu. Kako će nadolazeća digitalizacija promijeniti klasičnu kontroling poslovnu funkciju u preduzeću i šta zaposleni u odjelu controlling-a treba da rade u vezi sa novim trendovima oličanim u digitalnoj transformaciji. Istraživanje vršeno u preduzećima na području Bosne i Hercegovine sa ciljem identifikacije formalnih obilježja poslovne funkcije kontrolinga. Analiza je pokazala da se uveliko razlikuju viđenja zaposlenih i menadžmenta u preduzećima na području BiH u pogledu formalnih obilježja funkcije kontrolinga u odnosu na ono što su njena stvarna obilježja, na taj način svjesno i nesvjesno javno prikazuju svoja preduzeća drugačije od činjeničnog stanja.*

Ključne reči: *digitalizacija, transformacija, poslovanje, kontroling, menadžment, Bosna i Hercegovina*

Jel klasifikacija: *M21*

UVOD

Da bismo razmotrili kako kontroling utiče na digitalnu transformaciju poslovanja i posebno kako, povratno, digitalna transformacija utiče na poslovnu funkciju kontrolinga, definisaćemo okvir onoga što se naziva digitalnom transformacijom i u kontekstu tog okvira ulogu poslovne funkcije kontrolinga.

Posmatrajući digitalnu transformaciju kao najkrupniju inovaciju koju danas uvode skoro svi poslovni i javni sistemi, a koja se ogleda u prilagođavanju novom poslovnom kontekstu i maksimalnoj eksploataciji novih mogućnosti koje poslovanju donose remeteće tehnologije kao što su vještačka inteligencija, 3D štampa, *Internet of Things-IoT*, *BigData*, važno je već na početku ovog rada naglasiti da se usljed transformacione prirode on ne može strukturirati na isti način, ali ni u istoj mjeri kako je to danas uobičajeno za poznate tehnologije i nad njima izvedene tehnokonomске modele poslovanja. Naime, kako inovacija mijenja značenje onoga na šta se primjenjuje, tako i digitalna transformacije mijenja značenje ne samo poslovnog sistema, već i svih elemenata ekosistema u kojem je isti poslovao, odnosno, samu suštinu društvene organizacije i paradigme. Imajući to u vidu autori u ovome radu nude čitaocu najviši nivo strukturne organizacije koja je danas poznata kada su u pitanju procesi i posljedice digitalne transformacije kako na nivou preduzeća, tako i na nivou ekosistema, sa posebnim osvrtom na ulogu funkcije poslovnog kontrolinga u procesima transformacije poslovnih sistema i njihovih operacija.

1. RADNI OKVIR DIGITALNE TRANSFORMACIJE

Kada želimo da vrijednostima oko kojih se odvija digitalna transformacija damo neko strukturirano objašnjenje, koje definiše pravac i ishod transformacije, dolazimo do digitalne agende ili digitalne strategije koje su preduzeća obavezna usvojiti kao strateški dokument kojim se definiše pravac, tempo, razlozi te željeni rezultati digitalne transformacije i kriterijumi prihvatljivosti istih. Većina preduzeća polazi od suštinske greške smatrajući da se digitalna transformacija svodi na iznalaženje novih mogućnosti za primjenu novih remetećih tehnologija, dok se malo ili ni malo računa ne vodi o ostalim aspektima transformacije kao što su digitalna sposobnost preduzeća, agilne inovacije, promjena biznis modela ili operacija i procesa te u zavisnosti od strukturnih pomijeranja i promjene u poslovanju izazvane digitalnom transformacijom. Prema mišljenju profesorice Jeann Ross sa MIT Sloan fakulteta, digitalna transformacija se može razumjeti i posmatrati na dva odvojena kolosijeka promjena koje se dešavaju kako u samom preduzeću, tako i u njegovom okruženju:

1. Digitalna Transformacija u užem smislu, što podrazumijeva dostizanje operativne izuzetnosti poslovanja preduzeća, odnosno, suštinski njegovih poslovnih operacija;
2. Digitalna Transformacija u širem smislu, što podrazumijeva rapidnu inovaciju poslovanja, najčešće povezanu sa promjenom poslovnog modela po kojem funkcioniše preduzeće.

Da bi se izbjegle pogubne strategije, bilo da je riječ o onim koje nisu izvodljive ili da su u pogrešnom smjeru te vode u sigurnu propast, potrebno je razumjeti radni okvir digitalne transformacije. Ovo podrazumijeva jasno razumijevanje konteksta, relacija između pojedinih elemenata sistema ili okruženja koje se mijenjaju te iznalaženje mjerljivih vrijednosti za one veličine koje definišu transformaciju ili njen ishod. U ovom smislu danas već za veći deo standardizovanih sektora poslovanja postoje orijentaciona rješenja, često data kroz softverske platforme, za ocjenu i validaciju preduzeća i njegovog okruženja te proizvoda i/ili usluge i njegove vrijednosti za krajnjeg korisnika. Primjena ovih rješenja i stalna simulacija i potraga za novim efikasnijim putanjama transformacije stalni je zadatak kontrolora i poslovnih stratega kako bi se omogućilo preduzeću da preživi postojeću krizu i transformiše se prema zahtjevima i potrebama novog poslovnog okruženja, koji već par godina nastaje pod uticajem destruktivnih tehnologija i poslovnih modela zasnovanih nad istim.

Prema osnovnom radnom okviru u kojem bi se trebala započeti i sprovesti digitalna transformacija, pitanje izbora pravca digitalne transformacije uslovljeno je odgovorima na sljedeća pitanja:

- Šta će se dešavati sa industrijskim sektorom u kojem preduzeće posluje?
- Šta će rukovodstvo preduzeća uraditi i kada – koje mjere će biti sprovedene u preduzeću i kako će se one odraziti na njeno poslovanje (koji su željeni efekti)?
- Kako će menadžment i zaposleni u preduzeću znati da su uspjeli u procesima digitalne transformacije (definisane kriterijuma prihvatljivosti za ishode i rezultate poslovanja po ishodima)?
- Ko će biti vlasnik procesa digitalne transformacije preduzeća, njegovih procesa i proizvoda i/ili usluga (na kome je odgovornost, ko ima izvršnu ulogu i mogućnost za donošenje odluka po nivoima)?
- Gde će preduzeće investirati svoja sredstva, pod kojim uslovima, čija i koja sredstva?

Definišući ova pitanja i odgovore na njih vrši se grubo definisanje strategije u smislu da se na ovaj način odbacuju sve one mogućnosti za transformaciju koje su iz bilo kojeg razloga nedostupne preduzeću ili nisu prepoznate od strane rukovodstva i tima za strategiju i kontroling kao relevantne mogućnosti razvoja. Uloga kontrolora u definisanju strategije ovdje je i više nego očita kroz definisanje okvira za sprovođenje procesa digitalne transformacije, odnosno, provjere izvodljivosti željene strategije i prije njene egzekucije kroz izradu i provjeru putem scenario modeliranja.

Digitalna transformacija, se uprošćeno može definisati, kako bi se procijenio nivo izvodljivosti na nivou preduzeća, sljedećim parametrima koji se mogu kvantitativno i kvalitativno izraziti:

- Preduzeće je određeno sa dijagnozom, strateškom ambicijom, jedinstvenom ponudom vrijednosti prema svojim kupcima/korisnicima;
- Tržište je određeno sa konkurentima, ponudom, tržišnim silama;
- Korisnici usluga ili proizvoda preduzeća definišu se kroz brojnost, namjere i zadatke, koje uz pomoć proizvoda ili usluge žele postići;
- Resursi dostupni preduzeću za transformaciju definisani su raspoloživim vremenom, kadrovima (ali i na drugi način dostupnim talentima) i novcem dostupnim za investiranje.

Pri definisanju digitalne strategije često se prenebregavaju dva ključna pitanja koja se moraju sagledati za svaku stratešku alternativu. Za uspjeh digitalne transformacije preduzeća bilo koje veličine ili oblika vlasništva, neophodno je imati jasnu predstavu o njenom pozicioniranju na tržištu (kako u sadašnjosti, tako i željenog u budućnosti), kao i koji su to motori rasta i razvoja koji se mogu koristiti kako bi se proces digitalne transformacije doveo uspješno do svog cilja. Poznavanje ove dve karakteristike poslovanja preduzeća, mora prethoditi agilnoj provjeri strateških opcija i njihove vrijednosti, inače će se razvijene strategije i njihova operacionalizacija značajno razlikovati od očekivanih.

2. STRUKTURNA ANALIZA PREDUZEĆA I NJEGOVOG POSLOVANJA SA STANOVIŠTA POTREBA I OGRANIČENJA DIGITALNE TRANSFORMACIJE

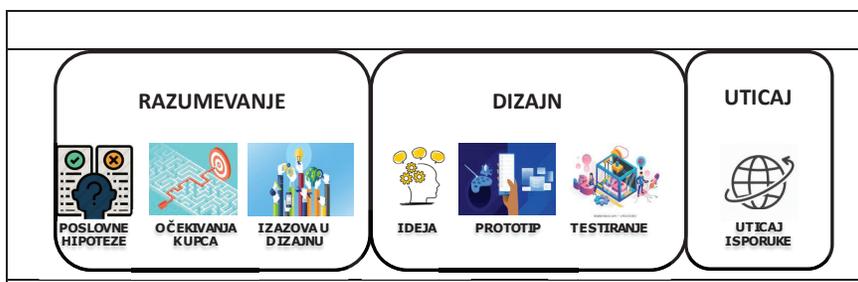
Ono što se zapravo želi postići digitalnom transformacijom jeste dostizanje operativne izuzetnosti i maksimalne efikasnosti nekog tehno-ekonomskog sistema. Da bi se to postiglo potrebno je uraditi optimizaciju organizacije i procesa sa stanovišta funkcije cilja sistema, pri čemu se svi nekritični i nedovoljno efikasni procesi autorsuju te nabavljaju kao usluga, samo onda kada je to potrebno novom poslovnom sistemu, kako bi zadovoljio funkciju cilja. Zamisao na kojoj počivaju mnogi poslovni modeli u post singularnoj ekonomiji, odnosno, ekonomiji nastaloj nakon završetka svih procesa digitalne transformacije, je sveprisutna automatizacija i tehnoekonomska optimizacija na nivou podsistema, pri čemu se u operacijama poslovnog sistema, traži funkcija složenog optimuma.

Ovo se drastično razlikuje od dosadašnje prakse izgradnje poslovnih i privrednih sistema, koji su u značajnoj mjeri samodovoljni, često horizontalno razučeni i organizovani u vertikalne tehno-ekonomske silose, izgrađene tako da se optimizuje glavna (noseća) tehnološka funkcija, pomoću koje su postizane sve ostale funkcije cilja, odnosno razlog postojanja privrednog društva.

Kako je iz teorije sistema poznato, da nijedan lokalni optimum (maksimum ili minimum), složene funkcije, ne može biti i globalni optimum (npr. maksimum) iste, jasno je da ovakvi sistemi nisu tehnološki, a samim tim ni ekonomski efikasni, u dovoljnoj mjeri. Zato se, zahvaljujući remetećim tehnologijama, koje nas i vode u proces digitalne transformacije, nastoji da kompleksni sistemi zamijene potpuno automatizovanim i atomizovanim sistemima, koji bi svoju funkciju optimuma (maksimum ili minimum funkcije cilja), tražili na nivou ekosistema, u kojem postoje i obavljaju svoje poslovne funkcije.

Da bi se ovo omogućilo neophodno je transformisati preduzeća i usredsredi se na proizvodnju samo one vrijednosti koja je od značaja krajnjem korisniku proizvoda ili usluge, uz eliminaciju svega ostalog. Iako ovo dosta podsjeća na Tojotine modele eliminacije otpada i JIT na nivou ekosistema, postoje i bitne razlike između poslovnih arhitektura u prošlosti i onih koji zahtijevaju proces digitalne transformacije. U tom smislu, u ovome istraživačkom radu će se pokušati strukturirati arhitektura, razlozi i ograničenja koji vode istu u procesu digitalne transformacije.

Jedana od najčešće korištenih metodologija za definisanje digitalne transformacije preduzeća je metodologija promišljanja dizajna. Osnovni koraci kroz koje definišemo i strukturiramo digitalnu transformaciju preduzeća prema ovoj metodologiji dati su u prikazu (Slika 1).



Slika 1. Koraci pri dizajniranju i evaluaciji strategije digitalne transformacije (Autori)

2.1. Arhitektura preduzeća i primjena TOGAF metodologije za definisanje poslovne arhitekture kao preduslov digitalne transformacije poslovanja preduzeća

Standard *The Open Group Architecture Framework-TOGAF* daje industrijski radni okvir za uobličavanje i provjeru arhitekture poslovne organizacije. Arhitektura poslovnog sistema je jedan od najvažnijih elementata strukture poslovanja koji će se tokom procesa digitalne transformacije preispitivati i prilagođavati potrebama novog izmijenjenog poslovanja. Arhitektura preduzeća je ključna za uspjeh digitalne transformacije, jer povezuje dugoročne strategije preduzeća sa njihovom implementacijom i operacionalizacijom, sa jedne strane, dok sa druge strane arhitektura u scenario modelu služi i kao revizioni sistem kojim se evaluira plan implementacije.

Cilj arhitekture je da optimizuje duž cijele organizacije često fragmentirane ili zaostale procese u integrisano okruženje, koje je odgovor na promjene i predstavlja potporni mehanizam za isporuku ciljeva poslovne strategije. Arhitektura definiše sistem kao cjelinu, ali ne grupu nepovezanih entiteta. Takođe, arhitektura sistema predstavlja metod za dizajniranje ciljnog stanja sistema te set preporučenih standarda u okviru kojih bi poslovni sistem trebao da se kreće. Prije nego preduzeće uđe u proces definisanja nove poslovne arhitekture zasnovane na novom poslovnom modelu i potrebi tranzicije ka istom, neophodno je jasno utvrditi kakve su sposobnosti organizacije da definiše i napravi sopstvenu arhitekturu. Upravo u ovom segmentu najznačajniji je doprinos stratega, kvanta, kontrolora pa i biznis developera i biznis analitičara, jer upravo na nosiocima ovih specifičnih znanja i funkcija unutar preduzeća leži odgovornost za uspjeh procesa digitalne transformacije i upravo ovi kadrovi trebali bi definisati i strukturirati arhitekturu poslovnog sistema ka kojem se teži.

Danas se ona preduzeća, koja pokušavaju da izvrše digitalnu transformaciju, najčešće oslanjaju na TOGAF standard koji kao osnovni metod za definisanje arhitekture sistema koristi posebno za to standardizovan model, poznatiji kao model razvoja arhitekture sistema, koji se sastoji iz devet faza, kroz koje se upravlja i sa zahtjevima, koje sistem mora da zadovolji kako bi bio maksimalno efikasan. Postojanje ove formalne metodologije umnogome olakšava neke bitne strukturne promjene do kojih dolazi u toku digitalne transformacije.

2.2. Scenario planiranje

Metod planiranja budućih događaja kroz analizu scenarija razvila je kompanija Royal Shell kako bi mogla da uskladi svoje poslovanje u uslovima neizvesnosti (varijacije cijene nafte) sa potrebama tržišta, na način da se izvrši optimizacija funkcije cilja (maksimizacija profita). Ovaj metod analize budućih vjerovatnih događaja i odgovora na njih možemo predstaviti dijagramom na slici ispod. Metod planiranja scenarijima sličan je tehnikama koje se koriste u softverskoj industriji i agilnoj metodologiji. Ovaj metod može se prikazati kroz sljedećih pet faza:

1. Faza dekompozicije problema u kojoj se problem simplifikuje i ogoljava tako da se postigne dovoljan nivo fokusiranja na sam problem, a ne na sistem, njegove dijelove ili kontekst kao takav. Definisane jasnog poslovnog modela – formalni opis načina rada i uslova rada.
2. Sagledavanje rizika, uzroka i ishoda problema. Veoma je važno definisati i ispitati ključne nesigurnosti koje govore o važnim promjenama i njihovom uticaju na sistem, pri čemu se moraju uzeti u obzir i one nesigurnosti koje su kontekstualnog karaktera (potiču iz okruženja i definišu okruženje).
3. Razvoj scenariora priča kao alternative oko glavne poslovne hipoteze koju smo ranije postavili. Za svaku alternativnu potrebno je da razvijemo alternativnu priču i pripadajuću poslovnu hipotezu.
4. Razvijemo strategiju koja je u skladu sa alternativnom pričom i poslovnom hipotezom.
5. Poredimo putanju, potrošnju energije i materijala, neophodan nivo informacija i podataka te ishod za svaku alternativu i tražimo onu koja najoptimalnije zadovoljava funkciju cilja za novi poslovni sistem.

Provjera mogućih strategija digitalne transformacije preduzeća i njihova evaluacija radi se kroz matricnu provjeru inherentnih i isporučenih vrijednosti, koje se isporučuju korisnicima i mogućnostima i ograničenjima poslovnog sistema. Primjer jedne prostije analize ovog tipa za mala proizvodna preduzeća dat je u sljedećem prikazu (Tabela 1).

Tabela 1. Scenario vs. strategija (Autori)

STRATEGIJA	SCENARIO			
	Zasićenje tržišta	Izazov uvoza	Mogućnost izvoza	Novododana vrijednost
Firma se trudi da iskoristi rast na novim tržištima	Fokus samo na sigurne mogućnosti	Fokus na postojeće tržište	Ispitati nova moguća izvozna tržišta	Ispitati nova izvozna tržišta
Preduzeće razvija novu liniju proizvoda	Provjeri proizvode koji su grupisani oko najnižeg zadovoljavajućeg kvaliteta na tržištu	Ispitaj proizvode sa dodatom vrijednosti i proizvode niskog kvaliteta	Ispitati izvozne proizvode u klasi proizvoda na tržištu najnižeg zadovoljavajućeg korisničkog kvaliteta	Dodata vrijednost za kvalitetne proizvode
Preduzeće gradi novi menadžment tim	Fokusiraj se snažno na usluge korisnicima i ugovorenu prodaju	Fokus na prihvaćenu prodaju, korisničke servise i obuku kadra	Fokus na prodaju, marketing proizvoda, obuku timova	Fokus na prodaji, treningu kadra i marketingu proizvoda
Preduzeće pokušava da poboljša i unaprijedi svoj poslovni sistem	Fokus na sistem koji će eliminisati troškove	Fokus na sistem koji će eliminisati troškove i podići korisničko zadovoljstvo	Fokus na sisteme koji podižu korisničko iskustvo i prodaju	Fokus na sistemima za podizanje zadovoljstva korisnika, usluge i prodaju

Za svako polje u tabeli potrebno je stvoriti scenariora priču po kojoj će sistem biti testiran kako na izvodljivost date strategije (neophodne promjene, visina investicija, vrijeme), tako i na njegovu efikasnost u slučaju izvodljivosti. Za ovo je potrebno gledati poslovanje preduzeća kroz njene proizvode, usluge i mogućnosti da se nešto proizvede i isporuči u određenom kvalitetu po zadovoljavajućoj cijeni. U ovom smislu moramo definisati digitalnu ponudu kao presjek između onog što je tehnički moguće i ekonomski isplativo isporučiti kupcu ili korisniku i potreba i želja korisnika u vezi sa proizvodima ili uslugama koje mu preduzeće nudi.

Ono što je važno napomenuti jeste da je zbog rapidne promjene konteksta i okruženja moguće strategije testirati samo na relativno bliskom vremenskom horizontu koji nikada ne može preći jedan ekonomski ciklus, iako su preporuke da se na ovaj način testiraju strategije koje daju svoje rezultate najduže za tri godine.

3. ORGANIZACIJA I INFRASTRUKTURNI PREDUSLOVI NEOPHODNI ZA USPJEŠNO SPROVOĐENJE DIGITALNE TRANSFORMACIJE

Osnovna promjena (Vuko i Ojvan 2013), koja se odvija u preduzećima tokom digitalne transformacije, jeste atomizacija i automatizacija poslovnih procesa koji sada svoje interakcije često obavljaju tek dijelom na posvećenju infrastrukturi preduzeća, dok je dio ovih servisa prešao u *cloud* okruženje. Digitalna transformacija koristi podatke koji dolaze od korisnika i poslovnih procesa kako bi iste poboljšala i učinila poslovanje preduzeća izuzetnim u poslovnom sektoru u kojem posluje. Ovo podrazumijeva da se cjelokupno poslovanje preduzeća povinuje brzom, kvalitetnom i neprekidnom toku stvaranja vrijednosti koje korisnik percipira kroz svoju potrebu (Simić 2015; Šljivić i Skorup i Vukadinović 2015; Verburg i drugi 2017). Da bi se ovo ostvarilo, pored neophodne tehnologije, fizičke i hemijske obrade poluproizvoda i proizvodnje nove upotrebne vrijednosti, preduzeća moraju razviti i sisteme za predikciju potreba potrošača, što je moguće vidjeti iz korisničkog ponašanja, a posebno iz podataka o tome kako korisnik i za šta koristi proizvod i/ili uslugu koju mu preduzeće isporučuje. Da bi se došla do ovih podataka i koristili ih na najbolji način preduzeće stvara infrastrukturu za prikupljanje i obradu podataka, a svoje poslove obrade podataka seli u *cloud* okruženje kako bi isti bili neprestano dostupni, bezbjedniji i efikasniji.

Prilikom digitalne transformacije neophodno je, dakle, razviti odgovarajuću kritičnu infrastrukturu koja ne mora nužno biti u vlasništvu preduzeća, ali koja mora biti stalno dostupna preduzeću. Takođe, tokom provođenja digitalne transformacije neophodno je da preduzeće standardizuje svoje podatke, njihov tok, mjesta i način pristupa, bezbjednosne i operativne mehanizme te omogući interoperabilnosti između različitih internih i eksternih procesa, pri čemu se nova vrijednost može stvarati i kroz poslovne procese preduzeća, ali i kroz eksterne procese, koji samo koriste prikupljene podatke o korisniku.

Digitalna transformacija kao takva, ali i buduće poslovanje preduzeća, obavlja se nad operativnom kritičnom infrastrukturom preduzeća koje predstavlja kičmu korporacijskog poslovanja, koja se sastoji iz sljedećih strukturno uređenih elemenata i njihovih relacija:

- Standardni procesi;
- Deljeni podaci;
- Deljene aplikacije;
- Deljenje tehnologije;
- Korporativna mreža i infrastrukturne usluge.

Prednost atomizovanih i atomiziranih poslovnih procesa je da oni ne moraju biti zatvoreni unutar vertikalno hijerarhiski uređenih poslovno-tehničkih silosa te su, zahvaljujući standardizaciji i otvaranju podataka, isti u mogućnosti stvarati vrijednost i van samog preduzeća u nekom modelu dijeljenja jurisdikcije i poslovanja nad podacima iz drugih silosa. Ovo je posebno interesantno u modelu „Pametnih Gradova“ gdje otvaranje gradskih podataka omogućava da preduzećima koje su se digitalno transformisale posluju i van njihovog uobičajenog poslovnog sektora i time ostvaruju profit na više načina i u srazmjerno većoj količini, uz minimizaciju rizika poslovanja.

Posmatrano sa aspekta atomizovanih poslovnih procesa jasno je da je funkcija poslovnog kontrolinga u procesu digitalne transformacije osuđena na značajne promjene koje moraju pratiti promjene u načinu poslovanja matičnog preduzeća. Ovo, nadalje, govori u prilog tome da se poslovna funkcija kontrolinga sve više pomijera sa klasične funkcije predviđanja budućnosti i prilagođavanja poslovanja na osnovu upravljačkih signala koji su poticali iz upravljačkog knjigovodstva i sve više premiješta u domen tehničko tehnološko poslovanja, što neumitno znači da će kontrolori u budućnosti morati da ovladaju i ovom znanjima ako žele da zadrže relevantnost za svoju osnovnu poslovnu ulogu, odnosno, funkciju savetnika menadžmenta.

4. OGRANIČENJA DIGITALNE TRANSFORMACIJE PREDUZEĆA I ULOGA FUNKCIJE KONTROLINGA U PREVAZILAŽENJU OGRANIČENJA ZA BRŽU DIGITALNU TRANSFORMACIJU PREDUZEĆA

Mnoga društva danas vide procese digitalne transformacije preduzeća (Tešanović i Kukobat i Šobot i Grivec 2019), posebno kada je riječ o javnim preduzećima ili državnim institucijama kao poseban vid prijatnje postojećem društvenom poretku. Ovo dolazi, uglavnom, stoga što digitalna transformacija zahtijeva da promjenu postojećih institucija izvan onoga što je njihova prepoznatljiva struktura, kontekst i operacije zahtijevajući, od istih, sveprisutnost, omni kanalnu dostupnost 24/7/365, neuporedivo viši nivo transparentnosti i efikasnosti (Simić 2015) te jedinstveno korisničko iskustvo, što sve nisu bile osobine ovakvih preduzeća, uz istovremeni zahtjev za njihovom dematerijalizacijom.

Takođe, kada je u pitanju digitalna transformacija privatnih preduzeća vidljivo je da je ona često nemoguća ili bar značajno usporena usljed nepostojanja odgovarajućeg pravnog okvira ili pravno-ekonomskog ekosistema. Iz ovih razloga digitalne strategije preduzeća moraju biti takve da unaprijed pripreme teren na kojem bi u bliskoj budućnosti poslovale transformisane preduzeća. Ovo podrazumijeva da izlaz novih tehnologija na tržište i poslovnih modela bude praćen i pripremljen promjenama zakonskog okruženja u kojem bi preduzeća poslovala, a ključna uloga u ovome ostavljena je upravo za stratege, kvante, biznis analitičare i kontrolore, koji moraju iznaći načine da ubijede zakonodavce u neophodnost ovih promjena te sastavljanje najpovoljnijeg mogućeg okvira za razvoj digitalne privrede u kojem će poslovati i njihova preduzeća.

Posebno ograničenje u smislu provođenja digitalne transformacije, može na prostorima Balkana predstavljati nizak opšti nivo poznavanja i ovladavanja tehničkim vještinama, a posebno nizak nivo tehničke discipline, koji je neophodan da bi digitalna transformacija u preduzećima bila sprovedena u praksi. Koliko je opšti i tehnički nivo sposobnosti radne snage presudan za digitalnu transformaciju najbolje govori podatak da Deloitte uzima ovu karakteristiku za ključnu u transformacionim procesima na nivou nacionalne ekonomije. Prema procjenama Deloitte analitičara nedostatak ili nizak stepen opšteg i tehničkog znanja mogao bi dovesti do masovnog neuspjeha u procesima transformacije (Duvnjak i Babić 2014) malih i srednjih preduzeća u okviru nacionalnih privreda što može ozbiljno narušiti pojedine nacionalne ekonomije (Duvnjak 2018).

5. METODOLOGIJA ISTRAŽIVANJA

5.1. Metod i instrumenti istraživanja

Sprovedeno istraživanje je kvantitativnog i kvalitativnog tipa. Kvantitativno istraživanje realizovano je putem upitnika u okviru kojeg su se u prvom dijelu pitanja odnosila na osnovne poslovne podatke o preduzeću u kojoj je zaposlen ispitanik, dok je u drugom dijelu grupa zavisnih varijabli bila ispitivana kroz pitanja i tvrdnje, koje su ocjenjivane preko Likertove skale. Pomenutim tvrdnjama ispitivano je mišljenje ispitanika o stanju kontroling funkcije u njihovim kompanijama.

5.2. Cilj istraživanja

Cilj ovog istraživanja predstavlja ispitivanje mišljenja ispitanika o uticaju i značaju osnovnih faktora formalne kontroling funkcije u preduzećima, kao i sagledavanja mogućnosti za ispunjavanje navedenih uslova u preduzećima. Takođe, cilj kvalitativnog istraživanja bio je

istražiti paradigmu koja vlada u poslovnim krugovima vezano za funkciju i elemente kontrolinga te načine operativne primjene ove funkcije u preduzećima u BiH.

5.3. Hipoteze isitraživanja

Hipoteza H0: Percepcija i paradigma za poslovnu kontroling funkciju u preduzećima u BiH značajno se razlikuju od onoga što su formalna obilježja i elementi ove poslovne funkcije.

Hipoteza H1: Menadžment i zaposleni svjesno i nesvjesno javno prikazuju svoja preduzeća drugačije od činjeničnog stanja.

5.4. Uzorak istraživanja

Navedeno istraživanje je sprovedeno na teritoriji Bosne i Hercegovine tokom 2019. godine (period mart-novembar 2019). U istraživanju je učestvovalo ukupno 48 ispitanika, iz 36 privrednih organizacija sljedeće raspodjele sa stanovišta veličine i broja zaposlenih: 33,3% ispitanika dolazilo je iz preduzeća sa manje od 10 zaposlenih, 16,7% ispitanika dolazilo je iz preduzeća koja imaju između 10 i 49 zaposlenih, 33,3% ispitanika dolazilo je iz preduzeća koji imaju između 50-249 zaposlenih, dok je 16,7% ispitanika dolazilo iz velikih preduzeća sa preko 250 zaposlenih. Ispitanici su dolazili iz preduzeća koja su imala sljedeću raspodjelu prometa ostvarenog u prethodnoj 2018. godini: 58,3% ispitanih preduzeća su imali promet manji od 4 miliona KM, promet u rangu od 5 do 50 miliona KM imalo je 33,3% ispitanika, dok je 8,3% preduzeća imalo promet veći od 51 milion KM u 2018. godini.

Tokom istraživanja upitnikom ukupno je prikupljeno 48 upitnika koji su statistički i logički obrađeni. Za analizu podataka primijenjena je deskriptivna analiza. Kako je analizom sirovih podataka primijećeno veliko neslaganje između kontrolne grupe pitanja i osnovnih pitanja o nezavisnim varijablama, provedeno je i kvalitativno ispitivanje intervjuisanjem 12 predstavnika preduzeća koji su u svojom preduzećima zaduženi za funkciju kontrolinga. Istraživanje intervjuom sprovedeno je tokom predavanja na Kontroling akademiji 2019. godine, pri čemu su korišćene i metode provjere logičke konzistentnosti, sagledavanja jaza, dubokog uvida, kao i alati za određivanje pozicije preduzeća sa stanovišta strukturne spremnosti za implementaciju funkcije kontrolinga u preduzećima.

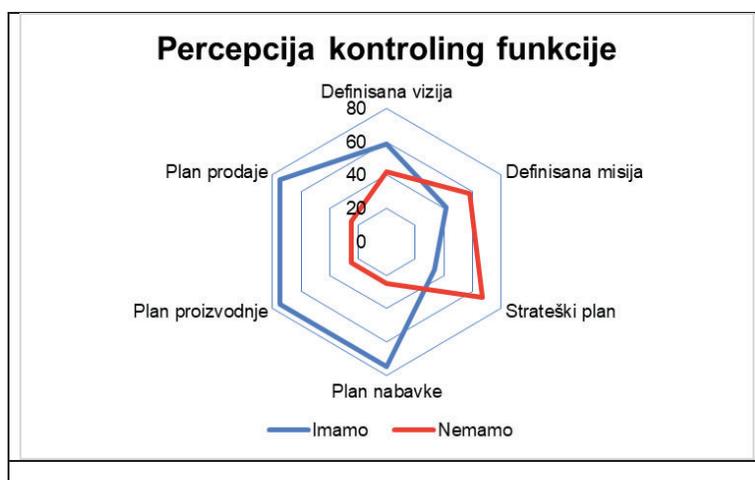
6. NELOGIČNOSTI U ODGOVORIMA NA PITANJA KOJA SU SE TICALA FORMALNE USPOSTAVE FUNKCIJE KONTROLINGA U PREDUZEĆIMA NA PODRUČJU BIH

Na pitanje: „Da li u preduzeću postoji uvedena funkcija kontrolinga?“ 83,3% ispitanika odgovorilo je da ova funkcija i formalno postoji u njihovom preduzeću, dok je tek 16.7% njih negiralo postojanje bilo kakvog oblika organizovane kontroling funkcije u preduzeću. Svi ispitanici koji su potvrdili da je kontroling uveden u njihovo preduzeće, takođe, potvrdili su i da postoji osoba unutar preduzeća, koja je i formalno zadužena za kontroling funkciju. Samo jedno veliko preduzeće imalo je odjeljenje za kontroling. Ovakva statistička raspodjela govorila je u prilog tome da je moguće izvršiti statističku obradu podataka, ali nakon što su provjereni odgovori na kontrolna pitanja, koja su bila sastavni dio upitnika, postalo je jasno da ili ispitanici nisu razumjeli pitanja o zavisnim varijablama ili su svjesno dali odgovore koji nisu konzistentni. Upravo iz ovih razloga odlučeno je da se uradi i kvalitativna analiza intervjuom 12 predstavnika preduzeća, koji su u tom trenutku pohađali Kontroling akademiju i da se iz ovog istraživanja uradi logička provjera smisla i kauzalnosti pojedinih odgovora. Na osnovu ove analize došlo se do zaključka da većina ispitanika, kao i tim menadžmenta u preduzećima iz kojih dolaze ima pogrešnu paradigmu i predstave o tome šta je kontroling funkcija u preduzeću i čemu služi te

je uočena pojava da se ispitanici afirmativno izražavaju o mogućnostima svojih preduzeća, čak i onda kada su svjesni da time daju lažne i pogrešne odgovore na postavljena pitanja.

6.1. Rizik pogrešnih predstava i ubjedenja

Da bi nastavili dalje ispitivanje zastupljenosti i operativne primjene kontroling funkcije u preduzećima, bilo je neophodno napraviti dublji činjenični pregled stanja posmatranih preduzeća te pokušati utvrditi da li se percepcija menadžmenta i zaposlenih u preduzećima poklapa sa formalnim zahtjevima, koji moraju biti ispunjeni da bi se moglo reći da je funkcija kontrolinga i institucionalno i organizaciono zastupljena u nekoj organizaciji. Ovakvo dublje sagledavanje činjenica (engl. due diligence) uobičajeno je kako prilikom dubinske provjere preduzeća, kako bi se ocijenila njihova tržišna vrednost, tako i prema zahtjevima sagledavanja tržišne pozicije preduzeća i često je jedan od osnovnih poslova koje obavljaju kontrolori u preduzećima. Primjenom ovog brzog alata na odgovore koje smo dobijali od predstavnika preduzeća mogli smo sagledati i to kakva je paradigma poslovanja, ali i položaj i uloga kontrolinga unutar date paradigme kod preduzeća čije smo predstavnike ispitivali. Ovo nam je omogućilo da saznamo da veći broj predstavnika preduzeća, koje su i formalno imenovne osobe zadužene za kontroling funkciju ne razumiju i ne znaju formalne zahtjeve te ih u praksi i ne pokušava sporeviti. Tokom ispitivanja primijećeno je još i to da postoji mentalni otpor ka ispravljanju pogrešnih paradigmi ukoliko one zahtijevaju količinu rada i sredstava preko izvjesnog praga da se pomenute greške percepcije isprave. Visina ovog praga, takođe, uveliko zavisi od stanja preduzeća na tržištu i smanjuje se kako se pogoršava tržišna pozicija. Nakon ispitivanja upitnikom, izvršeno je dodatno anketiranje zaposlenih zaduženih za funkciju kontrolinga u svojim organizacijama i došlo se do sljedeće reprezentacije mentalne predstave: „Da li je i kako u preduzećima čiji su se predstavnici izjasnili da imaju funkciju kontrolinga ista zaista i uspostavljena?“ U prikazu ispod (Slika 2), dati su frekvencije raspodjela implementiranosti i primjene pojedinih kontroling elemenata za ona preduzeća čiji su predstavnici upitnikom tvrdili da imaju implementiranu funkciju kontrolinga, iz kojeg se jasno vidi da u jednom značajnom broju preduzeća ili funkcija kontrolinga postoji samo nominalno ili što je vjerovatnije menadžment ovih preduzeća ne posjeduje ni osnovna znanja i vještine iz navedenih oblasti, ali da bi stvorio bolji utisak u javnosti o stanju svojih preduzeća svjesno iznosi netačne informacije u javnim anketama.

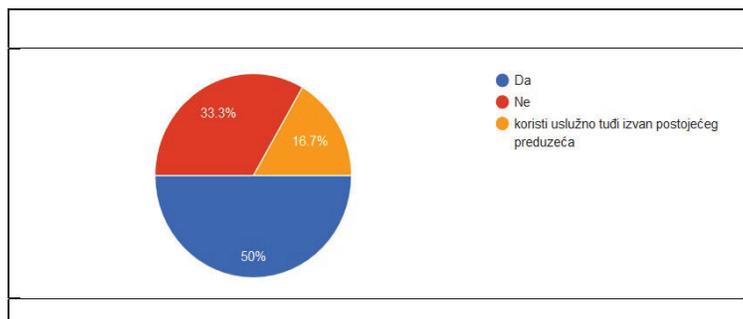


Slika 2. Razlika u percepciji pojma kontrolinga i ispunjenosti formalnih zahtjeva implementacije i operativnog funkcionisanja kontroling funkcije u preduzećima u BiH (Autori)

Iz gornjeg dijagrama jasno se vidi i sljedeće, da u privredama i društvima koji su, prevashodno, redistribucionog karaktera, kakve su skoro sve privrede u tranziciji proizišle iz privrede bivše SFRJ postoji ogroman nesklad između formalno nominalnog i aktuelnog stanja preduzeća. Naime, interna percepcija menadžmenta i zaposlenih nije zasnovana na mjerljivim i provjerljivim činjenicama, nego na ubjeđenjima i željama menadžmenta i vlasnika. Kako je ovo veoma opasan modus operandi, koji je profesor Dragan Milošević sažeo u svojim privrednim opservacijama, a koja se može izraziti rečenicom: „*Preduzeće raste i razvija se do granica mentalnih sposobnosti vlasnika i/ili top menadžera*“, jasno je da ovakvo stanje ne može biti dugotrajno održivo i da će ukoliko se uskoro ne promijeni u većini preduzeća, ista nestati sa tržišta u doglednom vremenu.

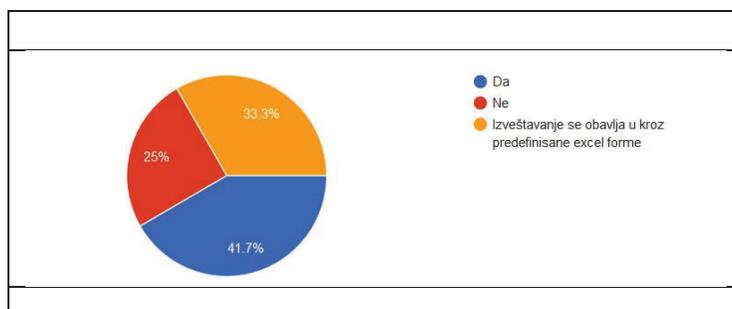
Navedeno je posebno vidljivo ako se koncentrišemo na još neke strukturne nelogičnosti u odgovorima koje smo dobili od menadžmenta zaduženog za kontroling funkciju u ispitivanim preduzećima. Naime, uspjeh preduzeća zavisi prema klasičnoj ekonomskoj teoriji od akcija racionalnog agenta. Drugim riječima, klasična ekonomija zasniva se na ideji postojanja zatvorenih, relativno izolovanih sistema, unutar kojih djeluju homogeni izolovani agenti, koji donose racionalne odluke, o tome šta raditi, što vodi u statički, teško promjenjivi izlaz na makro nivou. Pri čemu se mora voditi računa o sljedećem. Agregat model sistema (sistem posmatran kao agregat više podsistema sastavljenih od međudejstva i rezultata interakcija različitih agenata). U ovom modelu agent predstavlja srednju, prosječnu vrijednost neke funkcije sistema. Agenti su ograničene racionalnosti (u smislu svog racionalnog djelovanja) usljed nedostatka informacija, odnosno, nedostataka informacija koje posjeduju, kognitivnih ograničenja ljudskog uma (uma inokosnog organa) i vremena dostupnog za donošenje odluke. Agenti nemaju sve potrebne informacije niti ih mogu obraditi i izračunati u datom vremenu pa se „racionalnost“ pri odlučivanju na nivou agenta ne primjenjuje uvijek konzistentno i potpuno u donošenju odluka. U ovom smislu veoma je važno provjeriti da li preduzeće ima neophodne mehanizme i alate za prikupljanje i obradu kontekstualnih podataka poslovanja, kao i obradu internih podataka i procesa što je neophodno za sagledavanje stanja i pozicije preduzeća, odnosno, definiše polaznu tačku svake strategije, ali i operativne odluke. U tom smislu za posmatrana preduzeća provjerene su činjenice o stanju ICT i drugih podsistema čija je primarna uloga prikupljanje i obrada sirovih podataka kako bi od njih nastali validni akcioni uvidi, što je suština modernog upravljanja poslovanjem.

Empirijskim istraživanjem, „Da li preduzeće posjeduje poslovno informacijski sistem za obradu podataka i izvještavanje?“ se došlo do nalaza kao u prikazu (Slika 3).



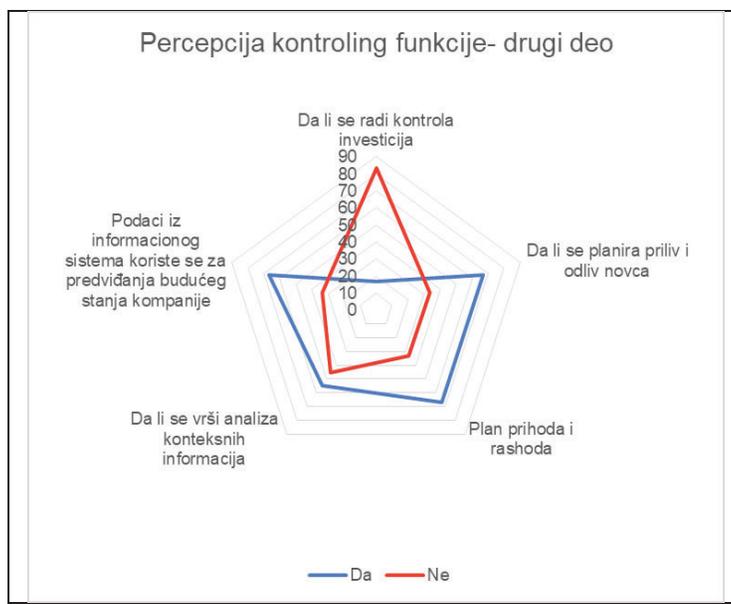
Slika 3. Stanje posmatranih preduzeća sa stanovišta spremnosti da prikupe i obrade informacije relevantne za poslovanje iz spoljnog i unutrašnjeg segmenta (Autori)

Dalje se vršilo ispitivanje i statistička obrada odgovora na pitanje: „Da li se u preduzeću izvještavanje vrši iz postojećeg poslovnog softvera (ERP ili softveri druge klase)?“ dato kao u prikazu (Slika 4).



Slika 4. Način izvještavanja iz postojećeg poslovnog softvera (ERP ili softveri druge klase) (Autori)

Ako sada sagledamo još neke strukturne nelogičnosti u odgovorima menadžerskog kadra, jasno je da se funkcija kontrolinga u preduzeću ne samo pogrešno percipira, već joj se sistemski daje pogrešno mjesto i uloga te se zamišlja kao lijepa marketinška prednost, ukoliko se istom preduzeće hvali, ali ne i ozbiljan alat, koji može doprinijeti dobrom vođenju preduzeća, posebno u uslovima velike neizvesnosti na tržištu kakvi su nastupili nakon COVID-19 pandemije i koji će usljed strukturnog preslojavanja svjetske privrede biti dio poslovnog okruženja u doglednoj budućnosti. Koliki je nesklad između onoga što se prikazuje u javnosti i faktičkog stanja unutar preduzeća, čiji predstavnici tvrde (Slika 5.) da imaju uvedenu funkciju kontroliga, najbolje pokazuje disbalans između očekivanih i stvarnih rezultata sprovedenog istraživanja. Naime, više od 83.3% preduzeća, prema izjavama njihovih predstavnika, ne radi kontrolu investicija što jasno govori o tome da ne postoji sistemski način upravljanja investicijama, što opet jasno pokazuje da uspjeh investicija prije zavisi od sreće i pronicljivosti investitora, nego o strukturnim alatima za upravljanje investicijama. A kako znamo da upravljanje investicijama de fakto znači upravljanje budućnošću, ovakav odgovor jasno govori da se pitanjima, sagledavanja budućnosti te upravljanja ka željenoj budućnosti skoro niko sistemski ne bavi, a upravo je ovo osnovna funkcija kontrolinga u preduzećima pa se postavlja pitanje: „Kako je to kontroling funkcija implementirana ako nisu sistemski pokrivenne glavne osobine ove poslovne funkcije?“



Slika 5. Razlika u percepciji pojma kontrolinga i ispunjenosti formalnih zahtjeva implementacije i operativnog funkcionisanja kontroling funkcije u preduzećima u Bosni i Hercegovini – II dio (Autori)

Analizirajući sada gore date prikaze istraživanja vidimo da se kontroling funkcija od strane menadžmenta, ali i formalno zaduženih za kontroling funkciju u preduzećima ne razumije te shvata prilično maglovito bez jasnih kriterijuma koji bi u percepciji kontrolora u ovim BiH preduzećima mogli poslužiti kao kriterijumi za validaciju ili odbacivanje izjava o dobroj implementaciji i operativnom radu funkcije kontrolinga u ovim preduzećima. Drugim riječima, navedeni grafikoni jasno pokazuju da su zadovoljeni logički i kvantitativni uslovi koji su iz prve hipoteze, čime je ona i potvrđena. Naime, očigledno je da se percepcija i paradigma za poslovnu kontroling funkciju u preduzećima u BiH značajno razlikuje od onoga što su formalna obilježja i elementi ove poslovne funkcije. Odnosno, da menadžment ima različitu percepciju od onoga što o ovim pitanjima kaže nauka o kontrolingu.

Takođe, jasno je i to da su rezultati istraživanja upitnikom posljedica želje da se preduzeće iz kojeg ispitanik dolazi i u kojem radi prikaže u što boljem svjetlu pa se svjesno zaobilaze strukturne nelogičnosti, što dovodi do toga da ispitanik matičnom preduzeću pripisuje i one sposobnosti i entitete koji de fakto ne postoje u poslovanju istog (kao ni institucionalno ili organizaciono na nivou iste). Ovim se na očigledan način i pokazuje druga tvrdnja, jer je trivijalno lako pokazati da suprotna tvrdnja nije tačna pa je očito da menadžment i zaposleni svjesno i nesvjesno, javno prikazuju svoja preduzeća drugačije od činjeničnog stanja, odnosno, znatno bolje, nego što je njihovo realno stanje.

7. ZAKLJUČAK

Na osnovu svega navedenog i iznijetog u radu postaju očigledni razlozi za tržišno zaostajanje BiH privrede na svjetskom tržištu. Analiza je pokazala da se uveliko razlikuju viđenja zaposlenih i menadžmenta u preduzećima na području BiH u pogledu formalnih obilježja funkcije kontrolinga u odnosu na ono što su njena stvarna obilježja, na taj način svjesno i nesvjesno, javno prikazuju svoja preduzeća drugačije od činjeničnog stanja. Naime, to posljedično znači da nema organizovanog i sistematičnog sagledavanja budućnosti poslovanja kroz institucionalnu organizaciju poslovne funkcije kontroling između ostalih pa je izbor pravca razvoja preduzeća prije posljedica ličnih afiniteta i perspektive vlasnika i top menadžmenta,

nego realnih potreba usklađivanja poslovanja preduzeća sa kretanjima na tržištu. U ovom smislu potrebno je razmisliti o sistemskim koracima kojima bi se menadžment, ali i vlasnici kapitala u BiH osposobili i ovladali osnovnim znanjima iz oblasti kontrolinga, kao u svijetu dominantne metodologije sagledavanja poslovne budućnosti i upravljanja ka izabranoj budućnosti poslovanja. U ovom smislu, neophodno je da institucije i preduzeća u BiH više rade na osposobljavanju kadra iz navedene oblasti, jer to predstavlja ne samo razvojnu šansu za BiH preduzeća i privredu, nego u svjetlu posljednjih krupnih privrednih pomijeranja izazvanih COVID-19 pandemijom i uslov opstanka BiH privrede.

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BUSINESS CONTROLLING FUNCTION IN RESPECT TO THE TRANSFORMATION PROCESS OF DIGITAL BUSINESS

Summary: *The research paper emphasizes the importance and necessity to transfer business operations to digital platforms, and at the same time sheds light on the respective challenges facing the controlling function. These changes, referred to as digitization, will undoubtedly affect the basic business controlling function in all companies, as well as the employees which will have to adapt to the new digital environment within the controlling groups and business units. The goal of the conducted research was to identify the formal characteristics of the business controlling function in companies located on the territory of Bosnia and Herzegovina. The resulting analysis has shown that the views of both employees and management vary greatly with respect to the original characteristics of the business controlling function. This variation is causing, subconsciously or consciously, the companies to assess and present themselves differently from the actual state.*

Key words: *digitization, transformation, business, controlling, management, Bosnia and Herzegovina*

Jel classification: *M21*

INTRODUCTION

To study how business controlling affects the digital transformation process of business, in particular how the digital transformation affects the business function of the controlling framework, will define the scope of the term “digital transformation”, and within what role the business controlling functions plays.

By observing the digital transformation as the largest innovation that is being introduced virtually in all commercial and public systems, which is reflected in the adjustment to the new business environment and the optimal exploitation of the new opportunities provided by the market-disrupting technologies, such as Artificial Intelligence (AI), 3D printing, Internet of Things (IoT), Big Data, it is important to point out that due to the nature of the transformation the system cannot be structured in the same manner as previously, nor to the same extent as with popular commonly used technologies with the applied techno-economic business models. When applied the innovation changes the meaning of what it is applied to and in the same way the digital transformations change the meaning not only of the business system, but also of all elements of the ecosystem in which it operates, that is, the very essence of social organization and the paradigm. With this in mind, the authors in this paper offer the reader an insight into the the-state-of-the-art structural organization when it comes to processes and respectful consequences of digital transformation for both companies and ecosystems, with a special emphasis on the role of the business controlling functions within the processes of transforming business systems and their operations.

1. DIGITAL TRANSFORMATION WORKING FRAMEWORK

Assigning a structural context to values and parameters around which the digital transformation takes place, that defines the direction and the outcome of the transformation, we arrive at the digital agenda or digital strategy. This is a strategic document that companies will have to create and enact, will define the directions, tempo, reasons, and set target goals of the transformation, as well as the criteria of acceptance respectfully. Companies commonly start from a misconception that the digital transformation boils down to finding new opportunities for disruptive technology application within the company. Other aspects of the digital transformation such as the enterprise digital competence, agile innovation, business models modifications, changes in operations and processes, as well as entire structural displacements and changes in the operations of the induced digital transformation are given very little attention or completely neglected. According to Professor Jeanne Ross (MIT Sloan faculty) digital transformation can be understood and seen in two independent parallel tracks in which changes occur simultaneously in the company and the environment:

1. Digital Transformation in the strict sense, which includes achieving operational excellence of enterprise performance, more specifically business operations,
2. Digital Transformation in a broader sense, which implies rapid business innovation, most often associated with a change in the business model by which the company operates.

In order to avoid detrimental strategies, whether feasible or not or leading in the wrong direction and inevitable destruction, it is necessary to understand the scope of the digital transformation. To avoid this scenario among the requirements are the clear understanding of the context, the relationship between individual elements of the system and/or changing environment, and the finding of quantifiable parameters that define the transformation or its outcome. With this in mind, for most of the standardized business sectors, there are orientation solutions, within designated software platforms designed for company evaluation and validation, as well as the surrounding environment, products, services, and value perceived by to the end-user. The application of the above-mentioned solutions and the constant pursuit of new and more efficient transformation paths is a task assigned to controllers and business strategists. The goal is to enable the company to survive the existing crisis and transform according to the requirements and needs of a new business environment that is spontaneously being introduced by novel disruptive technologies and business models based on the same.

According to the main scope within which we should start and implement the digital transformation, the uncertainty of the direction the digital transformation process will take is conditioned by the responses to the following questions:

- What will happen to the industrial sector that constitutes the business environment within the company operates?
- What actions will the company's management take and at what time? What short and long term measures will be implemented and how will they affect the business performance? (What are the desired effects?)
- How will the company's management and employees know if and when they succeeded in the processes of digital transformation? (How to define the success criteria based on company performance outcome?)
- Who will own the company's digital transformation process, its respective processes, products and / or services? (Why, by name, will be responsible and have the authority and skills to execute the change, making level based decisions?)
- Where will the company invest its funds, under what conditions, whose funds and which funds?

Defining the questions and providing the answers, constitutes a rough strategy definition, so that all possibilities for transformation that are for any given reason inaccessible to the company, or are not identified as relevant by the management and strategy and controlling team,

are rejected. The controller function role in defining the strategy is more than obvious, given that the controller is defining the scope for the implementation of the digital transformation process (verifying the feasibility preferred strategy before its execution) through the development and verification using scenario modelling.

Digital transformation, in simpler terms, can be defined as, in order to assess feasibility at the enterprises level, with the following quantitative and qualitative parameters:

- A company defined with a diagnosis, a defined strategic ambition, and unique value offerings for their respective customers.
- The market is defined by competitors, supply and market forces.
- Service or product users are defined by their numbers (total number of customers), intentions and tasks that they want to complete using the same products and services.
- The company's available resources for the transformation are defined by the available time, staff (but also in other ways available talents), and money.

When defining a digital strategy two key issues are often ignored that are a must as strategic alternatives. For a company to succeed in the digital transformation, irrespective of size or form or ownership, it is necessary to have a clear direction in market positioning (both in the present and desired in the future), and to identify the engines of growth and development that can be used to in the process of digital transformation. Knowing these two characteristics of business enterprises, an agile assessment of strategic options and their values must be performed, otherwise, the development strategies and their respective operational efficiencies will significantly deviate from the expected outcome.

2. COMPANY STRUCTURAL ANALYSIS AND OPERATIONS FROM THE POINT OF NEED AND LIMITATIONS OF DIGITAL TRANSFORMATION

The wished outcome of the digital transformation is to achieve operational excellence and the maximum effectiveness of a techno-economic system. In order to achieve this goal, it is necessary to optimize the organization and processes from a function point of view, in which are noncritical and inefficient processes are outsourced, and used as a service only when and if needed within the new business system. The underlying idea of a multitude of business models in a post singular economy, the emerging economic system after the completion of all the digital transformation processes, is the omnipresence of automation and techno-economic optimization at the subsystem level, where the business system operations are demanding a function of the complex optimum.

This drastically differs from the currently common practice of building businesses and economic systems, which are to a large extent self-sufficient, often horizontal, thread and organized into vertical techno-economic silos, constructed to optimize the main (carrier) technology feature that allows the achieved all other functions of the goal, therefore the reason of the companies existence.

System theory states that no local optimum (maximum or minimum), complex function, can be a global optimum (e.g. maximum) of the same. It is clear that such systems are not technologically, and therefore not economically sufficiently efficient. It is, therefore, due to the emergence of disruptive technologies, that drive the digital technology transformation, complex systems tend to be replaced and become fully automated systems, that would tend to locate the function optimum (maximum or minimum of the objective function) on an ecosystem level, in which they exist and perform their business functions.

To enable the optimum, it is necessary to transform the company and focus on only the production of just one value, which is important to the end user of the product or service, eliminating all others. While this is similar to Toyota's model of waste elimination and JIT at an ecosystem level, there are also important differences among the business architectures from the past and those that require the process of digital transformation. With this problematic in

mind, the research presented within this paper will attempt to show the architecture, reasons and limitations that lead into the process of digital transformation.

One of the most commonly used methodologies for defining a company’s digital transformation is the design by consideration methodology. The basic steps which define and structure of digital transformation company according to this methodology are shown in the view (Figure 1).

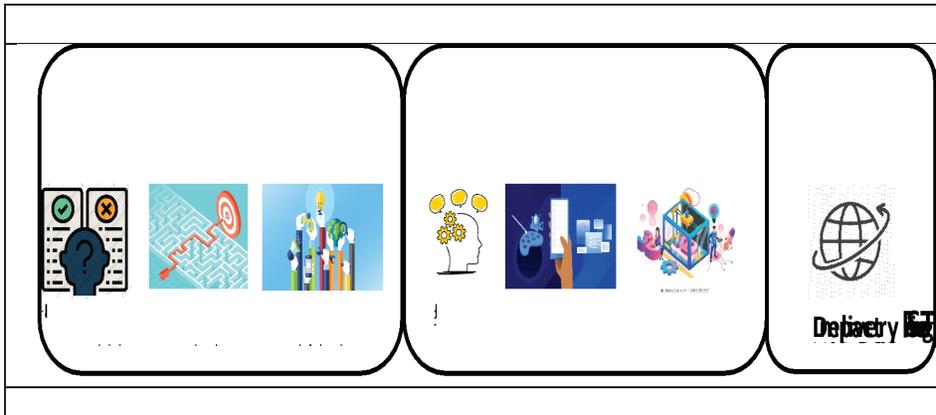


Figure 1. The steps in the design and strategy evaluation of the digital transformation. (Authors)

2.1. The company architecture and use of TOGAF methodology for defining the enterprise architecture, as a precondition for the digital transformation of business enterprises

Standard *The Open Group Architecture Framework (TOGAF)* provides an industrial framework for designing and verifying the architecture of a business organization. The architecture of the business system is one of the most important elements of the business structure that will be reviewed during the process of digital transformation, as well as adapted to the changing needs of the new business. The architecture of enterprises is the key to the success of digital transformation, because it both connects company long-term strategies with their implementation and operationalization, and serves as inspection system that evaluates the implementation plan using the architecture from the scenario model.

The goal of the architecture is to optimize often fragmented or archaic processes into an integrated environment that is a response to induced changes and represents a support mechanism for delivering business strategy goals. The architecture defines the system as a whole but not as a group of unrelated entities. Also, the system architecture is a method for designing the target state of the system and a set of recommended standards within which the business system should move.

Before a company initiates the process of defining a new business architecture based on a new business model and the need to transition to it, it is necessary to clearly determine the capabilities of the organization to define and create its own architecture. In this segment, the most important contribution is provided by the strategist, quanta, controllers, and even business developers and business analysts, given that the holders of these specific skills and functions lies the responsibility for the success of the process of digital transformation, and it is these individuals who should define and structure the business system architecture.

Companies which are attempting to perform a digital transformation generally rely on TOGAF standard that is as a fundamental method of defining the system architecture used in particular for this standardized model. It is known as the model for architecture system development

consisting of nine stages, throughout which one manages requirements as well so that the system becomes optimally efficient. The existence of this formal methodology greatly facilitates some important structural changes that occur during the digital transformation.

2.2. Scenario planning

The method of planning future events through scenario analysis was developed by Royal Shell in order to be able to adjust its business in conditions of uncertainty (oil price variations), with the needs of the market, in order to optimize the goal function (profit maximization). This method of analyzing future events and respective responses is shown in the figure below. The scenario planning method is similar to the techniques used in the software industry and agile methods. This method can be presented in five consecutive phases:

1. The problem decomposition phase, in which the problem is simplified and exposed to achieve a sufficient level of focus the problem itself and not on the system, its parts or the context as such. Defining a clear business model - a formal description of working methods, practices and conditions.
2. Risk overview, deadlines and expected outcomes of the problem. It is very important to define and examine the key uncertainties that address important changes and their respectful impact on the system. At the same time, those uncertainties are of a contextual nature and must also be taken into account ((originating from the environment and defining the environment))
3. The development of a story scenario as an alternative to the main business hypothesis we set out earlier. For each alternative, it is necessary to develop an alternative story-line and a corresponding business hypothesis.
4. We develop a strategy that is consistent with the alternative story-line and respective business hypothesis.
5. We compare the trajectory, energy and material consumption, the required level of information and data, and the outcome for each alternative and search for the one that best meets the goal function for the new business system.

Looking into possible strategies in the digital transformation of companies and their evaluation is accomplished by using a matrix with inherent values of shipments delivered to users, and the capabilities and limitations of the business system. An example of a simpler analysis of this type for small manufacturing enterprises is given in the following presentation (Table 1).

Table 1. Scenario vs. Strategy (Authors)

STRATEGY	SCRIPT			
	Market saturation	The challenge of imports	Possibility of export	New added value
The firm is striving to capitalize on growth in new markets	Focus only on safe possibilities	Focus on the existing market	Examine new possible export markets	Examine new export markets
The company is developing a new product line	Check products that are grouped around the lowest satisfactory quality on the market	Examine value-added products and low-quality products	Examine export products in the product class on the market of the lowest satisfactory customer quality	Added value for quality products
The company is building a new management team	Focus strongly on customer service and contract sales	Focus on accepted sales, customer service and staff training	Focus on sales, product marketing, team training	Focus on sales, staff training and product marketing
The company is trying to improve and enhance its business system	Focus on a system that will eliminate costs	Focus on a system that will eliminate costs and increase customer satisfaction	Focus on systems that enhance user experience and sales	Focus on customer satisfaction, service and sales systems

For each field in the table, one must create a story-line scenario according to which the system will be tested both on the feasibility of the given strategy (necessary changes, amount of investment, time) and on its efficiency in case of feasibility.

To accomplish this it is necessary to look into the business of the company through the prism of its products, services and opportunities to produce and deliver something in a certain quality at a satisfactory price. In this sense, we must define the digital offer as an intersection between what is technically possible and economically viable to deliver to the customer or user, and the needs and desires of the user in relation to the products or services that the company offers.

It is important to note that due to rapid changes in the context and the environment, possible strategies can be tested within a relatively limited time-frame that can never exceed one economic cycle, although the recommendation is to test strategies that give their results for a maximum three years

3. ORGANIZATION AND INFRASTRUCTURE PREREQUISITES NECESSARY FOR THE SUCCESSFUL IMPLEMENTATION OF DIGITAL TRANSFORMATION

The most significant change (Vuko and Ojvan 2013), that takes place in enterprises during the digital transformation, is the automation of business processes. Hence a significant number of analogue interactions are transferred to *the cloud* environment, and the rest relies on dedicated infrastructures designated within companies and acting as internal services. The digital transformation uses data coming from users and business processes, with the intent to improve the company's business to the point of becoming exceptional, within the sector it operates.

Hence the entire company business of the follows the fast, high-quality and continuous flow of value creation that the user perceives through the use of respective services and products (Simić 2015; Šljivić and Skorup and Vukadinović 2015; Verburg et al. 2017). To achieve this goal, in addition to the necessary technology of physical and chemical processing of semi-finished products and adding value, companies must develop systems for predicting consumer needs, which can be derived from user behaviour data. This is especially true for data pertaining to the user experience and the manner the product or the service provided by the company is used. To obtain such data and utilize them in the best way imaginable. The company must create a digital infrastructure for collecting and processing data. It has also the alternative to move this data processing operation to cloud environments gaining constant accessibility, safety and efficiency.

Therefore it is necessary to develop appropriate critical infrastructure that could be outsourced to other companies but which must be continuously available to the company at all times. Also, during the implementation of digital transformation, there is a necessity to standardize the data, their assigned location, methods of access, security, operational mechanisms, and enable interoperability between various internal and external processes. Within the same, the system must be able to create new value through the business processes themselves, but also through external processes that only use the collected user data.

The digital transformation as such, as well as the future operations of the enterprise, is carried out using the operational a critical company infrastructure, which represents the backbone of corporate business, which further comprises of the following structurally arranged elements and their relations:

- Standard processes,
- Shared data,
- Shared applications,
- Technology sharing,
- Corporate network and infrastructure services

The significant advantage of automation and automated business processes is that they are not confined within a vertically hierarchical arranged business-technical silos. By standardizing

and creating readily accessible data infrastructure, the company is able to create value outside the company itself, by sharing jurisdiction and operations over data from other silos. This is an especially interesting *modus operandi* for "Smart Cities", where the opening of the city's data enables enterprises that are digitally transformed to operate beyond their traditional business sectors, thus profiting in several aspects and proportional to the "Big Data" scope while minimizing business risk.

From the point of atomized business processes, it is clear that the function of controlling the business in the process of digital transformation will induce significant changes that need to be followed in lock-step to the tune of the parent company. This further argues that the business controlling function is increasingly moving from the classic purpose, predicting the future and adjusting business based on management signals derived from management accounting, and increasingly moving into the domain of technical technology business. This leads to the conclusion that that controllers themselves must master this knowledge to stay relevant and up-to-date for their basic business role, that is, the function of management adviser.

4. LIMITATIONS OF ENTERPRISE DIGITAL TRANSFORMATIONS AND THE ROLE OF THE CONTROLLING FUNCTION IN OVERCOMING THE LIMITATIONS OF HIGH-SPEED DIGITAL TRANSFORMATIONS FOR ENTERPRISES

In today's world, we see the processes of the digital transformation of enterprises (Tešanović and Kukobat and Šobot and Grivec 2019), in many societies, most noticeably in public enterprises or state institutions that are potentially perceived as a special type of threat to the existing social order. This perception is due to the changes that need to be implemented by the existing institutions. The changes will push them beyond what is their current recognizable structures, contexts, and operations, requiring from the institutions 24/7/365 availability through a multitude of channels, at a much higher level of efficiency and transparency, as well as providing unique user experiences. One can understand their stance since these are not characteristics or competencies of existing structures, on top of which there are dematerialization demands in parallel.

Also, when it comes to the digital transformation of private enterprises, it is noteworthy that it is often impossible or at least significantly impeded due to lack of appropriate legal frameworks or legal-economic ecosystems. It is for these reasons the enterprise strategies in respect to the digital transformation must be planned well in advance so that they can adapt to the new environment in which they need to operate in the near future. This means that the implementation of new technologies on the market and business models be accompanied by changes in the regulatory environment in which enterprises operate. The critical role in this synchronization process is owned by the strategists, quanta, business analysts and controllers, who must find ways to convince legislators of the need for changes, as well as the preparation of a best possible framework for the development of the digital economy in which enterprises conduct their business.

Specific limitations in regards to the implementation of the digital transformation, in the Balkan region, could represent an overall lower level of ability to gain new knowledge and technical skills, in particular the low level of technical discipline, which is necessary in order to digitally transform and move away from established practices. Since the skill level of the workforce, in general, and specifically technical, is crucial for the digital transformation, Deloitte assigned this characteristic a key role in the transformation process (Duvnjak and Babić 2014) at the level of the national economy. According to Deloitte analysts, the lack of or low level of, general and technical knowledge could lead to massive fallout during the processes of transformation in small and medium enterprises within the national economies, which can seriously disrupt the same (Duvnjak 2018).

5. RESEARCH METHODOLOGY

5.1. Research Methods and Instruments

The conducted research is both quantitative and qualitative. The quantitative research was conducted through a questionnaire in which the first part of the questions referred to the company's basic business data in which the respondent is employed, while in the second part a group of dependent variables was examined by means of questions and claims, which were evaluated on the Likert scale. The above-mentioned statements examined the respondent's opinion on the state of the controlling function in their respectful companies.

5.2. Research Aim

The aim of this research is the examination of the respondents' opinions on the impact and importance of the basic factors of the formal controlling function in the company, as well the consideration of the possibilities for fulfilling the stated conditions in the company. Also, the aim of the qualitative research was to investigate what paradigm is prevailing in the local businesses regarding the function, elements of control and the approaches to operationally applying the function in companies located on the territory of Bosnia and Herzegovina.

5.3. Research Hypotheses

Hypothesis H0: The perception and paradigm for the business controlling function in companies in BiH differ significantly from what the formal features and elements of this business function are.

Hypothesis H1: Management and employees consciously and unconsciously publicly present their companies differently from the facts.

5.4. Sample Research

This research was conducted on the territory of Bosnia and Herzegovina during the 2019 (March-November). A total of 48 respondents participated in the research, from 36 economic organizations, and have the following distribution in terms of size and number of employees: 33.3% of respondents came from companies with less than 10 employees, 16.7% of respondents came from companies with between 10 and 49 employees, 33.3% of respondents came from companies with between 50-249 employees, while 16.7% of respondents came from large companies with over 250 employees. Respondents came from companies that had the following distribution of turnover realized in the previous year (2018): 58.3% of surveyed companies had a turnover of less than 4 million KM, turnover in the range of 5 to 50 million KM had 33.3% of respondents, while 8.3% of companies had a turnover of more than 51 million KM.

During the course of the research, a total of 48 questionnaires were collected, which were statistically and logically processed. Descriptive analysis was used for data analysis. Since the initial raw data analysis showed significant discrepancies between the control group questions and basic questions about the independent variables, an additional set of qualitative interviews was conducted with 12 individual's representative of their enterprise in respect to the controlling function. The research was conducted by interview during a lecture at the Controlling Academy 2019. We also used methods of checking logical consistency, understanding the gap, deep insight as well as tools for determining the company position from the structural readiness point of view for the implementation of the controlling function in companies.

6. ILLOGICALITY IN ANSWERS CONCERNING THE FORMAL ESTABLISHMENT OF THE CONTROL FUNCTION IN COMPANIES IN BIH

To the question: "Is there an introduced controlling function in the company?", 83.3% of respondents answered that this function formally exists in their company, while 16.7% of them denied the existence of any form of organized controlling function in the company. All respondents whose replies were positive when asked whether controlling was introduced in the company, confirmed that there are individuals within the enterprise who are formally in charge of the controlling function. Only one company, large in size, had a controlling department. This statistical distribution spoke in favour of our ability to collect and process data, but after checking the answers to the control questions, that were an integral part of the questionnaire, it became clear that either the respondents did not understand the questions about dependent variables, or consciously gave inconsistent answers. Precisely for these reasons, it was decided to conduct an additional qualitative analysis by interviewing 12 individuals that were attending the controlling academy at that time, all working for their respective employers. This allowed us to do a logical check of the meaning and causality of certain answers obtained during the research. Based on this analysis, it was concluded that most respondents, as well as company management, have incorrect paradigms and ideas about what the controlling function in the company is, and what it serves for. The phenomenon that was observed manifested itself in the fact that respondents expressed affirmatively regarding their companies capabilities even when they were aware they are providing false and misleading answers.

6.1. Misconceptions, beliefs and associated risks

In order to further examine the representation and operational application of the controlling function in companies, it was necessary to make a deeper factual review of the situation. The goal was to determine whether the perception of management and employees matches the formal requirements that must be met, in order to be able to state that the function of controlling is both institutionally and organizationally represented. Such "Deep Dives" into the data (due diligence) are common both during the in-depth inspection of companies for market value assessment and, according to the requirement to understand the market position of companies, is often one of the primary tasks assigned to controllers. By applying the easy-to-use tool on the data set we gathered from the company's representatives, we were able to identify what the business paradigm is as well as the position and the role of controlling within the given paradigm in the company respectfully. This allowed us to identify a large number of distribution companies that have formally appoint a person or team to the function of controlling, yet they do not understand the function itself and do not know the formal requirements in practice or theory, thus cannot implement the required changes. During the examination, it became obvious that there is a mental barrier that stands in the way of correcting existing wrong paradigms, especially if their correction would require work and resources above a certain threshold perceived as appropriate. The height of this threshold largely depends on the position of the company in the market and has a tendency to decrease as the market position of the company deteriorates.

After the questionnaire, an additional survey was conducted on the same employees that are in charge of the controlling function in their respectful organization. We came to the following representation of the mental opposition, whether and how the controlling function is established by the individual assigned to the respectful role. In the figure below (Figure 2), a distribution plot of frequencies in respect to the implementation and application of individual controlling elements is visualized. The data was provided by company representatives, who claimed to have implemented the controlling function. The plot clearly shows that in a significant number of companies either there is little or no controlling function or, more likely, the management of these companies does not possess even the basic knowledge and skills in the required areas. In

order to create a better perception and public opinion of themselves, they then consciously present incorrect information in surveys.

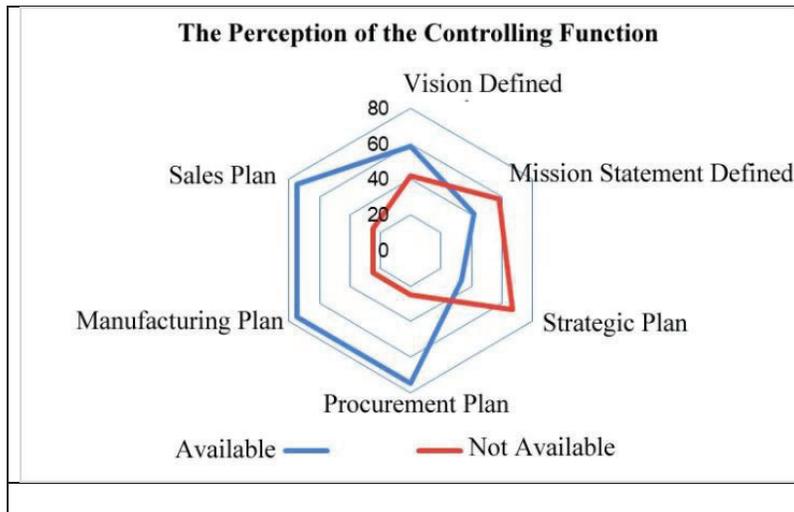


Figure 2. The difference in the perception of the concept of controlling and the fulfilment of formal requirements for the implementation and operational functioning of the controlling function in companies in BiH. (Authors)

From the above plot, it is obvious that in economies and societies that are primarily of a redistributive nature, such as economies derived from the economy former SFRJ, there is a significant discrepancy between the formal nominal and current state of enterprises. Namely, the internal perception of management and employees is not based on measurable and verifiable facts but is based on personal beliefs and desires of management and owners. This is a very dangerous *modus operandi* that Professor Dragan Milošević summarized in his economic observations: “*The company grows and develops to the limits of mental abilities of owners and / or top managers*”, it becomes clear that this situation cannot be long-term sustainable and that if no changes are undertaken by most companies, they will disappear from the market in the foreseeable future.

This is becoming more evident as we focus our attention on structural illogicalities we observed in the received responses, provided by the management in charge of the controlling function in the surveyed companies. Namely, the success of a company depends, according to classical economic theory, on the actions of a rational agent. In other words, classical economics is based on the idea of the existence of closed, relatively isolated systems, within which homogeneous isolated agents operate, making rational decisions about what to do, leading to a static, difficult-to-change output at the macro level.

With this in mind, the following must be taken into account. The aggregate model of a system; a system viewed as an aggregate of several subsystems composed of interactions and results of interactions of different agents. Within this model, the agent represents the mean value of a system function. Agents are limited by rationality (in terms of their rational action) due to lack of information, that is, lack of information they are able to possess, cognitive limitations of the human mind (the mind of a foreign organ) and time available for decision making. Agents do not have all the necessary information, nor can they process and calculate it at any given time, so "rationality" in decision-making at the agent level is not always applied consistently and completely in decision-making. Therefore it is very important to verify whether the company has the necessary mechanisms and tools for collecting and processing contextual business data, as well as processing internal data and processes, which are necessary to assess the state and position of the company that defines the starting point of each strategy in operational decisions.

Hence the facts about the state of ICT and other subsystems, whose primary role is the collection and processing of raw data to create valid action insights which are the essence of modern business management, were investigated for all companies within the data set. Through empirical research, “Does the company have a business information system for data processing and reporting?” the following findings were obtained (Figure 3).

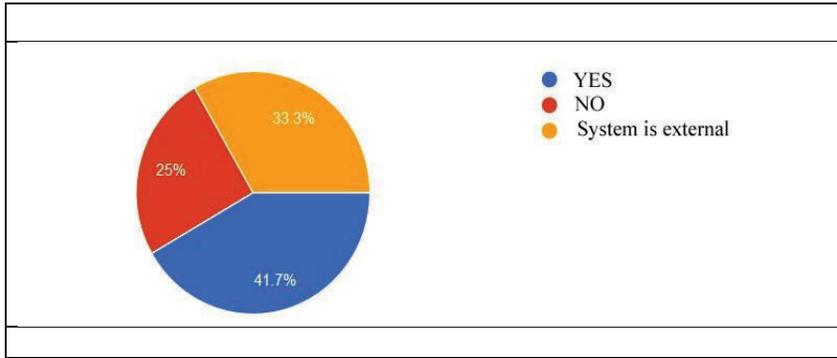


Figure 3. The observed state of the company's readiness to collect and process information relevant to business from the external and internal segment. (Authors)

Further, the examination and statistical processing of the answer to the question: “Is the company reporting from the existing business software (ERP or second-class software)?” is shown in (Figure 4).

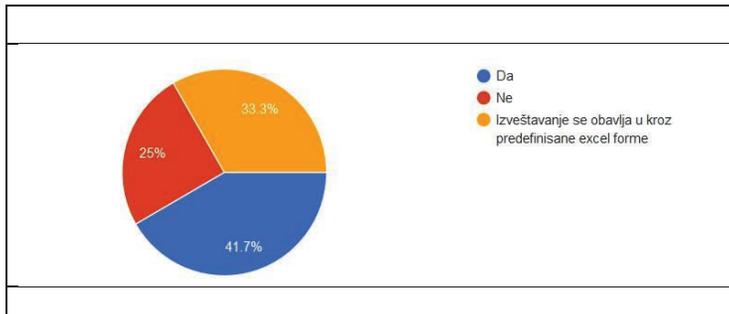


Figure 4. Method of reporting from existing business software (ERP or second class software). (Authors)

If we divert our attention to the structural illogicalities found within the managers' responses of, it is easy to deduct that the controlling function in the company is not only misperceived, but systematically given the wrong place and role. It is designed to be a marketing advantage when and if the company is appraised, but not considered a serious tool, which can contribute to good business management. Considering the conditions of great uncertainty in the market occurring after the COVID-19 pandemic and which will be part of the business environment in the foreseeable future, applying these tools would be of considerable value due to the structural stratification of the world economy. The extent of the discrepancy between what is presented in public and the factual situation within the company, whose representatives claim (Figure 5) to have an introduced control function is best shown by the imbalance between the expected and actual results of the research. Namely, more than 83.3% of companies, according to their representatives, do not control investments, which indicates that there is no systematic approach

to investment management, which again clearly shows that investment success depends on the gut feeling and market insight of investors rather than structural tools for investment management.

If we accept the correlative nature of investment management and the future company income, it can be *de facto* accepted that there is little to no systematic effort being undertaken to understand the future needs and guiding towards future goals. This being the fundamental and basic function of controlling, it raises the question: “How is the controlling function implemented if there was no effort invested in systematically understanding and implementing the basic business functions?”

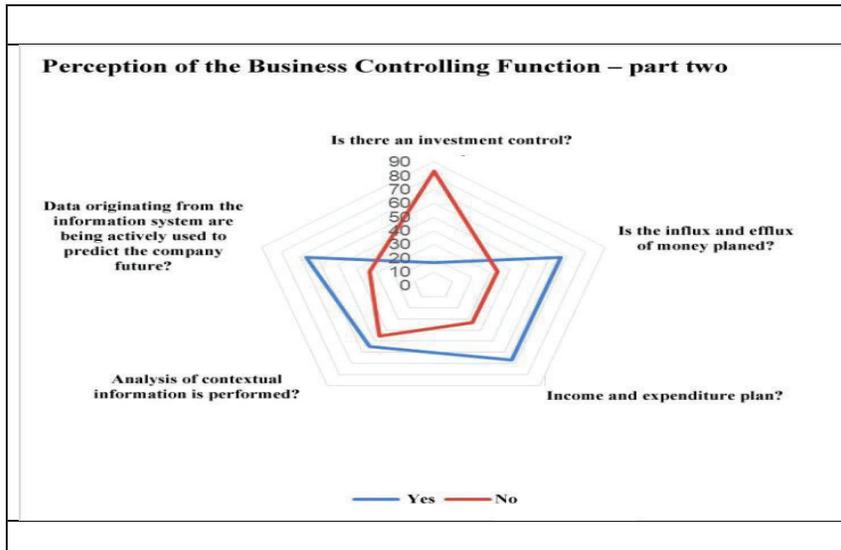


Figure 5. The difference in the perception of the concept of control, and the fulfilment of the formal requirements of implementation and operation of controlling the operating functions in the company B in the Bosnia and Herzegovina - Part II. (Autori)

Analyzing now the above presentations of the research, we see that the controlling functions by the management, but also formally in charge of the controlling function in companies are not understood, and understood rather vaguely without clear criteria that in the perception of controllers in these BiH companies could serve as criteria for validation or rejection of statements on good implementation and operational work of the controlling function in these companies. In other words, the above graphs clearly show that the logical and quantitative conditions that are from the first hypothesis are satisfied, thus confirming it. Namely, it is obvious that the perception and paradigm for the business controlling function in companies in BiH differs significantly from what the formal characteristics and elements of this business function are. The point is that management has a different perception from what the science of controlling says about these issues.

Also, it is clear that the results of the survey questionnaire, the result of a desire to the enterprise from which the respondent evidence and how to display it in a better light but deliberately circumvent structural illogical, which leads to the respondent parent is attributed to those skills and entities that *de facto* do not exist in the business of the same (as well as institutionally or organizationally at the level of the same). This obviously shows another claim because it is trivially easy to show that the opposite claim is not true, so it is obvious that management and employees consciously and unconsciously publicly present their companies differently from the facts, that is, much better than their real situation.

7. CONCLUSION

Based on all the above-covered topics in this paper, one of the influencing factors contributing to the market lag of the BiH economy with respect to the world market is clearly identified. The analysis shows that both the employees and the management, employed in companies located on the territory of Bosnia and Herzegovina, have different opinions regarding the formal characteristics of the controlling function, and they differ greatly from what is the industry normative. Thus they are consciously and unconsciously misrepresenting the company's current state and are not reporting the true factual state.

This consequently means that there is a lack of institutionally driven and organized systematic consideration for the future of the controlling businesses functions. It is left to the companies and individuals themselves to choose the direction of development, and it is dominated by personal preferences and perspectives of the owners and top management, rather than a group of organized and harmonized business enterprises with a focus on market trends. Since this is the case, we find it for necessary to consider a systematic approach by which the management, as well as the owners of capital in Bosnia and Herzegovina, would be able to master the basics in the field of controlling, the world's most commonly used and applied methodology for assessing a business's future and managing the same. For this task, it will be necessary for institutions and companies to invest significant effort on their behalf to train staff in this area. This necessity becomes even more prevalent, not just because it represents a development opportunity for companies and the economy, but due to the recent major economic shifts caused by the COVID-19 pandemic and the survival of entire Bosnia and Herzegovina economy.

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STANJE KONTROLNOG OKRUŽENJA U BOSNI I HERCEGOVINI – EMPIRIJSKO ISTRAŽIVANJE

Rezime: *Predmet ovog istraživanja je stanje kontrolnog okruženja u organizacijama Bosne i Hercegovine, posmatrano iz ugla internih revizora, a s ciljem da se identifikuju najbolje, ali i najslabije prakse sa kojima se organizacije i interni revizori susreću u domaćem okruženju, i time ukaže na buduće pravce u unapređenju ovog segmenta internih kontrola. Istraživanje je organizovano u formi upitnika za samostalnu ocjenu, pri čemu je za ocjenjivanje korišćena Likertova skala od 11 tačaka. Iz datih ocjena se može zaključiti da se najveći akcenat stavlja na formalne strukture, dok su oni meki elementi daleko manje zastupljeni. Većina ispitanika je potvrdila da najslabiju kariku u upravljanju kontrolnim okruženjem predstavljaju najviši organi upravljanja (odbori). Poredeći odgovore ispitanika iz različitih sektora, zapažamo da upravljanje kontrolnim okruženjem, uključujući i njegovu reviziju, ostaje pod snažnim uticajem zakonske regulative i obaveza koje organizacije i interni revizori imaju u tom pogledu. Iako je istraživanje pokazalo da postoje slučajevi primjene najboljih praksi, dubinska analiza rezultata istraživanja, kao i neformalni razgovori sa internim revizorima, ostavljaju utisak da nivoi znanja, iskustva, interesovanja i svijesti u BiH nisu na nivou koji je potreban da bi se shvatio značaj korporativne kulture i da bi joj se pridala dužna pažnja kako od strane rukovodstva, tako i od strane većine onih koji se bave njenom ocjenom i unapređivanjem.*

Ključne riječi: *kontrolno okruženje, najbolje prakse, interni revizori, samostalna ocjena*

JEL klasifikacija: *K23, M14, M49*

UVOD

Kontrolno okruženje, takođe poznato i kao korporativna kultura, predstavlja temelj COSO-ovog modela *internih kontrola* (COSO 2013, 4), kao i COSO-ovog modela *upravljanja rizicima preduzeća* (COSO 2004, 3). Koliko je kontrolno okruženje bitno govori i činjenica da se brojni autori i stručnjaci slažu da se dio krivice za finansijsku krizu iz 2008. godine, kao i druge poznate korporativne promašaje u 21. vijeku, sasvim sigurno može pripisati nedostacima kontrolnog okruženja (Clayton i Scroggins i Westley 2002, 15-16; Ho 2009, 177-189; Sabri 2013, 141-146; Oke 2015).

Polazna tačka u kreiranju kontrolnog okruženja je, svakako, donošenje formalnog (pisanog) okvira sa jasno definisanim strukturama upravljanja koje počivaju na nedvosmislenim i jasno saopštenim vrijednostima i procedurama. Ali, postojanje pisanih uputstava, procedura i priručnika nije dovoljno, jer njih treba primijeniti. Svi organizacioni nivoi, kako rukovodstvo, tako i osoblje, moraju da razumiju, prihvate i pridržavaju se ovog zadatog okvira. Stoga je nužno uzeti u obzir i više neformalne, bihevioralne aspekte koji se tiču vrijednosti, uvjerenja, stavova i ponašanja ljudi, a koji predstavljaju meke kontrole ugrađene u kontrolno okruženje. Prema nekim istraživačima (Hitt i Haynes i Serpa 2012, 439), jedan od prioriteta strateških lidera u 21. vijeku će biti razvoj i održavanje zdrave organizacione kulture koja stavlja naglasak

na ključne vrijednosti kao što su inovacija, učenje te vrednovanje ljudskog kapitala i timskog djelovanja. Za razliku od prethodnih, današnji istraživači vjeruju da se organizaciona kultura može iskoristiti za postizanje konkurentne prednosti, efektivnog rada i produktivnosti zaposlenih (Rashid i Sambasivan i Johari 2003, 708-728; Tharp 2009, 2). Mnogi drugi istraživači tvrde da je snažna organizaciona kultura primarna determinanta u stvaranju bolje organizacione uspješnosti i održive konkurentne prednosti (de Waal 2010, 5-33; Shahzad i saradnici 2012, 975; Xiaoming i Junchen 2012, 31-32; Owoyemi i Ekwoaba 2014, 168). Prema tome, bez snažnog i efektivnog kontrolnog okruženja nema ni efektivnog sistema interne kontrole, kao ni dugoročne i održive uspješnosti organizacije (Stojanović 2015, 16).

Cilj ovog istraživanja je, između ostalog, bio da se: (1) *stekne uvid u stanje kontrolnog okruženja u domaćim organizacijama*; (2) *identifikuju najbolje i najslabije prakse*; te da se (3) *ponude preporuke za jačanje kontrolnog okruženja u Bosni i Hercegovini (BiH)*. Istraživač je na početku svog istraživanja pretpostavio da: (a) većina organizacija u BiH *nema jasno definisane i kreirane elemente kontrolnog okruženja*; te da (b) *postoji razlika između organizacija javnog i privatnog sektora*, koja proizlazi iz različitog zakonskog regulisanja i zahtjeva koje regulatori postavljaju.

Istraživanje je pokazalo da postoje svijetli primjeri koji primjenjuju najbolje prakse i koji se ozbiljno bave upravljanjem i ocjenom kontrolnog okruženja. Međutim, postoje i značajne razlike u ocjenama među organizacijama različitih sektora (javnog, finansijskog i sektora privrede), koje su posljedica različitog zakonskog regulisanja, ali i među organizacijama istog sektora, a koje proizlaze iz različitog nivoa znanja, iskustva, interesovanja i svijesti kako rukovodilaca, tako i internih revizora o značaju korporativne kulture i kontrolnog okruženja.

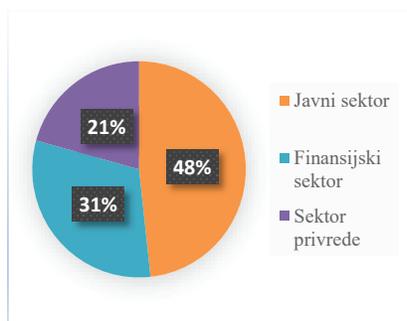
1. METODOLOGIJA ISTRAŽIVANJA

1.1 Populacija i uzorak

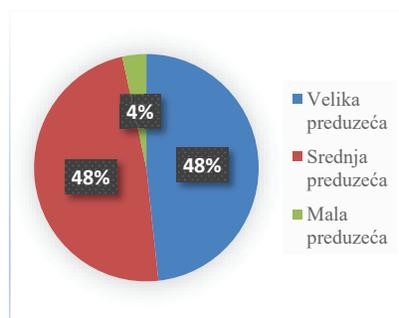
S obzirom na to da ukupan broj organizacija u BiH nije moguće precizno utvrditi te da se taj broj stalno mijenja, ukupna populacija predstavlja otvoreni ili beskonačni skup. Stoga, populaciju čini podskup osnovnog skupa, tj. organizacije koje imaju uspostavljene funkcije interne revizije čiji je zadatak, između ostalog, i da ocjenjuju stanje kontrolnog okruženja u svojim organizacijama. Ispitanici su većinom bili članovi Udruženja internih revizora u BiH, koji su zaposleni u organizacijama na čitavom prostoru Bosne i Hercegovine, u sva tri sektora obuhvaćena istraživanjem (javni, finansijski i sektor privrede).

Upitnici su distribuirani na 260 adresa, od čega je svega 30 internih revizora (11,5%) odgovorilo na poziv i uzelo učešće u istraživanju. Ovako dobijeni uzorak se zove *prigodni uzorak* (sačinjavaju ga raspoložive jedinice skupa). Problem sa ovakvim uzorkom je, između ostalog, u: njegovoj reprezentativnosti; većina članova „ciljanog“ osnovnog skupa (sve organizacije u BiH) nema nikakve izgleda da bude uključena u uzorak (jer nisu ni bili obuhvaćeni istraživanjem); ostaju nepoznati smjer i veličina razlika između vrijednosti, koja je nađena ispitivanjem uzorka i vrijednosti koja važi za cjelokupni osnovni skup te nema mogućnosti da se izračuna greška uzorka. Međutim, dobijeni uzorak ima i neke karakteristike *prostog slučajnog uzorka*, jer je svaki član podskupa imao jednaku priliku da bude uključen u uzorak, a to je zavisilo od njihove vlastite spremnosti da pošalju popunjen upitnik. S obzirom na malu veličinu uzorka i problem reprezentativnosti, rezultati istraživanja su prezentovani fokus grupi i prodiskutovani sa pojedinim internim revizorima, čime su dobijeni rezultati dodatno provjereni i potvrđeni.

Istraživanje je bilo organizovano kao anonimno, ali je od ispitanika traženo da navedu kom sektoru pripadaju njihove organizacije (javni, finansijski i sektor privrede) i koje su veličine organizacije (velike, srednje, male). Naredna dva grafikona prikazuju strukturu uzorka po sektorima i veličini organizacija, čiji su interni revizori učestvovali u istraživanju.



Grafikon 1. Učešće pojedinih sektora u istraživanju (Autor)



Grafikon 2. Učešće organizacija različitih veličina u istraživanju (Autor)

1.2 Skala za ocjenjivanje

Istraživanje je organizovano putem upitnika za samostalnu ocjenu kontrolnog okruženja, pri čemu je ocjenjivano njegovih pet segmenata. Svaki od segmenata se ocjenjivao kroz niz pitanja od kojih svako pitanje predstavlja neku od najboljih praksi, a ispitanici dodjeljuju ocjene od 10 do 0 koje označavaju stepen usklađenosti sa datom praksom.

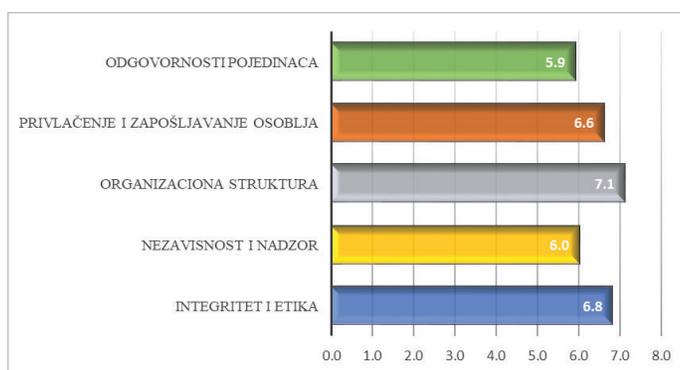
Ocjenjivanje se zasniva na Likertovoj skali od 11 tačaka, pri čemu se ocjena 10 daje za potpunu usklađenost (slaganje), a 0 za potpunu neusklađenost (neslaganje). Istraživanja su pokazala (Shing-On 2011, 412) da više tačaka na skali omogućava da se smanji iskrivljenost u nalazima, tj. njihova asimetričnost, jer rangiranje od 0 do 10 ima najmanji kurtosis, obezbjeđuje veću osjetljivost i najbliže je normalnoj distribuciji. Takođe, upotreba ove skale se preporučuje prilikom izvještavanja o samostalnim ocjenama što je slučaj u ovom istraživanju.

2. REZULTATI ISTRAŽIVANJA I OCJENA KONTROLNOG OKRUŽENJA

Kontrolno okruženje u BiH je ocjenjivano kroz pet elemenata:

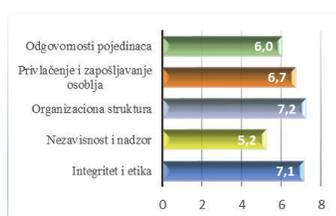
- Integritet i etika;
- Nezavisnost i nadzor;
- Organizaciona struktura;
- Privlačenje i zapošljavanje osoblja;
- Odgovornost pojedinaca.

Prosječne ocjene za svaki od elemenata su prikazane na Grafikonu 3. Kao što se može odmah zapaziti, najviše ocijenjen element je „Organizaciona struktura“, dok su najniže ocijenjeni „Odgovornost pojedinaca“ i „Nezavisnost i nadzor“.

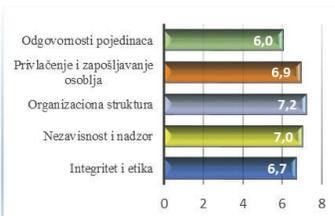


Grafikon 3. Prosječne ocjene elemenata kontrolnog okruženja (Autor)

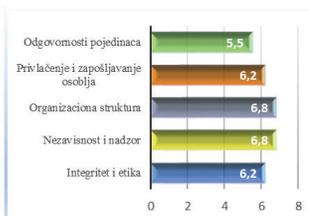
S obzirom na to da se u ovom istraživanju krenulo od pretpostavke da postoje razlike u statusu kontrolnog okruženja među organizacijama iz različitih sektora, takođe je izvršena i uporedna analiza ovih elemenata po sektorima (javni, finansijski i sektor privrede). Grafikon 3 prikazuje kako su organizacije iz različitih sektora ocjenjivale pojedine elemente kontrolnog okruženja.



Grafikon 4. Prosječne ocjene javnog sektora (Autor)



Grafikon 5. Prosječne ocjene finansijskog sektora (Autor)



Grafikon 6. Prosječne ocjene sektora privrede (Autor)

2.1 Ocjena elementa „Integritet i etika“

Prosječna ocjena za ovaj element kontrolnog okruženja, za ukupan uzorak, iznosi 6,8. Poredeći ovu ocjenu među sektorima, može se zaključiti da je ovaj element najviše ocijenjen od strane javnog sektora (7,1), nešto niže od strane finansijskog sektora (6,7) i najniže od strane sektora privrede (6,2). Ove razlike u ocjenama imaju smisla, jer se od organizacija koje pružaju javne usluge građanima i očekuje viši nivo etičnosti i integriteta. Osim toga, one su i pod nadzorom vrhovne revizorske institucije (VRI) koja ima važnu ulogu u sistemu odgovornosti, kako interno, tako i eksterno – prema građanima i korisnicima javnih usluga (Čajić Kužet i Babić 2019, 144).

Poredeći ove ocjene među organizacijama različite veličine, utvrđeno je da ispitanici, koji su zaposleni u organizacijama srednje veličine, nešto veću ocjenu dodjeljuju etici i integritetu (7,3), nego što je to slučaj sa velikim organizacijama (6,3). Ovo se može objasniti činjenicom da je u manjim organizacijama ponašanje pojedinaca vidljivije, nego u velikim organizacijama te se zbog toga veći značaj daje etici i integritetu.

Imajući u vidu varijabilnost u datim ocjenama, možemo zapaziti da većina ispitanika ocjenjuje etiku i integritet u svojim organizacijama ocjenama od 4,9 do 8,7, što znači da ispitanici daju dosta visoke ocjene ovom elementu kontrolnog okruženja. Istraživač je najviše skeptičan u pogledu ocjene elementa „Integritet i etika“ iz dva razloga: (1) druga istraživanja su pokazala

da ljudi, prilikom samostalnih ocjena, nisu potpuno objektivni kada je riječ o etici i integritetu (Grieser i drugi 2017, 2), a iz neformalnih razgovora sa internim revizorima se može izvući utisak da je ovaj element kontrolnog okruženja daleko lošiji nego što to rezultati istraživanja pokazuju.

Bez obzira na prethodno navedeno, istraživanje je pokazalo da se najveći stepen usklađenosti (na nivou ocjene 8) javlja u sljedećim oblastima:

- ✓ *Postojanje kodeksa ponašanja i/ili etičkih politika koje su adekvatno saopštene;*
- ✓ *Kodeksi etike definišu šta je ispravno, a šta pogrešno, uvažavajući lokalne zakone i propise;*
- ✓ *Članovi najvišeg rukovodstva (upravni/nadzorni odbor), novozaposleni, kao i poslovni partneri upoznati su sa značajem etike i kontrola.*

S druge strane, najmanji stepen usklađenosti se ispoljava u sljedećim praksama:

- *Prihvatljiv stepen odstupanja od usvojenih standarda ponašanja je definisan (standardi su saopšteni širom organizacije i pravovremeno se ocjenjuje odstupanje od ovih standarda);*
- *Problemi se periodično analiziraju kako bi se uočili njihovi trendovi i uzroci i, ukoliko je to potrebno, izmijenile postojeće politike, dala nova saopštenja, organizovale obuke ili uvele nove kontrole;*
- *Postoji adekvatan proces za evaluaciju učinka pojedinaca i timova u pogledu standarda ponašanja.*

2.2 Nezavisnost i nadzor

Prosječna ocjena za ovaj element kontrolnog okruženja, za ukupan uzorak, iznosi 6,0. Poredeći ovu ocjenu među sektorima, može se zaključiti da je ovaj element najviše ocijenjen od strane finansijskog sektora (7,0), nešto niže od strane sektora privrede (6,8) a najniže od strane javnog sektora (5,2). Ove ocjene su logične, jer privatni kapital ima snažnije motive da nadzire mehanizme upravljanja.

Kada je riječ o poređenju prosječnih ocjena među organizacijama različite veličine, istraživanje je pokazalo da ispitanici, koji su zaposleni u organizacijama srednje veličine, dodjeljuju nižu ocjenu elementu nezavisnosti i nadzora (5,4), nego što je to slučaj sa velikim organizacijama (6,8). Ovo bi se moglo objasniti time što je kod velikih organizacija širi jaz između funkcija upravljanja i vlasništva, ali su velike organizacije obično i pod većom lupom javnosti, a samim tim i strožijom regulacijom od strane države.

Imajući u vidu varijabilnost u datim ocjenama, možemo zaključiti da većina ispitanika ocjenjuje nezavisnost i nadzor u svojim organizacijama ocjenama od 3,8 do 8,2, što je značajna varijabilnost u ocjenama.

Ispitanici su pokazali da se najveći stepen usklađenosti (na nivou ocjene 7) javlja u sljedećim oblastima:

- ✓ *Sastav odbora (upravnog/nadzornog odbora), uključujući broj njegovih članova, njihove reference i stručnost, odgovarajući je za datu organizaciju;*
- ✓ *Odbor za reviziju ima svoj pravilnik (povelju) kojim se definišu njegove dužnosti i odgovornosti;*
- ✓ *Odbor za reviziju ima adekvatne resurse i ovlašćenja za ispunjenje svojih odgovornosti.*

S druge strane, najmanji stepen usklađenosti (na nivou ocjene 5), javlja kod sljedećih praksi:

- *Sastav i vještine članova odbora se periodično ocjenjuju kako bi se obezbijedilo da njegovi članovi budu dovoljno stručni da postavljaju kritička pitanja rukovodstvu i preduzmaju odgovarajuće mjere;*
- *Članovi odbora učestvuju u odgovarajućim obukama kako bi njihove vještine i stručnost ostali aktuelni i relevantni.*

2.3 Organizaciona struktura

Prosječna ocjena za ovaj element kontrolnog okruženja, za ukupan uzorak, iznosi 7,1. Poredeći ovu ocjenu među sektorima, može se zapaziti da je ovaj element nešto više ocijenjen od strane javnog i finansijskog sektora (7,2), a nešto niže od strane sektora privrede (6,8). To se, vjerovatno, može objasniti činjenicom da su finansijski i javni sektor strožije zakonski regulisani i više podložni eksternim vidovima nadzora.

Kada je riječ o poređenju prosječnih ocjena među organizacijama različite veličine, istraživanje je pokazalo da tu nema značajnih odstupanja u ocjenama sa aspekta organizacija različite veličine. Ocjene ovog elementa su pokazale najniži stepen varijabilnosti, a većina ispitanika ocjenjuje organizacionu strukturu ocjenama od 5,5 do 8,7.

Istraživanje je pokazalo da se najveći stepen usklađenosti (na nivou ocjene 8) odnosi na:

- ✓ *Postojanje odgovarajućeg razdvajanja nekompatibilnih aktivnosti i u fizičkom smislu i kroz pristup IT sistemima.*

S druge strane, najmanji stepen usklađenosti (na nivou ocjene 6) javlja se u sljedećim oblastima:

- *Postoje odgovarajuće politike vezane za pitanja: ulaska u nove poslove, konflikata interesa i praksi zaštite (osiguranja) te adekvatno saopštavanje ovih politika širom organizacije.*
- *Periodično se preispituju linije izvještavanja kako bi se ocijenilo da li one omogućuju ispunjavanje ovlaštenja i odgovornosti, kao i tok informacija za potrebe upravljanja poslovanjem.*

2.4 Privlačenje i zapošljavanje osoblja

Prosječna ocjena za ovaj element kontrolnog okruženja, za ukupan uzorak, iznosi 6,6. Poredeći ovu ocjenu među sektorima, može se zapaziti da je ovaj element najviše ocijenjen od strane finansijskog sektora (6,9), nešto niže od strane javnog sektora (6,7), a najniže od strane sektora privrede (6,2). I ove ocjene imaju smisla, imajući u vidu činjenicu da su finansijski i javni sektor strožije zakonski regulisani i više podložni eksternim vidovima nadzora, ali je i njihova odgovornost veća jer imaju veći broj stejkholdera i korisnika njihovih usluga. Upravo ova veća odgovornost može da ima i veći uticaj na potrebu da se privuče i zadrži stručniji i kvalitetniji kadar.

Kada je riječ o poređenju prosječnih ocjena među organizacijama različite veličine, istraživanje je pokazalo da ispitanici, koji su zaposleni u organizacijama srednje veličine, dodjeljuju višu ocjenu ovom elementu (6,9), nego što je to slučaj sa velikim organizacijama (6,5). To se može objasniti činjenicom da su stručnost i kvalifikacije zaposlenih vidljivije u organizacijama manje veličine.

Imajući u vidu stepen varijabilnosti u datim ocjenama, većina ispitanika ocjenjuje privlačenje i zapošljavanje osoblja u svojim organizacijama ocjenama od 5,0 do 8,2.

Ispitanici su pokazali da se najveći stepen usklađenosti (na nivou ocjene 9) odnosi na:

- ✓ *Postojanju pisanih opisa poslova, pravilnika (uputstva) ili nekih drugih vidova komunikacije putem kojih se zaposleni informišu o svojim dužnostima.*

S druge strane, najmanji stepen usklađenosti (na nivou ocjene 5-6), javlja u sljedećim oblastima:

- *Organizacione politike obuhvataju i planove za zamjenu viših rukovodilaca na njihovim funkcijama, kao i planove za nepredviđene slučajeve kada je potrebno dodijeliti odgovornosti od značaja za internu kontrolu;*
- *Periodično se preispituju potrebe pojedinih odjela za osobljem (posebno u pogledu znanja i iskustva rukovodilaca i supervizora u oblastima računovodstva, finansijskog izvještavanja i IT sistema).*

2.5 Odgovornost pojedinaca

Prosječna ocjena za ovaj element kontrolnog okruženja, za ukupan uzorak, iznosi 5,9 i ovaj element kontrolnog okruženja je najniže ocijenjen zajedno sa elementom „Nezavisnost i nadzor“ (6,0). Poredeći ovu ocjenu među sektorima, može se zapaziti da je ovaj element nešto više ocijenjen od strane javnog i finansijskog sektora (6,0), a najniže od strane sektora privrede (5,5). I ove ocjene se mogu objasniti činjenicom da su finansijski i javni sektor strožije zakonski regulisani, više podliježu eksternim vidovima nadzora i imaju veću odgovornost s obzirom na veći broj stejkholdera (korisnika njihovih usluga).

Kada je riječ o poređenju prosječnih ocjena među organizacijama različite veličine, istraživanje je pokazalo da ispitanici, koji su zaposleni u organizacijama srednje veličine, dodjeljuju višu ocjenu ovom elementu (6,1), nego što je to slučaj sa velikim organizacijama (5,7). To se, možda opet može objasniti činjenicom da su pojedinci vidljiviji, pa tako i odgovorniji, u organizacijama manje veličine.

Imajući u vidu stepen varijabilnosti u datim ocjenama, možemo zaključiti da većina ispitanika ocjenjuje odgovornost pojedinaca u svojim organizacijama ocjenama od 4,3 do 7,5.

Ispitanici su pokazali da je najveći stepen usklađenosti (na nivou ocjene 6,7) kada je riječ o tome da:

- ✓ *Organizacije postavljaju realistične (tj. ne neopravdano agresivne) finansijske ciljeve i očekivanja od osoblja.*

S druge strane, najmanji stepen usklađenosti (na nivou ocjene 5,0), javlja u sljedećim oblastima:

- *Postojanje pokazatelja, podsticaja i ostalih nagrada koje su u skladu sa etičkim vrijednostima i učinkom vezanim za internu kontrolu, uključujući finansijske i nefinansijske mjere;*
- *Ocjenjivanje od strane rukovodstva i upravnog/nadzornog odbora učinka odgovornosti za interne kontrole, uključujući pridržavanje standarda ponašanja i nivoa stručnosti, iz čega proizlaze odgovarajuće nagrade ili disciplinske mjere;*
- *Postojanje procesa i kontrola za evaluaciju i obezbjeđenje odgovornosti vanjskih pružaoca usluga (i drugih poslovnih partnera) za njihove obaveze koje se tiču internih kontrola.*

ZAKLJUČAK

Činjenica da istraživanjem nisu obuhvaćene sve organizacije u Bosni i Hercegovini, već samo one koje imaju uspostavljene funkcije interne revizije i one čiji su interni revizori bili raspoloženi da uzmu učešća u istraživanju, govori o tome da se nikako ne radi o reprezentativnom uzorku. Samim tim, ni nalazi do kojih se došlo u ovom istraživanju nisu objektivna slika stanja kontrolnog okruženja u svim organizacijama u BiH. Zapravo, moglo bi se reći da je ovo samo pogled na kontrolno okruženje posmatran iz ugla onih koji se zaista i bave njime.

Mali odaziv internih revizora ukazuje na dvije bitne stvari. Prije svega, može se zaključiti da upitnik nije adekvatno sredstvo za istraživanje ovako osjetljivih tema, kao što su elementi kontrolnog okruženja. Imajući u vidu da se iz razgovora sa pojedinim internim revizorima dobija drugačiji utisak o stanju kontrolnog okruženja, nego što su to pokazali rezultati istraživanja putem upitnika, postavlja se pitanje objektivnosti datih ocjena. Kao što su to pokazala i druga istraživanja, i ovo istraživanje ukazuje da upitnici nisu najbolje rješenje kada se radi o samostalnim ocjenama, jer ispitanici imaju tendenciju da dodjeljuju više ocjene od onih koje bi se objektivno trebale dodijeliti. Vjerovatno bi radionice, fokus grupe i intervjui, koji obuhvataju osoblje na svim organizacionim nivoima, bili mnogo prikladniji, jer bi to pomoglo ispitanicima da bolje razumiju šta se od njih traži i, samim tim, pruže objektivnije odgovore na pitanja. Drugi bitan zaključak koji se može izvući iz ovako skromnog odaziva jeste to da za većinu internih revizora ovo očigledno i nije toliko bitna tema ili nisu upoznati sa njom

u dovoljnoj mjeri da odgovore na pitanja iz upitnika. Tako da i mali odaziv predstavlja bitan pokazatelj o svjesnosti značaja kontrolnog okruženja u BiH i spremnosti internih revizora da se uhvate u koštac sa ovim izazovom.

I pored svega navedenog, odgovori ispitanika, ipak, ukazuju na trenutno stanje kontrolnog okruženja u organizacijama BiH, što su potvrdili i naknadni, neformalni razgovori sa pojedinim internim revizorima. Iz datih ocjena se može zaključiti da se najveći akcenat stavlja na formalne strukture, dok su oni meki elementi daleko manje zastupljeni. To se vidi i iz generalne ocjene pojedinih elemenata kontrolnog okruženja (gdje je „Organizaciona struktura“ najbolje ocijenjena, a „Odgovornosti pojedinaca“ i „Nezavisnost i nadzor“ najlošije). Ono što još bolje oslikava ovo stanje jesu pojedinačne ocjene usklađenosti, tj. neusklađenosti sa najboljim praksama za svaki od elemenata. Očigledno je da čvrste kontrole (pisane politike, procedure, pravilnici i sl.) postoje, ali kada je riječ o njihovoj primjeni, tj. aktivnom upravljanju elementima kontrolnog okruženja, onda stvari stoje drugačije. Većina najlošije ocijenjenih praksi ukazuje na to da najslabija karika čitavog kontrolnog okruženja, a samim tim i ukupnih internih kontrola, upravljanja rizicima i korporativnog upravljanja uopšte, predstavljaju najviši nivoi upravljanja – upravni/nadzorni i odbori za reviziju. Većina ispitanika se složila u tome da se njihove kompetencije najmanje dovode u pitanje, ne učestvuju na obukama i drugim vidovima usavršavanja, a nisu ni u dovoljnoj mjeri uključeni u aktivno upravljanje elementima kontrolnog okruženja (npr. *odstupanja od usvojenih standarda ponašanja nisu jasno definisana i ne vrše se redovne ocjene odstupanja od ovih standarda; ne postoji praksa analize problema kako bi se uočili njihovi trendovi i uzroci...; ne postoji adekvatan proces za evaluaciju učinka pojedinaca i timova u pogledu standarda ponašanja, njihovo nagrađivanje ili sankcionisanje u vezi sa tim...*).

Istraživanje je, sve u svemu, pokazalo da upravljanje kontrolnim okruženjem, uključujući i njegovu reviziju, ostaje pod snažnim uticajem zakonske regulative i obaveza koje organizacije i interni revizori imaju u tom pogledu. To se jasno vidi iz razlika u ocjenama između pojedinih sektora.

Oni koji su učestvovali u istraživanju su jasno pokazali da postoje svijetli primjeri koji primjenjuju najbolje prakse i koji zaista razumiju problematiku kontrolnog okruženja. Međutim, dubinska analiza rezultata istraživanja, kao i neformalni razgovori sa internim revizorima, ostavljaju utisak da nivoi znanja, iskustva, interesovanja i svijesti u BiH nisu na nivou koji je potreban da bi se shvatio značaj korporativne kulture i da bi joj se pridala dužna pažnja kako od strane rukovodstva, tako i od strane većine onih koji se bave njenom ocjenom i unapređivanjem.

Imajući u vidu sve prethodno navedeno, možemo zaključiti da jačanje kontrolnog okruženja u organizacijama BiH mora poći od podizanja svijesti i znanja onih koji snose krajnju odgovornost za kompletno upravljanje. Ton koji oni uspostavljaju je presudan za ambijent u kom ostali ljudi rade i obavljaju svoje dužnosti i oni su primjer koji se slijedi – bilo da je pozitivan ili negativan. Ovo bi se moglo postići najmanje na dva načina:

- (1) Morala bi postojati zakonska obaveza da i profesionalni upravljači (članovi odbora, generalni direktori i izvršni rukovodioci) prolaze obuke i kontinuirano unapređuju svoja znanja i vještine te da učinak njihovog rada bude predmet periodičnih evaluacija;
- (2) Interni revizori bi mogli da doprinesu jačanju svijesti o kontrolnom okruženju tako što bi u svojim izvještajima permanento ukazivali na slabosti kontrolnog okruženja i rizike koji iz njih proizlaze, ali bi se još veći efekat mogao postići organizovanjem radionica i fokus grupa na kojima bi se sa ključnim osobama razgovaralo o problemima kontrolnog okruženja i idejama za njihovo prevazilaženje.

Naravno, sticanje novih znanja i upoznavanje sa novim pristupima i tehnikama će biti od velike pomoći na ovom putu.

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STATUS OF CONTROL ENVIRONMENT IN BOSNIA AND HERZEGOVINA – EMPIRICAL STUDY

Summary: *The subject of this research is the status of the control environment in the organizations of Bosnia and Herzegovina perceived by the internal auditors. The aim is to identify the best, but also the weakest practices that the organizations and internal auditors are facing within the domestic environment, and to indicate some future actions needed in order to improve this element of the whole internal control system. The research is organized in the form of a self-assessment questionnaire by applying the 11-Point Likert Scale. The given assessments indicate that the major focus is on the formal structures, while soft controls are represented to a much lesser extent. The majority of examinees have confirmed that the weakest link refers to the top management, i.e. boards. Comparing the assessments from different industries, it is evident that the control environment management, including its audit, is under a strong impact of laws, regulations and the related accountabilities of organizations and internal auditors. Although the research has shown that there are cases of best practices applied, in-depth data analysis and informal interviews with individual internal auditors give the impression that knowledge, experience, interest and awareness in the organizations of Bosnia and Herzegovina are not on a satisfactory level required in order to grasp the significance of corporate culture and to give it due attention. This situation relates not only to top management but also to internal auditors dealing with the assessment and improvement of the control environment.*

Key words: *control environment, best practices, internal auditors, self-assessment*

JEL classification: *K23, M14, M49*

INTRODUCTION

The Control Environment, also known as corporate culture, is the foundation of COSO's model of *internal control* (COSO 2013, 4) and COSO's model of *enterprise risk management* (COSO 2004, 3). The significance of control environment has been recognized by many authors and experts who agree that the part of the blame for the financial crisis in 2008, but also for other well-known corporate failures in the 21st century, can be related to the weaknesses of control environment (Clayton and Scroggins and Westley 2002, 15-16; Ho 2009, 177-189; Sabri 2013, 141-146; Oke 2015).

The first step in the establishment of the control environment is to provide a formal (written) framework with clearly defined management structures based on unambiguous and clearly communicated values and procedures. However, written instructions, procedures and manuals are not enough since they have to be implemented. All organizational levels, as management, so the staff, have to understand, accept and comply with the given framework. Therefore, it is essential to take also into account the informal, behavioural aspects relating to values, beliefs, attitudes and human behaviour which represent soft controls embedded into the control

environment. According to some researchers (Hitt and Haynes and Serpa 2012, 439), one of the strategic leaders' priorities in the 21st century will be the creation and maintenance of strong and solid organizational culture focusing on the key values such as innovations, learning and recognizing the value of human capital and teamwork. Unlike the former researches, the modern ones believe that organizational culture can be used to achieve competitive advantages, better work efficiency and employee production (Rashid and Sambasivan and Johari 2003, 708-728; Tharp 2009, 2). Many pieces of research state that strong organizational culture is the primary determinant in creating better organizational performance and sustainable competitive advantage (de Waal 2010, 5-33; Shahzad et al 2012, 975; Xiaoming and Junchen 2012, 31-32; Owoyemi and Ekwoaba 2014, 168). Therefore, without strong and effective organizational culture, i.e. *control environment* there is no effective system of internal control, nor the long-term and sustainable performance of organizations (Stojanović 2015, 16).

The aim of this research has been to: (1) *gain insight into the status of the control environment in domestic organizations*; (2) *identify the best and weakest practices*; but also, to (3) *offer recommendations for strengthening the control environment in Bosnia and Herzegovina*. At the beginning of this study, the researcher assumed: (a) that the most of organizations in Bosnia and Herzegovina (B&H) *do not have clearly defined and established elements of control environment*; and that (b) *there is a difference among organizations in public and private sectors*, resulting from the differences in laws and regulations but also in requirements set by regulators and supervisors in different sectors.

The study has shown that there are bright examples where best practices have been applied and the control environment has been seriously assessed and managed. However, there are significant variations in assessments among organizations in different sectors (public, financial and industrial), as a result of different regulations, but also among the organizations in the same sector. The causes of such variations could be explained by the fact that managers, in the first place, but also of the internal auditors have different levels of knowledge, experience, interest and consciousness regarding the significance of corporate culture and control environment.

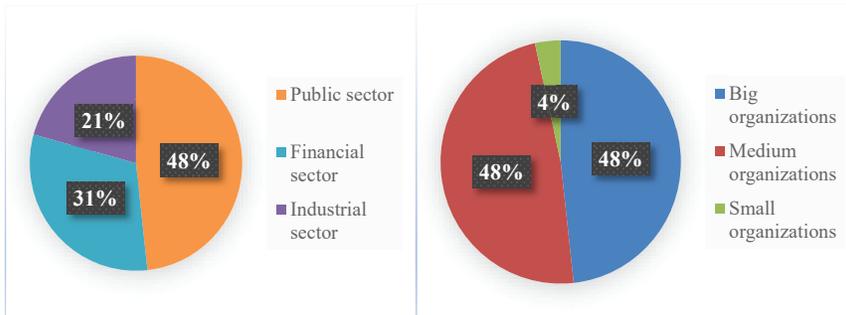
1. THE METHODOLOGY OF RESEARCH

1.1 Population and sample

Considering that the total number of organizations in B&H cannot be precisely determined, and it is changing all the time, the total population is open or infinite aggregate. Thus, the population for this study has been the subset of the total aggregate, i.e. organizations which have the internal audit functions responsible, among other things, for the assessment of control environment in their organizations. Examinees are mainly the members of the Associations of internal auditors in Bosnia and Herzegovina, employed in the organizations of all three main sectors in B&H (public, financial and industrial).

The questionnaires have been distributed to 260 internal auditors but only 30 internal auditors (11,5%) answered and took their part in this empirical study. The sample provided in this way is called the *appropriate sample* (consisted of the available units of the total subset). The constraints of such sample include: its representativeness; most units of total aggregate (all the organizations in B&H) have no chance to be included in the sample (since they are not covered by this study); the direction and extent of variations between sample values and values specific for all the unites of the basic set remain unknown, and there is no chance to determine the statistical error of the sample. However, the sample carries some characteristics of the *simple random sample* since every unit of the subset had the same chance to be included in the sample, but it depended on their interest and willingness to fill the questionnaire and send it to the researcher. Considering the issues of the small sample and its representativeness, the results of the study have been presented to the focus group and discussed with individual internal auditors. In this way, study results have been additionally checked and confirmed to a certain extent.

The self-assessment type study has been organized in an anonymous way, but the examinees were required to state in which sector their organizations operate (public, financial or industrial) and what is the size of their organizations (big, medium or small). The following two graphs (1 and 2) show the structure of the sample by sectors and size of organizations where internal auditors who took part in this study work.



Graph 1. Participation of each sector in the study (Author)

Graph 2. Participation of different size

1.2 Scale of assessment

The study has been organized in the form of control environment self-assessment questionnaire where the examinees had to assess its five elements. Each control environment element has been assessed through a number of questions and each one of them represent some of the best practices. Examinees added estimates, to each question, from 10 to 0 where each estimate signify the extent of compliance with a given practice.

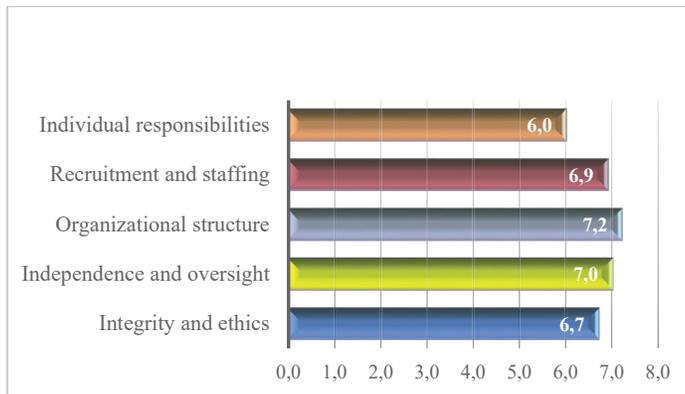
The assessment is based on Likert 11-point scale, where point 10 is given for the absolute compliance (totally agree), while point 0 is given for the absolute non-compliance (totally disagree). Some researchers have proven (Shing-On Leung 2011, 412) that having more scale points seems to reduce skewness, and the 11-point scale, ranging from 0 to 10, has the smallest kurtosis and is closest to normal. Also, the application of this scale is recommended when using self-reported measurement scales as is the case with this empirical study.

2. STUDY RESULTS AND CONTROL ENVIRONMENT ASSESSMENT

Control environment in B&H has been assessed through five elements:

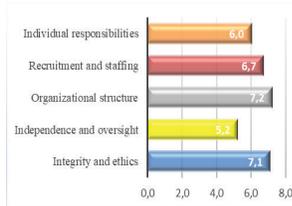
- Integrity and ethics;
- Independence and supervision;
- Organizational structure;
- Recruitment and staffing, and
- Individual responsibilities.

Average estimates for each element are presented in Graph 3. As can be seen, 'Organizational structure' is given the best estimate, while 'Individual responsibility' and 'Independence and supervision' are given the worst estimates.

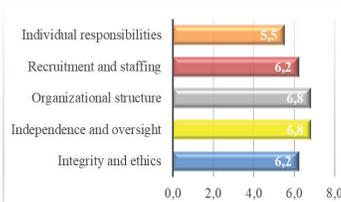


Graph 3. Average estimates of control environment elements (Author)

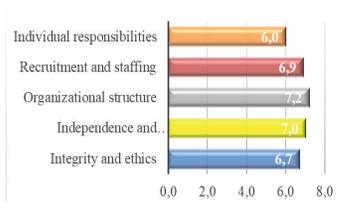
Since one of the assumptions was that there are variations in control environment status in the organizations of different sectors, the comparative analysis of these elements' estimates has been done by sectors (public, financial and industrial) as well. Graphs (4-6) present how the organizations from different sectors have estimated each of the control environment elements.



Graph 4. Average estimates of public sector (Author)



Graph 5. Average estimates of financial sector (Author)



Graph 6. Average estimates of industrial sector (Author)

2.1 'Integrity and ethics'

The average estimate for this element of the control environment, given by all participants, has been 6,8. By comparing the estimates of 'Integrity and ethics' among sectors, it is evident that this element has received the highest estimate from the public sector (7,1), a bit lower from the financial sector (6,7) and the lowest estimate was given by the industrial sector (6,2). These variations in estimates make sense because public sector organizations are supposed to demonstrate a higher level of ethics and integrity while providing public services to citizens. Besides, these organizations are subject to the supervision of supreme auditing institution (SAI) which has an important role in the system of accountability, as internally, so externally – towards citizens and users of public services (Čajić Kužet and Babić, 2019, 144).

By comparing these estimates among organizations of different sizes, it has been concluded that medium-size organizations attach a higher estimate to 'Integrity and ethics' (7,3) than large organizations (6,3). This could be explained in a way that in smaller organizations individual behaviours are more visible than in larger organizations and therefore ethics and integrity are perceived as more important.

Considering the variability in given estimates, we can conclude that the majority of examinees assess 'Integrity and ethics' in their organizations in the range from 4,9 to 8,7. This means that this element of control environment is attached a rather high estimate. In terms of 'Integrity and ethics' estimations, the researcher is mostly sceptical for two reasons: (1) some other researches have shown that people are not completely objective with self-assessments, especially in terms

of ethics and integrity (Grieser et al 2017, 2), and (2) based on informal conversations with internal auditors from different organizations, the researcher got the impression that this element of control environment is much weaker than presented by the study results.

Nevertheless, the study has shown that the highest level of compliance (assessed by 8) can be found in the following areas:

- ✓ *There is a code of conduct and/or ethics policy and it has been adequately communicated to all levels of the organization;*
- ✓ *Code of conduct and/or ethics policy establishes what is right and wrong by respecting the local laws, rules and regulations;*
- ✓ *Top management hired from outside (the members of managing/supervising board), new employees and business partners are made familiar with the importance of high ethics and controls.*

On the other hand, the lowest level of compliance relates to the following practices:

- *The organization has established tolerance levels for deviations to its standards of conduct (such tolerance levels are communicated throughout the organization and the deviations are evaluated in a timely manner);*
- *The organization periodically analyzes issues to identify trends and root causes to evaluate whether modification of policies, communication, training or controls are necessary;*
- *The organization have a process to evaluate the performance of individuals and teams against its standards of conduct.*

2.2 'Independence and supervision'

The average estimate for this element of the control environment, given by all participants, has been 6,0. By comparing the estimates of 'Independence and supervision' among sectors, it is evident that this element has received the highest estimate from the financial sector (7,0), a bit lower from the industrial sector (6,8) and the lowest estimate was given by the public sector (5,2). These estimates also make sense because private capital has stronger motives to oversee the management process.

By comparing these estimates among organizations of different sizes, it has been concluded that medium-size organizations attach a lower estimate to 'Independence and supervision' (5,4) than larger organizations (6,8). This could be explained in a way that, in a larger organization, there is a broader gap between governance and ownership functions, they have more stakeholders and they are under the magnifying glass of the public. Therefore, they are regulated more strictly and more subject to supervision.

Considering the variability in given estimates, we can conclude that the majority of examinees assess 'Independence and supervision' in their organizations in the range from 3,8 to 8,2, which is significant variability.

The examinees agreed that the highest level of compliance (assessed by 7) can be found in the following areas:

- ✓ *The structure of the board (managing/supervising board), including the number of its members, their background and expertise, are appropriate given the nature of the organization;*
- ✓ *The audit committee has a charter outlining its duties and responsibilities;*
- ✓ *The audit committee has adequate resources and authority to discharge its responsibilities.*

On the other hand, the lowest level of compliance (assessed by 5) relates to the following practices:

- *The composition and skills of the board members are periodically evaluated to assure that*

directors have the expertise to ask probing questions of management and to take appropriate actions;

- *The board members participate in training as appropriate to keep their skills and expertise current and relevant.*

2.3 'Organizational structure'

The average estimate for this element of the control environment, given by all participants, has been 7,1. By comparing the estimates of 'Organizational structure' among sectors, it is evident that this element has received the highest estimates from the financial and public sector (7,2) and a bit lower from the industrial sector (6,8). These estimates could be explained by the fact that the financial and public sector are being regulated more strictly and more subject to external supervision.

If we compare the average estimates of 'Organizational structure' among organizations of different sizes, the study has shown that there are no significant variations among them. The estimations of this element demonstrate the lowest level of variability and the majority of examinees assess 'Organizational structure' in their organizations in the range from 5,5 to 8,7. The study has shown that the highest level of compliance (assessed by 8) relates to the following:

- ✓ *There is appropriate segregation of incompatible activities (i.e., separation of accounting for, and access to, assets) both physically and through access to the IT systems.*

On the other hand, the lowest level of compliance (assessed by 6), appears in the following areas:

- *There are appropriate policies for matters such as accepting new business, conflicts of interest and security practices and they are adequately communicated throughout the organization.*
- *Reporting lines are evaluated periodically and they enable the execution of authorities and responsibilities and the flow of information to manage the entity's activities.*

2.4 'Recruitment and staffing'

The average estimate for this element of the control environment, given by all participants, has been 6,6. By comparing the estimates of 'Recruitment and staffing' among sectors, it is evident that this element has received the highest estimate from the financial sector (6,9) a bit lower from the public sector (6,7) and the lowest estimate was given by the industrial sector (6,2). These estimates also make sense considering that financial and public sector are more subject to regulation and external supervision but, also, these two sectors generally have more accountability as a result of a larger number of stakeholders and customers. This higher level of accountability might be the reason for recruiting more qualified and experienced staff.

When comparing the average estimates of 'Recruitment and staffing' among organizations of different sizes, the study has shown that the examinees, employed by medium-sized organizations, attach higher estimates to this element (6,9) than those working in large organizations (6,5). Since competences and qualifications of employees are more evident in smaller organizations, that could explain the variations in estimates by the organizations of different sizes.

Regarding the variability in given estimates, a majority of examinees assess 'Recruitment and staffing' in their organizations in the range from 5,0 to 8,2.

The study has shown that the highest level of compliance (assessed by 9) relates to the following:

- ✓ *There are written job descriptions, reference manuals or other forms of communication to inform personnel of their duties.*

On the other hand, the lowest level of compliance (assessed by 5-6), appears in the following areas:

- *Entity's policies include succession plans for senior executives and contingency plans for assignments of responsibilities important for internal control;*
- *There are periodic evaluations of departmental staffing needs (particularly with regard to knowledge and experience of management and supervisory levels within the accounting, information systems and financial reporting areas).*

2.5 'Individual responsibilities'

The average estimate for this element of the control environment, given by all participants, has been 5,9. This element, together with 'Independence and supervision' (assessed by 6), has received the lowest estimates. By comparing the estimates of 'Individual responsibilities' among sectors, it is evident that this element has received the highest estimates from the financial and public sector (6,0) and the lowest estimates from the industrial sector (5,5). Also, these variations could be explained by the same fact that financial and public sector are more subject to stricter regulation and external supervision but and that these two sectors are more accountable as a result of a larger number of stakeholders, i.e. customers.

When comparing the average estimates of 'Individual responsibilities' among organizations of different sizes, the study has shown that the examinees, employed by medium-sized organizations, attach higher estimates to this element (6,1) than those working in large organizations (5,7). This could, as well, be explained by the fact that individuals are more visible, and also responsible, in smaller size organizations.

Regarding the variability in given estimates, a majority of examinees assess 'Individual responsibility' in their organizations in the range from 4,3 to 7,5.

The examinees demonstrated that the highest level of compliance (assessed by 6,7) when it comes to this element of the control environment, relates to the following:

- ✓ *Management set realistic (i.e., not unduly aggressive) financial targets and expectations for operating personnel.*

On the other hand, the lowest level of compliance (assessed by 5,0), appears in the following areas:

- *The organization provides measures, incentives and other rewards that are aligned with ethical values and performance related to internal control, including financial and nonfinancial measures;*
- *Management and the managing/supervising board evaluate the performance of internal control responsibilities, including adherence to standards of conduct and levels of competence; and appropriate rewards or disciplinary actions result from such evaluations;*
- *Management has processes and controls in place to evaluate and hold outsourced service providers (and other business partners) accountable for their internal control responsibilities.*

CONCLUSION

Considering that the study has not included all the organizations in Bosnia and Herzegovina, but only those that have the internal audit functions established and those which internal auditors were willing to take part in this research, it is obvious that the sample is not

representative. Therefore, the findings of the study do not represent the objective portrait of the control environment status in all the organizations in Bosnia and Herzegovina. Actually, we could say that this is just the insight into the control environment perceived by those who are really engaged in it.

Minor response of internal auditors, to take part in the study, points at two significant conclusions. Above all, we can conclude that the questionnaire is not an adequate tool for investigating such delicate issues as those relating to the control environment and its elements. Considering the feedback provided by individual internal auditors in informal interviews, the impressions on control environment status got in this way are quite discrepant comparing to those got from the study itself. This discrepancy raises the question of the objectivity of some assessments. As indicated by other researches, this study has also shown that questionnaires are not the best tool when performing self-assessments because examinees have a tendency to give higher estimates than those that would be given if they were more objective. Most probably, workshops, focus groups and interviews, including all staff on all organizational levels, would be a more appropriate approach. This way, examinees would have an opportunity to better understand what is required from them and, therefore, to provide more objective answers and assessments. The second conclusion, derived from this modest interest in the study, indicates that most internal auditors do not perceive control environment as an important issue to deal with or they are not familiar with it good enough to answer the questions in the questionnaire. Thus, minor participation in this study also represents an important indicator of how many internal auditors are aware of the significance of the control environment in Bosnia and Herzegovina and how much they are ready to cope with this challenge.

Nevertheless, the answers given by the examinees do indicate the current status of the control environment in the organizations of Bosnia and Herzegovina which has been additionally confirmed by individual internal auditors in informal interviews. The assessments have led to the conclusion that major emphasis has been put on formal structures ('hard controls'), while soft controls are much less present. This is obvious considering the general assessment of each control environment element where 'Organizational structure' was given the highest estimate, while 'Individual responsibilities' and 'Independence and supervision' received the lowest estimates. Such status has been even better presented by the individual assessments of the compliance, i.e. in compliance with the best practices for each control environment element. It is obvious that formal controls (such as written policies, procedures, manuals etc.) exist, but when it comes to their implementation, i.e. active control environment management, the situation is quite different. The majority of weakest practices (where the incompliance is present in most cases) indicate that the weakest link of the whole control environment (and consequently total system of internal controls, risk management and corporate governance) is *top management* – managing/supervising boards and auditing committees. The majority of examinees agree that competences of boards' members are not being evaluated (regularly or at all), they do not participate in professional training and other forms of skills improvement, and, also, they are not engaged in control environment management actively (e.g. *tolerance levels for deviations to the standards of conduct have not been established and these deviations have not been assessed on a regular basis; periodical analyses of issues to identify trends and root causes are not being performed; there is no evaluation of the performance of internal control responsibilities, including adherence to standards of conduct and levels of competence; and there are no appropriate rewards or disciplinary actions resulting from such evaluations...*).

All in all, the study has shown that control environment management, including its auditing, remains under the strong influence of legislation and the accountabilities of the organizations and auditors in this respect. This is quite obvious considering the variations in estimates of certain sectors.

Those who participated in this research have clearly indicated that there are bright examples who apply the best practices and who really understand the problems relating to the control environment and its significance. However, detailed analysis, as well as the informal interviews

with individual internal auditors, give an impression that the competences, experience, expertise and awareness in Bosnia and Herzegovina are not on a level required to comprehend the importance of corporate culture and to give it due attention as by the top management and executives so by most of the staff dealing with its assessment and improvement (such as internal auditors).

Considering all the above mentioned, we can conclude that strengthening of the control environment in the organizations of Bosnia and Herzegovina should start with raising the awareness and competences of those who are responsible and accountable for the whole governance process. Their tone on the top is crucial for the ambient where other people work and perform their duties and they are role models to be followed – either positive or negative. Therefore, strong control environments could be achieved in Bosnia and Herzegovina's organizations in at least two ways:

- (1) There should be a legal obligation that professional managers (board members, CEOs, executives) go through training, in order to improve their competences and skills on a regular basis, and their performance should be subject to periodical evaluations; and
- (2) Internal auditors could contribute to the strengthening of control environment awareness by persistently emphasizing, in their reports, the weaknesses of and risks resulting from the control environment. Moreover, the even stronger impact could be achieved by organizing workshops and focus groups where the key staff would discuss the issues relating to the control environment and share the ideas for overcoming these issues.

Finally, acquiring new knowledge and learning new approaches and techniques would be of a huge help on this path.

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UGOVOR O USTUPANJU I RASPODJELI IMOVINE ZA ŽIVOTA

Rezime: *U radu autori analiziraju pozitivnopravna rješenja domaćeg zakonodavca posvećena ugovoru o ustupanju i raspodjeli imovine za života, objašnjavajući bitne elemente ugovora i načine na koji su oni primijenjeni. Autori u fokus stavljaju značaj i način regulacije koji ovaj ugovor ima u nasljednom pravu, istovremeno ukazujući na njegovu važnost u obligacionopravnoj materiji. Putem poređenja sa odredbama zakonodavca u Republici Srbiji, koje regulišu ovaj pravni posao, autori ukazuju na racionalnija rješenja predviđena u Republici Srpskoj, ali i kritikuju neadekvatnu upotrebu terminologije koja treba da bude ispravljena u budućnosti. Po shvatanju autora, ustupanje i raspodjela su nepravredno zaspostavljeni u odnosu na ugovor o doživotnom izdržavanju, koji je najrasprostranjeniji nasljednopravni ugovor ove vrste. Cilj rada je da ukaže na široke mogućnosti ugovora o ustupanju i raspodjeli imovine za života i da prikaže da uz ugovaranje doživotog izdržavanja u korist ustupioaca, ovaj ugovor predstavlja povoljniju soluciju od ugovora o doživotom izdržavanju koji često može biti zloupotrebljen.*

Ključne riječi: *pravna priroda, subjekti, predmet, odnos*

JEL klasifikacija: *K12*

UVOD

Pojam nasljeđivanja obuhvata dijeljenje i distribuciju imovine, ali takođe i ekonomske, socijalne, intelektualne i biološke veze između ljudi (Weigel 2008, 280). Shodno tome, autori će objasniti značaj i ulogu ovih pojmova u vezi sa ustupanjem i raspodjelom. U ovom radu je naša pažnja ograničena na zakone koji uređuju pitanje prenosa imovine sa jedne generacije na drugu ili na ostala lica koja u savremenom pravnom smislu spadaju u zakonske nasljednike (Hiers 1993, 130).

Prema čl. 128. Zakona o nasljeđivanju Republike Srpske, pravni posao *inter vivos* kojim predak može ustupiti i razdijeliti svoju imovinu djeci i drugim potomcima naziva se ugovor o ustupanju i raspodjeli imovine za života. (Zakon o nasljeđivanju Republike Srpske-ZON „Službeni glasnik Republike Srpske”, br. 1/2009, 55/2009 - ispravka i 91/2016). Navedena formulacija ukazuje da punovažan ugovor o ustupanju i raspodjeli imovine ne mogu zaključiti osobe koje se nalaze izvan ovog kruga srodnika i koje nakon smrti ustupioaca nisu ovlašćene da ga naslijede (Subotić-Konstatinović 1978, 584).

Sa obzirom na nasljednopravne posljednice koje proizvodi, normativno je regulisan Zakonom o nasljeđivanju Republike Srpske, iako ima obilježja obligacionopravnog ugovora, koja se ogledaju u prenosu imovine sa ustupioaca na ugovarače. Međutim, ovaj ugovor nije nasljednopravni ugovor u pravom smislu te riječi, jer nije pogodan da bude osnov pozivanja na nasljeđe ni ugovornika ni trećih lica.

Specifična zakonodavna tehnika koja je godinama prisutna na našim prostorima, ali i činjenica da ovaj pravni posao mogu zaključiti isključivo krvni srodnici u pravoj liniji, koji bi se po pravilima redovnog zakonskog nasljeđivanja mogli uzajamno nasljeđivati, daju opravdanje za uvrščavanje ovog ugovora u nasljednopravnu materiju (Stojanović 2008, 26). Zakonski red nasljeđivanja pokazuje stepen razvijenosti demokratskih prava, odnosno da li se različito tretiraju potomci zbog svog pola ili reda rođenja (Brophy 2010, 475). Kod ustupanja i raspodjele pol potomaka nije relevantan, ali potomci koji su rođeni ranije, dakle ostaviočeva djeca, imaju povlašćen položaj u odnosu na unuke ustupioaca.

Ugovor o ustupanju i raspodjeli imovine za života predstavlja jednu vrstu prethodnog nasljeđivanja, ali i istovremeno odricanje ugovornika od postavljanja nasljednopravnih zahtjeva u pogledu imovine obuhvaćene ovim ugovorom nakon smrti ustupioaca (Huseinspahić i Kurbegović-Huseinspahić 2017, 218). Po zakonu, stvari i prava iz zaostavštine pretka se nasljeđuju tek po njegovoj smrti (Rollison 1935, 24), a ustupanje i raspodjela omogućavaju da određena dobra za vrijeme života pretka pređu na njegovu djecu i ostale potomke.

Svrha ugovora je da se postigne sporazum oko raspodjele cjelokupne ili dijela imovine ustupioaca za vrijeme njegovog života, čime se ostvaruju dvostruki pravopolitički ciljevi. Omogućuje se potomku da još za ustupiočevog života stekne materijalna dobra, koja mu olakšavaju ili omogućuju zasnivanje sopstvenog domaćinstva i izbjegavaju se mogući sporovi između ustupiočeve djece oko podjele njegove zaostavštine (Đurđević 2015, 244).

Čl. 129. ZON navodi uslove za punovažnost i propisuje da će ustupanje i raspodjela imovine proizvoditi puno pravno dejstvo samo ako su se sa tim usaglasila sva djeca i drugi potomci ustupiočevi, koji će po zakonu biti pozvani da naslijede njegovu zaostavštinu. Ukoliko neki potomak nije dao svoju saglasnost, može je dati naknadno. Anulacija dejstva nesaglasnosti potomka je moguća ako potomak koji nije dao saglasnost umre prije ostavioaca, a ne ostavi svoje potomstvo, odrekne se nasljeđa ili je nedostojan. U slučaju da potomak koji bi po zakonu bio pozvan na nasljeđe ne da svoju saglasnost, ni prilikom zaključenja ugovora, ni naknadno, ugovor o ustupanju i raspodjeli imovine neće biti punovažan, ali će se, usljed zakonske konverzije dijelovi imovine koji su ustupljeni ostalim nasljednicima smatrati kao pokloni i sa njima će se poslije smrti pretka postupati kao sa poklonima učinjenim nasljednicima. (Antić 2009, 340).

1. PRAVNA PRIRODA UGOVORA

Ugovor o ustupanju i raspodjeli imovine za života je formalan, imenovan, dvostran, po pravilu jednostrano obavezan, kauzalan i dobročin pravni posao.

Spada u strogo formalne pravne poslove i u našem zakonodavstvu se zahtijeva forma notarski obrađene isprave. Po svom pravnom dejstvu, forma ovog ugovora je *ad solemnitatem* i predstavlja uslov valjanosti. Postupak notarske obrade isprava omogućava očitavanje prave volje stranaka i sprječava da u sadržaj pravnog posla budu unesene odredbe koje su protivne zakonu ili se ne mogu sprovesti. Sa obzirom na to da se ovim ugovorom vrši prenos imovinskih prava, prvenstveno prava svojine, neophodno je da odredbe budu formulisane jasno i neprotivrječno, od strane osoba sposobnih i ovlašćenih na zaključenje takvih pravnih poslova, da prava i obaveza stranaka budu uravnotežene i jasno definisane, kako ne bi došlo do pravnih sporova prilikom njihove realizacije ili kako bi oni mogli biti bez problema upisani u odgovarajuće javne registre (Povlakić 2012, 253). Istovremeno je neophodno da postoji slobodna volja prilikom zaključenja ugovora, preciznije da mane volje nisu prisutne, u skladu sa osnovnim načelima ugovornih odnosa (Šolaja i Raković 2019, 267).

Ovaj ugovor je imenovan ugovor, zato što je zakonom posebno uređen, određen mu je naziv i propisana najbitnija sadržina te izostanak bitnih elemenata kod ove vrste ugovora povlači njegovu ništavost (Ječmenić 2018, 13). Odnosno, ako je jedan ugovor zakonom regulisan kao poseban imenovan ugovor, onda stranke ne mogu da detaljno regulišu svoj ugovorni odnos te je dovoljno da se usaglase o bitnim elementima pa da se na njihove pravne odnose primijene

odgovarajuće zakonske odredbe dispozitivnog karaktera. Zakon propisuje bitne elemente ugovora o ustupanju i raspodjeli imovine za života, koji su uslov za punovažnost, a na strankama je da postignu sporazum oko imovine koja će biti obuhvaćena ovim pravnim poslom, eventualnim obavezama na strani potomka i slično.

Dobrobit društva ima primat u odnosu na želje pojedinca, jedino u slučaju kada je socijalni interes ugrožen ili kada on ima primaran značaj (Hirsch 2004, 1034). U slučaju ugovora o ustupanju i raspodjeli, zakon propisuje uslove koje ustupilac ne može svojom voljom promijeniti, jer je interes društva da se saglase svi potomci koji će biti pozvani na nasljeđe, jer bi u suprotnom ustupiočev potomak koji nije obuhvaćen ugovorom mogao biti nepravedno izostavljen i oštećen.

Spada u dvostrane pravne poslove, jer nastaje na osnovu najmanje dvije saglasne izjave volja kod kojih jedna izjava volje stvara ponudu, a druga prihvatanje ponude (Ignjatović i Šutova 2013, 189). Dakle ustupilac nudi svoju imovinu sa ili bez naknade, a njegovi potomci i eventualno bračni supružnik se moraju usaglasiti sa njom, inače pravne posljedice ovog ugovora neće nastupiti.

Ugovor o ustupanju i raspodjeli imovine za života je, po pravilu, jednostrano obavezan zato što stvara obaveze samo na stranici ustupioca, odnosno on mora da ustupi dio ili cjelokupnu imovinu potomcima saugovaračima. Iz ovoga proizilazi i osnova ugovora o ustupanju i raspodjeli, koji se sastoji u besplatnom uvećanju imovine potomaka (*animus donandi*), zbog čega ovaj ugovor spada u kauzalne ugovore (Đurđević 2015, 244). Dakle, ustupilac je svjestan da nije obavezan saugovaračima ustupiti nekretninu ili neko drugo dobro koje je predmet ugovora, ali on to čini sa namjerom darovanja (Perkušić i Ivančić 2005, 939). Sa druge strane, ovaj ugovor može biti i dvostrano obavezujući ukoliko su dogovorene obaveze na strani potomaka u vidu davanja doživotnog izdržavanja, plaćanja dugova i ostalih tereta koje naloži ustupilac.

Kako je već rečeno, ugovorom o ustupanju i raspodjeli imovine za života može se ustupiti imovina bez naknade i obaveza na strani potomaka i u ovom slučaju se radi o dobročinom pravnom poslu čija je glavna karakteristika nepostojanje protivnaknade za učinjeno dobročinstvo. Međutim, zakon dopušta da se na strani potomaka predvide odgovarajuće obaveze u korist ustupioca, njegovog bračnog supružnika ili nekog trećeg lica. Prilikom zaključenja ugovora ustupilac može za sebe, svog supružnika ili neko drugo lice zadržati pravo plodouživanja na svim ustupljenim stvarima ili na nekim od njih ili ugovoriti doživotnu rentu u naturi ili novcu ili doživotno izdržavanje ili kakvu drugu naknadu. (čl. 133. ZON). Ovakva zakonska formulacija navodi na pomisao da se radi o teretnom pravnom poslu zato što potomci za korist koju dobijaju moraju da pruže odgovarajuću naknadu. U teoriji se postavlja pitanje da li ugovor o ustupanju i raspodjeli života i dalje spada u pravni režim dobročinih pravnih poslova ako su dogovorene određene obaveze na strani potomaka, što je karakteristika teretnih pravnih poslova.

Pojedini autori su mišljenja da će svojstvo dobročinog pravnog posla ovaj ugovor zadržati i kada je predviđena dužnost na strani potomaka da ustupiocu daju rentu ili doživotno izdržavanje (Đurđević 2015, 244). Autori koji zastupaju suprotno stanovište smatraju da je ugovor o ustupanju i raspodjeli imovine za života koji je „opterećen“ doživotnim izdržavanjem ili rentom uvijek teretan pravni posao, jer se usljed aleatornosti nije mogla formirati namjera darežljivosti kod ustupioca (Stojanović 2008, 32). Postoji i grupa autora koji zastupaju stav da je u ovom slučaju riječ o mješovitom, odnosno o naplatnom pravnom poslu (Kreč i Pavić 1964, 332), dok sa druge strane određeni autori navode da kod ugovora o ustupanju i raspodjeli imovine za života, kojim su se potomci obavezali na neki drugi vid naknade, on može biti dijelom naplatan, a dijelom besplatan pravni posao (Svorcan 2004, 410).

Uzimajući u obzir razmatranja autora, smatramo da ugovor o ustupanju i raspodjeli imovine za života spada u dobročine pravne poslove i da obaveze poput doživotne rente, odnosno doživotnog izdržavanja imaju pravnu prirodu naloga, a ne nameta (Đurđević 2015, 244), čemu doprinosi i zakonska formulacija čl. 135. ZON prema kojoj povjerioci ustupiočevi mogu

pobijati ustupanje i raspodjelu pod uslovima predviđenim za pobijanje raspolaganja bez naknade.

2. SUBJEKTI KOJI MOGU ZAKLJUČITI OVAJ UGOVOR

Bazično pravilo nasljeđivanja propisuje da je krvna linija kritična determinanta i da bez odgovarajuće blizine krvnog srodstva nije moguće nasljeđivanje (Rhodes 2008, 434).

Kako je već spomenuto, ugovor o ustupanju i raspodjeli života će biti punovažan i proizvoditi puna pravna dejstva samo ukoliko se sa njim usaglase sva djeca i drugi potomci ustupiočevi, koji će *ex lege* biti pozvani da naslijede njegovu zaostavštinu te u vezi sa tim treba razlikovati tri grupe potomaka. Najistaknutija logika koja povezuje ovakvo određivanje uslova prethodnog nasljeđivanja i jednakosti odnosi se na adekvatnu raspodjelu bogatstva pretka (Hager i Hilbig 2019, 760). Takođe, moderno zakonodavstvo stavlja akcenat na značenje formalnog usvojenja, tako da i usvojena djeca imaju pravo da zaključe ovaj ugovor (Wright 2015, 73).

U prvu grupu treba svrstati potomke koji su zakonski nasljednici ustupioaca i koji to svojstvo zadržavaju sve do ustupiočeve smrti, bez obzira da li su saglasnost dali u momentu zaključenja ili naknadno. Druga grupa se sastoji iz ostaviočevih potomaka koji su nasljednička svojstva stekli naknadno. Ovakva situacija nastaje u slučajevima pojave ustupiočevog potomka koji je u vrijeme zaključenja ugovora bio proglašen umrlim, naknadnim rođenjem djeteta ustupioaca ili pojave potomka koji se koristi pravom predstavljanja. Treću grupu čine ustupiočevi potomci koji su bili ostaviočevi nasljednici u momentu zaključenja ugovora, ali su to svojstvo izgubili usljed smrti, nedostojnosti, odricanja ili isključenja iz nasljeđa (Miljković 2013). S obzirom na ove činjenice, njihova saglasnost nije potrebna.

Prema čl. 106. Zakona o obligacionim odnosima Republike Srpske, konverzija predstavlja pretvaranje ništavog ugovora u punovažan drugi ugovor, ukoliko ništav ugovor ispunjava uslove za punovažnost nekog drugog ugovora (Zakon o obligacionim odnosima-ZOO, *Službeni glasnik SFRJ*, br. 29/78, 39/85,45/89 i 57/89 i *Službeni glasnik Republike Srpske*, br. 17/93, 3/96, 37/01, 39/03 i 74/04). Tada će među ugovaračima važiti taj drugi ugovor, ako bi to bilo u saglasnosti sa ciljem koji su ugovarači imali u vidu kad su ugovor zaključili i ako se može uzeti da bi oni zaključili taj ugovor da su znali za ništavost svog ugovora. Iz ovoga proizilazi namjera zakonodavca da pokuša spasiti pravne poslovne ukoliko stranke prilikom sklapanja nekog pravnog posla nisu poznavale pretpostavke valjanosti tog sklopljenog pravnog posla (Udiković 2019, 158).

Zakonodavac izričito zahtijeva saglasnost svih potomaka, datu u momentu zaključenja ili naknadno, zato što će u suprotnom doći do konverzije u ugovor o poklonu. (čl. 132, st. 1. ZON). Važeći nasljednopravni propisi, takođe, navode da će do konverzije doći ukoliko se ustupioocu poslije zaključenja ovo ugovora rodi dijete ili se pojavi nasljednik koji je bio proglašen za umrlog (čl. 132, st. 2. ZON). Naravno, i ovi potomci mogu dati naknadnu saglasnost, čime bi ovaj ugovor proizvodio puno pravno dejstvo. Određeni autori, takođe, smatraju da potomak koji je bio proglašen umrlim, a pojavi se poslije smrti ustupioaca, kada je već okončan ostavinski postupak, može svoje pravo ostvariti u parničnom postupku (Kreč i Pavić 1964, 342).

Unošenjem ove odredbe postigla se zaštita prava nasljednika koji prilikom zaključenja ugovora nisu postojali, samim tim nisu mogli ni biti obuhvaćeni, tako što im se priznao status pravnorelevantnih saugovarača. Ovakvom zakonskom formulacijom postignuta je pravna sigurnost i onemogućeni budući sporovi između nasljednika ustupioaca za koje se znalo u momentu zaključenja i onih koji su se pojavili naknadno. Ukoliko se oni ili neki drugi nasljednik ne saglase sa raspodjelom i ustupanjem, prava saugovarača koji su se usaglasili sa ustupanjem i raspodjelom neće imati ono dejstvo koje su imali u vidu prilikom zaključenja, zato što će se ustupljeni dijelovi imovine smatrati kao pokloni učinjeni nasljednicima, odnosno može doći do povraćaja poklona u onoj mjeri u kojoj je povrijeđeno imperativno pravo nužnih nasljednika (čl. 39, st. 4. ZON) Posljedica toga je da se nužni dio svih potomaka koji je povrijeđen ovim raspolaganjima, iz njih može i namiriti (Krstić i Đurđić 2019, 291). Odnosno,

ustupiočevi nasljednici nasljeđuju kao da je on poklonio svoju imovinu i iz ustupljene i raspodjeljene imovine se mogu namiriti nužni nasljednici. Shodno čl. 51, st. 2. ZON, svi oni koji su oštećeni u pogledu svog prava na nužni dio, mogu zahtijevati da se ovi sada pokloni uračunaju u nasljedni dio svakog potomka koji je primio korist iz ugovora o ustupanju i raspodjeli.

Kada se uporedi rješenje zakonodavca u Republici Srpskoj sa rješenjem predviđenim u Zakonu o nasljeđivanju Republike Srbije, dolazi se do zaključka da je odredba o pravima naknadno rođenog djeteta ustupioaca ili pojavljivanja nasljednika koji je bio proglašen za umrlog adekvatnija u zakonodavstvu Republike Srpske (Zakon o nasljeđivanju Republike Srbije „*Službeni glasnik RS*“, br. 46/95, 101/2003- odluka USRS i 6/2015).

Naime, nasljednopravni propisi u Republici Srbiji, ne sadrže odredbu koja reguliše položaj ovih nasljednika. Usljed neregulacije ovog važnog pitanja može doći do tumačenja da ugovor o ustupanju i raspodjeli imovine za života proizvodi dejstvo nezavisno od ovih činjenica, što je ipak u nesaglasnosti sa odredbom da je uslov za punovažnost ovog ugovora saglasnost svih potomaka pretka koji bi bili pozvani na nasljeđe. Pojavljivanje pravne praznine, stvara mogućnosti različite interpretacije u sudskoj praksi te je neophodno unošenje rješenja koje bi obuhvatalo i ove subjekte u pogledu uslova za punovažnost (Stojanović 2008, 28).

Takođe, u pogledu nasljednika koji imaju to svojstvo u momentu zaključenja ugovora, ali ga izgube naknadno usljed smrti, nedostojnosti, odricanja ili isključenja iz nasljeđa, rješenje previđeno u zakonodavstvu Republike Srpske predstavlja adekvatnije rješenje.

U Republici Srpskoj se izričito navodi da nije potrebna saglasnost nasljednika koji umru prije ustupioaca, nedostojni su ili isključeni iz nasljeđa, dok sa druge strane, zakonodavac u Republici Srbiji ne previđa isključenje iz nasljeđa kao moguću uzrok anulacije nesaglasnosti. Ovaj vid razbaštinjena nasljednika ima za posljedicu isključenje iz prava na nužni dio ukoliko ustupilac raspoláže svojom zaostavštinom zavještanjem (Stojanović 2008, 28) te potomak koji zbog opravdanih razloga nema pravo na imperativni nasljedni dio, ne bi trebalo da bude ugovorna strana prilikom zaključenja ugovora kao što je predviđeno u Zakonu o nasljeđivanju Republike Srpske. Zakon je stabilan, ali nikad statičan, prilagođava se društvenoj stvarnosti (Hirsch 2010, 527) te bi, iz već rečenih razloga, trebalo unijeti određene odredbe u Zakon o nasljeđivanju Republike Srbije.

Sukcesija predstavlja prelazak prava i obaveza sa dotadašnjeg imaoca na njegove nasljednike. Sa izuzetkom u vidu izjednačavanja pozicije bračne i vanbračne djece, sukcesija ostaje nepromijenjena kao pravni institut, kao i ostali centralni instituti građanskog prava (Willenbacher 2003, 209) te je u analizi ustupanja i raspodjele nepohodno obraditi i ovo pitanje. U pravnoj teoriji je sporno pitanje da li će ugovor o ustupanju i raspodjeli imovine za života biti punovažan ukoliko se sa njim nisu usaglasili potomci ugovornika koji se koriste pravom predstavljanja, odnosno dolaze na mjesto svoga pravnog prethodnika.

Prema jednom mišljenju, u slučaju da je ustupilac imao potomka koji je je umro prije ustupioaca i iza sebe ostavio potomke, saglasnost reprezentanata će biti neophodna da bi ugovor bio punovažan (Antić i Balinovac 1996, 482). Ukoliko reprezentanti ne daju saglasnost, ugovor o ustupanju i raspodjeli imovine za života bi se konvertovao u ugovor o poklonu. S obzirom na to da zakon izričito nalaže da će ugovor o ustupanju i raspodjeli imovine za života proizvoditi puno pravno dejstvo ukoliko potomak koji se nije usaglasio sa raspodjelom umre prije ostavioca, a nije ostavio potomke nedostojan je, isključen ili se odrekao, primjenom analogije dolazimo do zaključka da će ustupanje biti punovažno ukoliko se lice koje dolazi po pravu predstavljanja na mjesto svog pretka, odrekne nasljeđa, bude isključeno, nedostojno je ili nesposobno za nasljeđivanje.

Prema drugom shvatanju, ako potomak koji je dao saglasnost umre prije ostavioca i ostavi svoje reprezentante koji dolaze na njegovo mjesto kao zakonski nasljednici, sporazum o ustupanju i raspodjeli zadržava svoja nasljednopravna dejstva i prema ovim potomcima (Kreč i Pavić 1964, 342). Dakle, nije neophodna saglasnost potomaka za punovažnost ugovora, oni dijele pravnu sudbinu svoga prethodnika, bez obzira da li su oni saglasni u pogledu ustupljene imovine.

Smatramo da je drugo mišljenje opravdano, jer ustupljena imovina predstavlja dio zaostavštine ustupiočevog potomka koju će naslijediti njegovi reprezentanti što proizilazi iz činjenice da se ustupanje imovine sastoji u upisivanju prava u odgovarajuće registre nepokretnosti ili predajom kad su u pitanju pokretne stvari za života ustupioaca. Takođe, izbjegla bi se povreda ustupiočeve volje, jer je on ustupanjem i raspodjelom odredio način imovinskog zadovoljenja reprezentovanog, koji je dao svoju saglasnost, očito zadovoljan ishodom ovog pravnog posla. U slučaju primjene prvog shvatanja, nesaglasnost reprezentanta bi prouzrokovala konvertovanje ugovora o ustupanju i raspodjeli u ugovor o poklonu pa bi moglo doći do vraćanja ustupljenje imovine radi namirenja nužnog dijela, što nije bila ustupiočeva namjera.

2.1 Prava ustupiočevog supružnika

Brak predstavlja životnu zajednicu muškarca i žene u kojoj se ostvaruju odnosi lične prirode, ali i odnosi sa važnim imovinskim aspektom (Krešić 2010, 544). U savremenom pravu, kada muškarac i žena zaključe brak, njihove ličnosti u pogledu zakona formiraju jedinstven entitet (Khertarpal 1969, 39), tako da je adekvatno da ugovor o ustupanju i raspodjeli proizvodi pravne posljedice za supružnika ustupioaca.

Čl. 134. ZON reguliše prava supružnika te propisuje da on može biti obuhvaćen ugovorom o ustupanju i raspodjeli imovine za života ukoliko da svoju saglasnost. Supružnik ustupioaca može da bude ugovorna strana prilikom zaključenja ugovora ili može dati saglasnost u pogledu sadržine ugovora. On ova svojstva može imati, a i ne mora, jer to neće uticati na punovažnost ugovora. Ukoliko se supružnik saglasi ili ne bude ugovorna strana, ugovor će ostati punovažan, s tim će se u odnosu na supružnika konvertovati u ugovor o poklonu, dakle ugovor će o ustupanju i raspodjeli imovine za života će kao takav ostati na snazi, ali neće imati puno pravno dejstvo. Na ovaj način se omogućava supružniku da njegovo pravno na nužni dio ostane neokrnjeno, što je u skladu da shvatanjem da suprug ne može svojom voljom uskratiti supruzi dio svoje imovine koji joj po zakonu pripada (Morton 162), jer ipak ona po zakonu ravnopravno nasljeđuje u prvom nasljednom redu zajedno sa ostaviočevim potomcima. Međutim, iako supružnik ustupioaca ima isti nasljednopravni položaj kao djeca i potomci prilikom nasljeđivanja zaostavštine, on evidentno ima inferiorniji položaj u pogledu ugovora o ustupanju i raspodjeli imovine za života u odnosu na *ex lege* nasljednike ustupioaca. Naime, saglasnost djece i eventualno ostalih potomaka koji će u momentu smrti ustupioaca biti pozvani da naslijede njegovu imovinu je neophodna za punovažnost ugovora i nesaglasnost jednog od njih prouzrokuje konvertovanje ovog nasljednopravnog ugovora u ugovor o poklonu u odnosu na sve ugovorne strane, dok supružnikova saglasnost ili učestovanje u ovom pravnom poslu ne proizvodi takvo pravno dejstvo. Smatramo da ova razlika proizilazi iz namjere zakonodavca da prvenstveno obezbijedi potomke ustupioaca i da spriječi imovinske sukobe između njih poslije njegove smrti. Supružnik će u svakom slučaju biti obezbijeđen pa i u slučaju da ustupilac svoju cjelokupnu imovinu raspodijeli svojim potomcima, on ima imperativno pravo na nužni dio. Dakle, postojaće dvije obračunske vrijednosti zaostavštine, jedna u odnosu na potomke u koju ne ulaze dobra koja su obuhvaćena ovim ugovorom i jedna za supružnika, u koju ulaze dobra obuhvaćena ugovorom o ustupanju i raspodjeli imovine za života, jer se samo prema supružniku ta dobra posmatraju kao pokon (Đurđević 2015, 247).

Činjenica da ostali članovi porodice ne mogu biti subjekti ovog ugovora, ukazuje na povlašćen status najbližih članova, odnosno djece, drugih potomaka ustupioaca i njegovog bračnog supružnika (Brassington 2019, 120). Takođe, pojedini autori smatraju da je nasljeđivanje presudno za razvoj socijalne nejednakosti (Boone 2010, 98), ali u slučaju ugovora o ustupanju i raspodjeli imovine za života nepravedna raspodjela nije moguća, jer se sa tim ugovorom moraju saglasiti najbliža lica koja će biti pozvana na nasljeđe poslije smrti ustupioaca.

3. PREDMET UGOVORA

Principalni argument za nasljeđivanje, a samim tim i za ustupanje je očuvanje kapitala (Tullock 1971, 465).

Ustupanjem i raspodjelom ustupilac se obavezuje da ustupi i raspodijeli cjelokupnu ili dio svoje imovine svojoj djeci i drugim potomcima koji njegovu zaostavštinu nasljeđuju *ex lege*. Od izuzetnog značaja je da predmet ugovora bude određen ili odrediv, u suprotnom će doći do ništavnosti ugovora na osnovu čl. 47. ZOO. Iz toga proizilazi da je neophodno da sva imovina koja je predmet ovog ugovora bude detaljno opisana i naznačena. Za nepokretnosti je bitno da se naznače tačni brojevi parcela i opišu građevine, zato što se na osnovu ugovora vrši prenos prava upisom u katastar nepokretnosti (Miljković 2013). Precizno naznačene i navedene treba da budu i pokretne stvari, zato što bi zakonska formulacija „sve pokretne stvari“ dovela do neodređenosti ili neodredivosti, samim tim i do ništavnosti ugovora (Svorcan 2004, 399). Naravno, ekonomski status ustupioaca ima značajnu ulogu, jer nema sumnje da će njegova djeca u tom slučaju dobiti veće materijalne benefite (Bowles i Gintis 2002, 4).

Nije pravno relevantno da li će svi potomci dobiti korist iz ovog pravnog posla, relevantna je samo njihova saglasnost. Pretpostavka je da individue, u ovom slučaju ustupilac, donose svoje odluke na osnovu najveće korisnosti (Stirzaker 1980, 574) i u skladu sa tim distribuiraju svoju imovinu potomcima za koje smatraju da će najbolji način iskoristiti dobra primljena ustupanjem i raspodjelom. Postoji mogućnost da je ustupiočeva želja da besplatno uveća imovinu samo određenih potomaka, dok drugi neće biti obuhvaćeni ustupanjem i raspodjelom. Ovdje pretpostavljamo da su potomci koji ne dobijaju korist imovinski zadovoljeni kroz neki drugi pravni posao ustupioaca ili na neki drugi način. Postavlja se pitanje zašto potomak koji najviše dobrinosa opštem dobru ustupioaca, ne bi imao ekskluzivno pravo da raspoláže stvarima iz ustupiočeve imovine (Jenkins 2008, 129), bez saglasnosti drugih. Odgovor na ovo pitanje treba tražiti u važnosti obezbjeđivanja svih ostaviočevih potomaka, shodno porodičnoj solidarnosti, a ustupilac može potomku ustupiti veći dio ili cjelokupna imovinska dobra, naravno uz saglasnost ostalih.

Imovina podrazumijeva sve stvari i prava koji su svojini ustupioaca i koji su po svojoj pravnoj prirodi prenosivi. Na primjer, neće se moći ustupiti pravo produživanja ili pravo stanovanja, zato što spadaju u lične služnosti koje su vezane za ličnost svoga titulara (Miljković 2013). Pravno plodouživanja može nadživjeti svoga titulara, o čemu će kasnije biti riječi. Ustupilac, takođe, može prenijeti na potomka sva prava koja ima u sporu koji se vodi između njega i nekog drugog lica oko imovine, naravno pod uslovom da je taj spor tekao u momentu zaključenja ugovora (Svorcan 2004, 399).

Nepodno je da imovina obuhvaćena ovim pravnim poslom postoji u momentu zaključenja ugovora, zato što će klauzula o ustupanju i raspodjeli imovine koja se bude zatekla u zaostavštini ustupioaca biti ništava (Antić 2009, 342). U slučaju da je takva klauzula od izuzetnog značaja za sam ugovor ili je bila uslov, odnosno odlučujuća pobuda prilikom zaključenja, cjelokupan ugovor će biti ništav. (čl. 105, st. 1. ZOO) Razumljiv je takav stav zakonodavca, jer bi ugovor koji obuhvata imovinu, koja je stečena poslije zaključenja, predstavljao ugovor o nasljeđivanju koji je zabranjen u našem pravu.

U sudskoj praksi su ranije bili učestali slučajevi uključivanja ovih nedozvoljenih odredbi koje je sud u najvećem broju slučajeva proglašavao ništavnim te je zbog pravne sigurnosti u zakon unesena odredba kojom se zabranjuje raspolaganje imovinom koja ne postoji u momentu zaključenja ugovora (Svorcan 2004, 399). Da bi se izbjegle negativne posljedice koje se ogledaju u ništavosti odredbe ili cjelokupnog ugovora preporučljivo je da se zaključi aneks ugovora ili novi ugovor o ustupanju i raspodjeli imovine za života.

Pravilo je da ustupiočevi saugovarači, između kojih je ustupilac razdijelio svoju imovinu, ne odgovaraju za njegove dugove, osim u dva slučaja (Đurđević 2015, 248). Kada je predmet ugovora prenos imovinske cjeline ili dijela te cjeline (zanatska radnja, poslovni prostor, poljoprivredno imanje sa stokom, mašinama) lice na koje pređe takva imovina odgovara za

dužove koji se odnose na tu cjelinu, odnosno na njen dio, pored dotadašnjeg imaoca i solidarno s njim, ali samo do vrijednosti njene aktive (čl. 452. ZOO). Drugi slučaj odgovornosti za dug je predviđen ako je tako dogovoreno prilikom zaključenja ugovora ili kada je u pitanju imovina opterećena založnim pravom na nepokretnosti-hipotekom. Ugovorom između potomka koji je preuzeo ispunjenje duga i ustupioca zasniva se odnos u kome se potomak obavezuje pretku da će ispuniti njegovu obavezu te povjerilac nema nikakvo pravo prema potomku i taj ugovor je regulisan čl. 446. ZOO. Saugovorač koji je preuzeo obavezu ispunjenja odgovara isključivo ustupiocu ukoliko ne ispuni ugovoreno. Hipoteka prati stvar te potomak na koga je prešla hipotekom opterećena nepokretnost mora da plati ustupiočev dug, u suprotnom će ostati bez imovine. Nephodno je uputiti pismeni poziv povjeriocu i smatraće se da je hipotekarni povjerilac prećutno pristao na promjenu dužnika, osim ako u roku od tri mjeseca ne odbije poziv ustupioca (čl. 447. ZOO).

Ako je ugovor punovažan, imovina koja je obuhvaćena njime neće postati dio zaostavštine ustupioca, čak ni obračunske vrijednosti zaostavštine, što pokazuje da se ustupljenom i raspodijeljenom imovinom ne može namiriti nužni dio, kako je prethodno u radu i rečeno.

Obaveza pretka je glavna činidba, ali zakonodavac izričito dopušta da se predvide obaveze na strani potomka. Ove sekundarne činidbe ispunjava potomak prema ustupiocu, ustupiočevom supružniku ili nekom trećem licu.

Zakonodac navodi da ugovorena doživotna renta ili doživotno plodouživanje u slučaju smrti ustupioca ili njegovog bračnog supružnika pripadaju u cjelini preživjelom supružniku do njegove smrti, naravno uz uslov da su ova prava dogovorena za oba supružnika zajedno i ako nije šta drugo ugovoreno ili ne proizilazi iz okolnosti slučaja. (čl. 133. ZON). Zanimljivo je da zakonodavac sva ostala prava, koja se mogu ugovoriti za ustupioca ili njegovog bračnog supružnika, veže za ličnost titalara, dok pravo doživotne rente ili pravo plodouživanja nastavljaju svoj pravni život i poslije smrti jednog od njih. Smatramo da to proizilazi iz značaja koji ova prava imaju za ustupioca ili bračnog supružnika, odnosno zakonodavac želi da nadživjeli supružnik bude obezbijeđen do kraja svog života. Supružnici u braku treba da budu ravnopravni, da se poštuju i izdržavaju pa je ustupilac, ugovarajući pravo na strani svog supružnika, nastojao da ga materijalno obezbijedi. U suprotnom rješenju zakonodavca, nadživjeli bračni supružnik bi vrlo vjerovatno bio doveden u težak materijalni položaj, jer ne bi imao pravo plodouživanja na imovini ili ne bi primao novčana sredstva koja su mu potrebna.

U praksi postoji slučajevi kada se ugovor o ustupanju i raspodjeli imovine za života zaključuje kao besteretan pravni posao, bez dodatnih opterećenja, ali su mnogo češći slučajevi u kojima se ugovara pravo stanovanja ili doživotnog uživanja u korist pretka (Stanojević, 2008, 33). Ostale obaveze na strani potomaka nisu toliko česte.

4. ODNOS UGOVORA O USTUPANJU I RASPODJELI IMOVINE ZA ŽIVOTA SA UGOVOROM O DOŽIVOTNOM IZDRŽAVANJU

Ugovor o doživotnom izdržavanju je, takođe, obligacioni ugovor koji proizvodi nasljednopravne posljedice i predstavlja načešći ugovor te vrste, jer se u praksi zaključuje masovno i skoro svakodnevno (Novaković 2015, 142). On se definiše kao ugovorni odnos u „kojem se jedan ugovarač obavezuje da izdržava doživotno drugog ugovarača ili neko treće lice, a u kome drugi ugovarač izjavljuje da mu ostavlja svu svoju imovinu ili jedan njen dio u nasljeđe. To je ugovor o otuđivanju uz naknadu cijele ili dijela imovine koja pripada primaocu izdržavanja u vrijeme zaključenja ugovora, čija je predaja davaocu izdržavanja odgođena do smrti primaoca izdržavanja.” (čl. 139, st. 1. ZON). Ovakvo određivanje ugovora u Zakonu o nasljeđivanju Republike Srpske je izuzetno nepraktično i nema naučno opravdanje. Identična definicija bila je sadržana u Saveznom zakonu iz 1955. godine i izgubila je značaj kada su zbog izmjene normativne nadležnosti, sa saveznog na republički rang, doneseni republički zakoni o nasljeđivanju (Antić 2009, 348). Mislimo da bi trebalo da izmjene i dopune zakona idu u pravcu sužavanja i pojednostavljenja ove definicije.

Ugovor o doživotnom izdržavanju je strogo formalan, imenovan, dvostrano obavezan, u pogledu čega na njega važi sve što je rečeno za ugovor o ustupanju i raspodjeli. Ugovor je teretan, jer se radi o otuđenju stvari i prava od strane primaoca uz naknadu od strane davaoca, odnosno svaka ugovorna strana duguje naknadu za korist koju dobija na osnovu ugovora (Novaković 2015, 174).

On je teretan i uvijek dvostrano obavezan pravni posao za razliku od ugovora o ustupanju i raspodjeli imovine za života zato što su predviđene obaveze i na strani primaoca i na strani davaoca izdržavanja. Ugovor o ustupanju i raspodjeli, takođe, može imati karakteristike teretnog pravnog posla i sadržavati obaveze i na strani ustupioaca i na strani njegovih potomaka, ali on i tada zadržava svoj lukrativni karakter, što je prethodno objašnjeno.

Predmet ugovora koji se sastoji iz obaveza davaoca i primaoca izdržavanja mora biti moguć, dopušten, određen ili odrediv, u suprotnom ugovor neće proizvoditi pravno dejstvo (Antić 2009, 356). Takođe, imovina primaoca izdržavanja mora postojati u momentu zaključenja ugovora, ona ne ulazi u obračunsku vrijednost zaostavštine i iz nje se ne mogu namiriti nužni nasljednici. Identično rješenje u pogledu određenosti predmeta, postojanja imovine u trenutku zaključenja ugovora i nemogućnosti namirenja nužnih nasljednika je predviđeno kod ustupanja i raspodjele. Subjekti ugovora o doživotnom izdržavanju mogu biti i fizička i pravna lica, dok su ustupanje i raspodjela mogući isključivo između pretka, njegovog bračnog supružnika i potomaka koji se pozivaju na nasljeđe poslije njegove smrti. Interesantna je situacija kada ugovor o doživotom izdržavanju sklapaju međusobno lica koja su zakonski obavezna da se izdržavaju. Naime, u praksi su izuzetno česte zloupotrebe koje se mogu javiti zbog činjenice da imovina obuhvaćena ovim ugovorom ne ulazi u zaostavštinu primaoca izdržavanja te će time ostali nasljednici biti isključeni iz nasljeđa (Gavrić 2014, 443). U Nacrtu zakona o nasljeđivanju Republike Srbije postojala je odredba po kojoj je „ništav ugovor o doživotnom izdržavanju u kome se kao davalac izdržavanja javlja lice koje je po zakonu dužno izdržavati primaoca, ako prije zaključenja ugovora nisu saslušani ostali koji imaju zakonsku obavezu izdržavanja” (Antić i Balinovac 1996, 507). Naše mišljenje stoji na strani neophodnosti unošenja ove odredbe, jer će se u suprotnom zlouporebe nastavljati, a sudovi će i dalje morati procjenjivati okolnosti za svaki konkretan slučaj i utvrđivati postojanje prevare što dovodi do preopterećenosti i pravne nesigurnosti. Sa druge strane, ustupanje i raspodjela obuhvataju sve nasljednike ustupioaca i na taj način se ovaj ugovor koristi kao mehanizam za prepoznavanje ispravnih socijalnih normi koje reflektuju pravdu kao osnovnu vrlinu društva (Sloan 2019, 8).

Kod ugovora o doživotnom izdržavanju, davalac izdržavanja za života stiče građanskopravnu poziciju koja se može zaštititi upisom u javne registre, ali u slučaju propasti stvari usljed više sile ili eksproprijacije, naknada neće pripasti davaocu izdržavanja zbog nemogućnosti primjene pravila o realnoj subrogaciji (Đurđević 2009, 204). Sa druge strane, ustupanjem i raspodjelom, imovinu, koja je predmet ugovora, potomci ili bračni supružnik stiču upisom u katastar nepokretnosti, odnosno faktičkom predajom od strane ustupioaca, po pravilu neposredno nakon zaključenja ugovora.

Kako je već rečeno, imovinom koja je obuhvaćena ugovorima o doživotnom izdržavanju i ustupanju i raspodjeli imovine za života ne mogu se namiriti nužni nasljednici. Pojedini autori smatraju da otpornost na ustanovu nužnog dijela narušava ravnotežu nasljednog prava i omogućava izigravanje socijalno-etičkih normi (Đurđević 2009, 204). Sa druge strane, postoje mišljenja da se moralnost raspoređivanja nasljeđa posmatra se sa aspekta davaoca imovine (Halliday 2013, 619).

Velika prednost ugovora o ustupanju i raspodjeli imovine za života u odnosu na ugovor o doživotnom izdržavanju se ogleda u činjenici da apsolutni nužni nasljednici moraju dati svoju saglasnost da bi ugovor bio punovažan, a u slučaju da to ne učine ili ako naknadno budu prinuđeni da vrata ono što su primili ustupanjem, njihovo pravo na nužni dio ostaje neokrnjeno.

5. RASKID UGOVORA

Vandredan način prestanka ugovora usljed okolnosti koje su nastale poslije njegovog zaključenja predstavlja raskid ugovora (Arsić i Stanivuk 2019, 143).

Kada se govori o raskidu ugovora o ustupanju i raspodjeli imovine za života, zakonodavac upotrebljava neadekvatnu terminologiju, jer upotrebljava riječ opoziv (Stojanović 2008, 32). Naime, opoziv je moguć jedino kod jednostrane izjave volje, što ovdje svakako nije slučaj te smatramo da bi u narednim izmjenama i dopunama zakona trebalo ispraviti ovu grešku.

Zakonodavac dalje navodi moguće razloge za opoziv, odnosno raskid podijelivši ih u dvije kategorije. U prvoj kategoriji spadaju slučajevi kada ustupilac ima pravo da zahtijeva da mu saugovarač koji je primio korist iz ugovora, vrati sve što je dobio ustupanjem i raspodjelom. Sud nije ovlašten da procjenjuje značaj neizvršenih obaveza za ustupioca, ako je potomak pokazao grubu neblagodarnost prema njemu, ako nije pružio izdržavanje njemu ili nekom drugom licu u čiju korist je izdržavanje ugovoreno ili ako nije ispunio dogovorene dugove ustupioca (čl. 137, st. 1. ZON). U drugu kategoriju spadaju ostale obaveze koje su naložene potomcima kod kojih glavnu odluku o sudbini ugovora donosi sud. Naime, kod neizvršenja ostalih tereta, sud detaljno procjenjuje važnost tih tereta za ustupioca i vodi računa o svim okolnostima slučaja, uzima u obzir razloge pro et contra pa tek nakon toga odlučuje da li će doći do raskida ugovora ili samo do prinudnog izvršenja obaveza (čl. 137, st. 2. ZON). Naravno, moguće je da se u samom ugovoru navedu načini i razlozi za raskid ugovora i u tom slučaju će sud cijeniti ono što je ugovoreno, bez obzira na zakonske odredbe. Ako postoji spor oko razloga za raskid, to odlučuje sud u parnici, ali i potomak ima pravo da se obrati parničnom sudu podnošenjem tužbe za utvrđenje nepostojanja razloga za raskid ugovora (Antić i Balinovac 1996, 492). Nejasno je zašto zakonodavac različito tretira neizvršenje tereta u pogledu raskida ugovora kada svaka obaveza može biti od jednakog značaja za ustupioca (Stojanović 2008, 32). Vjerovatno je namjera bila da se zaštite one vrste obaveza koje se najčešće pojavljuju prilikom zaključenja ugovora, ali takav stav nema značajnije uporište.

Raskidanje pravne veze između ustupioca i saugovarača zbog iskazane grube neblagodarnosti pruža mogućnosti različitog tumačenja, jer je u pitanju pravni standard. Iskazana neblagodarnost mora se kvalifikovati kao gruba, a ne obična te o tome u svakom konkretnom slučaju odlučuje sud. Međutim, određeni slučajevi se, zahvaljujući sudskoj praksi, već uvršćavaju u ovaj razlog za raskid dobroćinih pravnih poslova. Ustupilac će imati pravo da zahtijeva vraćanje svega što je potomak primio na ime ustupanja i raspodjele ako potomak prema ustupiocu učini teže krivično djelo, bez obzira da li je ono učinjeno sa umišljajem ili iz nehata, sa razlikom da se kod postojanja nehata mora utvrditi nemaran odnos prema ustupiocu (Miljković 2013). Navode se još slučajevi kada potomak radi ustupiocu o glavi, namjerno mu prouzrokuje veliku imovinsku štetu, fizički ga zlostavlja, uvredljivo se ponaša prema njemu, prijeti ustupiocu da će biti izbačen iz kuće i tome slično (Đurđević 2015, 249). Slučajevi grube neblagodarnosti predstavljaju veliku nezahvalnost potomka prema ustupiocu koji im je ustupio i razdijelio imovinu te je sasvim razumljivo zašto ove navedene situacije dovode do raskida ugovora, jer je ovdje evidentna povreda ustupioca.

Kada je ugovoreno doživotno izdržavanje u korist ustupioca, njegovog bračnog supružnika ili trećeg lica, ugovor o ustupanju i raspodjeli imovine ima sve karakteristike ugovora o doživotnom izdržavanju (Miljković 2013). Ako su ugovoreni zajedno za ustupioca i njegovog bračnog supružnika, poslije smrti jednog od njih prelaze u cjelini na nadživjelog supružnika, a zakonska odredba o raskidu zbog neispunjenja pravo na raskidanje daje samo ustupiocu. Ovakva zakonska formulacija otvara mogućnosti za probleme u praksi (Svorcan 2004, 412). S obzirom na to da ovakav ugovor po svojoj sadržini ima sva obilježja ugovora o doživotnom izdržavanju, on se može raskinuti samo po pravilima koji regulišu raskid ugovora o doživotnom izdržavanju, odnosno raskid se može tražiti zbog neispunjenja obaveza, uticaja promijenjenih okolnosti, nepodnošljivosti zajedničkog života ili zbog smrti davaoca izdržavanja čiju obavezu nije preuzeo njegov supružnik ili potomak pozvan na nasljeđe (čl. 142. ZON).

Ako primalac imovine ne postupi u skladu sa ugovorenom obavezom, koja se sastoji u isplati ustupiočevih dugova, smatraće se da su ispunjeni uslovi za raskid ugovora zato što je ta obaveza bila od izuzetnog značaja za pretka, što proizilazi iz same činjenice da je ugovorena prilikom zaključenja ugovora. Takođe, tome doprinosi činjenica da je potomak pristao na ispunjenje obaveze i da mu je ona bila poznata.

Prije samog raskida ugovora, sud bi trebalo da ostavi adekvatan rok za ispunjenje ugovorene obaveze, bez obzira o kakvoj vrsti obaveze je riječ, pa da dozvoli raskid tek po proteku ovog roka, ukoliko primalac nije ispunio svoju obavezu (Svorcan 2004, 415).

Zakonodavac navodi da će potomak koji je morao da vrati ustupiocu sve što je primio na ime ustupanja i raspodjele imati pravo na nužni dio, osim ako je nedostojan, odrekao se ili je isključen iz nasljeđa, a dijelovi ustupljene imovine smatraće se kao poklon (čl. 138. ZON). Nejasno formulisanje odredbe postavlja pitanje da li je ugovor o ustupanju i raspodjeli i dalje punovažan, a samo prema potomku koji je vratio imovinu se konvertuje u ugovor o poklonu ili se cjelokupan ugovor konvertuje u ugovor o poklonu? Smatramo da je prva situacija pravičnija, jer se u domaćem zakonodavstvu primjenjuje načelo *favor contractus*, prema kojoj zakonodavac nastoji da sačuva ugovor na snazi kad god je to moguće (Arsić i Stanivuk 2019, 143), a i ostali potomci i supružnik ne bi trebalo da trpe prevelike posljedice usljed činjenja nekog drugog. Takođe, ukoliko bi bio ispravan stav koji zastupamo, trebalo bi da se zabrani potomku da traži uračunavanje ustupljene imovine u nasljedni dio, jer je predak samim zaključenjem ugovora o ustupanju i raspodjeli imovine za života sa ostalim descendentima i supružnikom, a raskidom ugovornog odnosa sa potomkom, jasno manifestovao želju neuračunavanja u nasljedni dio (Stanojević 2008, 35).

ZAKLJUČAK

Ugovor o ustupanju i raspodjeli imovine za života predstavlja izuzetno značajan ugovor u nasljednopravnoj materiji, premda nije zastupljen u praksi u onoj mjeri u kojoj je zastupljen ugovor o doživotnom izdržavanju. Njegov značaj ogleda se u regulisanju imovinskih odnosa između pretka i njegovih zakonskih nasljednika i sprečavanju sukoba u ostavinskoj raspravi. U radu su izložene neregularnosti koje bi trebalo ispraviti u zakonodavstvu Republike Srbije po ugledu na domaćeg zakonodavca, ali i potrebu da se ukloni pogrešna terminologija koja je zastupljena u odredbi koja se tiče raskida ugovora.

Ustupanje i raspodjela imaju svrhu obezbjeđivanja potomaka još za vrijeme ustupiočevog života, kako bi oni mogli zasnovati sopstveno domaćinstvo i biti finansijski samostalniji. Ovaj ugovor je većinom jednostrano obavezan, jer mu je namjera besplatno uvećanje imovine potomaka. Takođe, u radu su izložene široke mogućnosti ugovaranja obaveza na strani potomaka, kada ugovor poprima katakteristike teretnog pravnog posla i omogućava ustupiocu da za ustupljenu imovinu primi odgovarajuću naknadu. Postoji potreba da zakonodavac pojasni razlikovanje između neispunjenih tereta koji povlače raskid ugovora i onih drugih, jer svaka obaveza može biti jednako značajna za ustupioca, zato što je u suprotnom ne bi ni ugovarao.

Ukoliko se ugovori doživotno izdržavanje, ovaj ugovor poprima sve karakteristike ugovora o doživotnom izdržavanju, čak se i raskida u skladu sa tim. Velika prednost ustupanja i raspodjele je što se sa njom moraju saglasiti potomci koji će biti pozvani na nasljeđe poslije ustupiočeve smrti i koji imaju imperativno pravo na nužni dio. S obzirom na to da imovina obuhvaćena ovim ugovorom ne ulazu u obračunsku vrijednost zaostavštine, saglasnost nužnih nasljednika ispunjava osnovi cilj ustupanja, jer su zaštićena prava potomaka i bračnog supružnika. Autori smatraju da bi ovaj ugovor trebalo da bude zastupljeniji u praksi kako ne bi došlo do izigravanja imperativnih nasljednika.

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AGREEMENTS ON ASSIGNMENT AND DISTRIBUTION OF PROPERTY DURING LIFETIME

Summary: *The authors analyse the positive law solutions of the domestic legislator dedicated to the contract for the assignment and distribution of assets for life, explaining the essential elements of the contract and how they have been applied. The authors focus on the importance and mode of regulation that this contract has in the law of succession, while pointing out its significance in the subject matter of the law on obligations. By comparing the provisions of the legislature in the Republic of Serbia governing this legal work, the authors point to more rational solutions envisaged in the Republic of Srpska, but also criticize the inadequate use of terminology that needs to be corrected in the future. According to the authors, the assignment and distribution are unfairly neglected in relation to the lifetime maintenance contract, which is the most widespread inheritance agreement of this kind. The aim of the paper is to point out the broad possibilities of contracts for the assignment and distribution of assets for life and to show that this contract represents a more favourable solution than a life support contract which can often be misused.*

Key words: *legal nature, subjects, subject matter, relationship*

JEL classification: *K12*

INTRODUCTION

The notion of inheritance includes the division and distribution of property, but also the economic, social, intellectual, and biological connections between people (Weigel 2008, 280). Accordingly, the authors will explain the meaning and role of these terms in relation to assignment and distribution. In this paper, our attention is limited to the laws governing the transfer of property from one generation to another, or to other persons who in the modern legal sense belong to the legal heirs (Hiers 1993, 130).

According to Article 128 of the Law on Inheritance of the Republic of Srpska, the legal work inter vivos whereby an ancestor can assign and distribute his property to children and other descendants is called a contract for the assignment and distribution of property for life (Law on Inheritance of the Republic of Srpska - ZON "Official Gazette of the Republic of Srpska", No. 1/2009, 55/2009 - correction and 91/2016). The above wording indicates that a valid contract for the assignment and distribution of property cannot be concluded by persons outside this circle of relatives who are not authorized to inherit it after the death of the assignor (Subotic-Konstatinovic 1978, 584).

In view of the legally binding consequences it produces, it is normatively regulated by the Law on Inheritance of the Republic of Srpska, although it has the characteristics of a contract of obligation which are reflected in the transfer of property from the assignor to the contractors.

However, this contract is not an inheritance contract in the true sense of the word, as it is not eligible to be the basis for invoking the inheritance of either the contractor or third parties.

The specific legislative technique that has been present in our region for years, as well as the fact that this legal work can only be concluded by blood relatives in a straight line, who could be mutually inherited by the rules of regular legal inheritance, justify the inclusion of this contract in the hereditary matter (Stojanović 2008, 26). The legal order of inheritance shows the degree of development of democratic rights, i.e. whether descendants are treated differently because of their gender or order of birth (Brophy 2010, 475). In the assignment and distribution, the sex of the descendants is not relevant, but the descendants born earlier, i.e. the testator's children, have a privileged position in relation to the grandchildren of the assignor.

The contract for the assignment and distribution of assets for life constitutes a kind of prior inheritance, but also a waiver of the contractor from the placing of hereditary claims regarding the property covered by this contract after the death of the assignor (Huseinspahić and Kurbegović-Huseinspahić 2017, 218). By law, things and rights from an ancestor's legacy are inherited only after his death (Rollison 1935, 24), and assignment and distribution allow certain goods to be passed on to his children and other descendants during the ancestor's lifetime.

The purpose of the contract is to reach an agreement on the distribution of all or part of the property of the assignor during his or her lifetime, thus achieving the dual legal and political goals. It is possible for the offspring to acquire, during the assignor's life, material possessions that facilitate or enable him to establish his own household and avoid possible disputes between the assignor's children over the division of his legacy (Djurđević 2015, 244).

Art. 129 of the ZON specifies the conditions for validity and provides that the assignment and distribution of property will only have full legal effect if all the children and other descendants of the assignor who are legally called to inherit his legacy have agreed to it. If a descendant has not given his or her consent, he or she may give it later. The cancellation of the effect of the offspring's disagreement is possible if the offspring who did not give his consent dies before the testator and does not leave offspring behind, that is, if he renounces the inheritance or is unworthy. In the event that a descendant who would be legally called to inherit does not give his or her consent, either at the conclusion of the contract or subsequently, the contract for the assignment and distribution of property will not be valid, but due to legal conversion, parts of the property transferred to other heirs will be considered as gifts and will be treated as gifts made to heirs after the death of the ancestor. (Antić 2009, 340).

1. THE LEGAL NATURE OF THE CONTRACT

The contract for the assignment and distribution of assets for life is a formal, named, bilateral, as a rule unilaterally binding, causal and beneficent legal transaction.

It belongs to strictly formal legal affairs and in our legislation requires the form of a notarized document. By its legal effect, the form of this contract is *ad solemnitatem* and is a condition for validity. The procedure of notarial processing of documents enables the reading of the true will of the parties and prevents provisions that are contrary to the law or cannot be implemented in the content of the legal transaction. As this contract primarily transfers property rights, it is necessary that the provisions be formulated clearly and in a non-contradictory manner by persons capable and authorized to conclude such legal transactions, so that the rights and obligations of the parties are balanced and clearly defined, in order to avoid legal disputes during their realization or to enable them to be entered in the appropriate public registers without difficulty (Povlakić 2012, 253).

At the same time, it is necessary that there is free will when concluding the contract, more precisely that defects of will are not present, in accordance with the basic principles of contractual relations (Šolaja and Raković 2019, 267).

This contract is a named contract because it is specifically regulated by law, its name is determined and its essential content is prescribed, and the absence of essential elements in this

type of contract implies its nullity (Barley 2018, 13). That is, if a contract is regulated by law as a separate named contract, then the parties cannot regulate their contractual relationship in detail, and it is therefore sufficient to agree on the essential elements, so that the relevant law provisions of the dispositive character are applied to their legal relations. The law prescribes the essential elements of a contract for the assignment and distribution of assets for life that are a condition for validity, and it is up to the parties to reach an agreement on the property to be covered by this legal business, possible obligations on the offspring side and the like.

The welfare of society takes precedence over the wishes of the individual, only when the social interest is at stake or when it is of primary importance (Hirsch 2004, 1034). In the case of a contract of assignment and distribution, the law prescribes conditions that the assignor cannot voluntarily change, because it is in the interest of the society that all descendants to be invited to inherit should agree; for otherwise the assignor's descendant who is not covered by the contract could be unfairly left out and damaged.

The contract is a bilateral legal transaction, since it arises on the basis of at least two consonant statements of wills in which one statement of will creates an offer and the other accepts the offer (Ignjatović and Šutova 2013, 189). Therefore, the assignor offers his property with or without compensation, and his descendants and eventually the spouse must agree to it; otherwise the legal consequences of this contract will not occur.

As a rule, a contract for the assignment and distribution of assets for life is unilaterally binding because it creates obligations only on the page of the assignor, that is, he or she must assign some or all of the property to the descendant co-contractors. This also results in the basis of the assignment and distribution agreement, which consists in the free increase of the property of the offspring (*animus donandi*), which makes this contract a causal contract (Đurđević 2015 244). Thus, the assignor is aware that he is not obliged to cede to the contractors the real estate or some other property that is the subject of the contract, but he does so with the intention of donating (Perkušić and Ivančić 2005, 939). On the other hand, this contract can also be bilaterally binding if the obligations are agreed on the side of the offspring in the form of providing life support, payment of debts and other burdens ordered by the assignor.

As already mentioned, the contract on assignment and distribution of assets for life can assign assets without compensation and obligations on the side of descendants, and in this case, it is a charitable legal business, the main characteristic of which is the absence of compensation for the charity done. However, the law allows the offspring to provide for appropriate obligations for the benefit of the assignor, his spouse or a third party. At the conclusion of the contract, the assignor may for himself, his spouse or other person retain the right of fruitful enjoyment of all the assignments or of some of them, or arrange a life annuity in kind or money, or a lifetime allowance or any other compensation (Art. 133 ZON). This legal wording makes one think that this is an encumbered legal transaction because the offspring for the benefit they receive must provide adequate compensation. In theory, the question arises whether the contract of assignment and distribution of life still falls within the legal regime of charitable legal affairs if certain obligations are agreed on the side of descendants, which is a characteristic of encumbered legal transactions.

Some authors think that this contract will retain the quality of charitable legal work when the duty is foreseen on the side of the descendants to give the annuity or life support to the assignor (Đurđević 2015, 244). The authors of the opposite view believe that a contract for the assignment and distribution of property for a life that is "burdened" with life support or annuity is always an encumbered legal job, since due to its aleatory nature, the intention of generosity could not be formed with the assignor (Stojanović 2008, 32). There is also a group of authors who argue that in this case it is a mixed, i.e. remunerable legal work (Kreč and Pavić 1964, 332), while on the other hand, some authors state that the contracts for the assignment and distribution of property during life, which obligate the offspring to another form of remuneration, may be partly paid and partly free legal work (Svorcan 2004, 410).

Taking into account the authors' considerations, we believe that the contract for the assignment and distribution of assets for life is a legal benefit and that obligations such as a life annuity or lifetime maintenance have the legal nature of a warrant rather than an imposition (Đurđević, 2015, 244), which is also underpinned by the legal formulation of Art. 135 of the ZON, according to which the assignor's trustees can refute the assignment and distribution under the conditions provided for rebuttal of the disposition without compensation.

2. ENTITIES THAT CAN CONTRACT THIS AGREEMENT

The basic rule of inheritance prescribes that bloodline is a critical determinant, and that without proper proximity of blood relationship, inheritance is not possible (Rhodes 2008, 434).

As already mentioned, the contract of assignment and distribution of life will be valid and produce full legal effect only if it is agreed upon by all the children and other descendants of the assignor who will be *ex-lege* invited to inherit his legacy, hence three groups of descendants should be distinguished in this connection. The most prominent logic that connects such determination of the conditions of previous inheritance and equality refers to the adequate distribution of ancestral wealth (Hager and Hilbig 2019, 760). Also, modern legislation emphasizes the importance of formal adoption, so that adopted children also have the right to conclude this contract (Wright 2015, 73).

The first group should include descendants who are the legal heirs of the assignor and who retain this property until the assignor's death, regardless of whether they gave their consent at the time of conclusion or subsequently. The second group consists of the descendants of the decedent who subsequently acquired the hereditary characteristics. This situation arises in the case of the occurrence of the assignor's offspring, who was declared deceased at the time of the conclusion of the contract, the subsequent birth of the assignor's child, or the appearance of a descendant using the right of representation. The third group consists of the descendants of the assignor who were heirs at the time of the conclusion of the contract, but lost this property due to death, unworthiness, renunciation or exclusion from inheritance (Miljković 2013). Given these facts, their consent is not required.

According to Art. 106 of the Law on Obligations of the Republic of Srpska, conversion constitutes the transformation of a null and void contract into a valid second contract, if the null contract fulfils the conditions for the validity of another contract (Law on Obligations - ZOO, Official Gazette of the SFRY, No.29 / 78, 39/85, 45/89 and 57/89 and Official Gazette of the Republic of Srpska, Nos. 17 / 93,3 / 96,37 / 01,39 / 03 and 74/04). The other contract will then apply to the contractor, if it is consistent with the purpose the contractors had in mind when they concluded the contract and if it can be taken that they would conclude the contract if they knew of the nullity of their contract. This implies the intention of the legislator to try to save the legal business if the parties did not know the preconditions for the validity of the concluded legal transaction (Uđiković 2019, 158).

The legislator explicitly requires the consent of all descendants, given at the time of conclusion or subsequently; otherwise they will convert to a gift contract (Art. 132, para. 1 of the ZON).

Applicable inheritance regulations also state that a conversion will occur if the assignor's child is born after the conclusion of this contract, or an heir who has been declared deceased appears (Art. 132, para 2 of the ZON). Of course, these descendants can also give their subsequent consent, giving this contract full legal effect. Certain authors also believe that a descendant who was declared deceased and who appears after the death of the assignor, when the legacy proceeding has already been completed, may exercise his right in litigation (Kreč and Pavić 1964, 342).

The introduction of this provision has ensured protection of the rights of heirs who did not exist at the time of the conclusion of the contract, and therefore could not even be covered by being recognized as legally relevant contractors. This legal formulation has achieved legal certainty and prevented future disputes between the successors of the assignor known at the time of the

conclusion and those who arose subsequently. If they, or any other heir, does not agree to the distribution and assignment, the rights of the contractors who have consented to the assignment and distribution will not have the effect which they had in mind when concluding, because the assignment of the property will be considered as gifts made to the heirs, that is, the gift may be returned to the extent that the imperative right of the necessary heirs has been violated (Art. 39, Para. 4 of the ZON) (Djurdjic 2019, 291). That is, the heirs of the assignee inherit as if he had donated his property, and from the assigned and distributed property the necessary heirs could be settled. Pursuant to Art. 51, Paragraph 2 of the ZON, all those who have been damaged in respect of their right to the necessary part, may require that these gifts now be included in the hereditary part of each descendant who has received the benefit of the assignment and distribution agreement.

When comparing the decision of the legislator in the Republic of Srpska with the solution provided for in the Law on Inheritance of the Republic of Serbia, it is concluded that the provision on the rights of the subsequently born child of the assignor or appearance of an heir who was declared deceased is more adequate in the legislation of the Republic of Srpska (Law on Inheritance of the Republic Serbian Official Gazette of RS, No. 46/95, 101/2003 - decision of USRS and 6/2015).

Namely, the inheritance-legal regulations in the Republic of Serbia do not contain a provision regulating the status of these successors. Non-regulation of this important issue may lead to the interpretation that the contract for the assignment and distribution of assets for life produces an effect independent of these facts, which is nevertheless inconsistent with the provision that the condition for the validity of this contract is the consent of all descendants who would be called to inherit. The appearance of a legal loophole creates opportunities for different interpretations in case law, and it is necessary to introduce solutions that would include these entities in terms of validity requirements (Stojanović 2008, 28).

Also, with respect to heirs who have this capacity at the time of the conclusion of the contract, but lose it subsequently due to death, unworthiness, waiver or exclusion from inheritance, the solution envisaged in the legislation of the Republic of Srpska is a more adequate solution.

The Republic of Srpska explicitly states that no consent is necessary of heirs who die before the assignor, are unworthy or excluded from inheritance, while on the other hand, the legislator in the Republic of Serbia does not foresee exclusion from inheritance as a possible cause of annulment of the disagreement. This form of disinheriting heirs results in exclusion from the right to the necessary part if the assignor disposes of his inheritance by way of will (Stojanovic 2008, 28), and a descendant who, for justified reasons, is not entitled to the imperative hereditary part, should not be a contracting party when concluding the contract as is provided for in the Law on Inheritance of the Republic of Srpska. The law is stable, but never static, it adapts to the social reality (Hirsch 2010, 527), and for the reasons already mentioned, certain provisions should be included in the Law on Inheritance of the Republic of Serbia.

Succession represents the transfer of rights and obligations from the previous owner to his heirs. With the exception of equalizing the position of married and unmarried children, succession remains unchanged as a legal institute, just like other central institutes of civil law (Willenbacher 2003, 209), and it is necessary to address this issue in the analysis of assignment and distribution.

In legal theory, the question is whether the contract for the assignment and distribution of assets for life will be valid if it is not agreed upon by the descendants of the contracting parties who use the right of representation, or rather come to the place of their legal predecessor.

In one view, if the assignor had a descendant who died before the assignor and left behind descendants, the consent of the representative team would be necessary for the contract to be valid (Antic and Balinovac 1996, 482). If the representatives did not give their consent, the contract of assignment and distribution of assets for life would be converted into a gift contract. Since the law explicitly states that a contract for the assignment and distribution of assets for life will have full legal effect if a descendant who has not agreed to the distribution dies before

the testator and has left no descendants, is unworthy, excluded or renounced, by analogy we come to the conclusion that the assignment will be valid if the person coming to the place of his or her ancestor right renounces the inheritance, is excluded, is unworthy or incapable of inheritance.

According to another understanding, if a descendant who gave his or her consent dies before the testator and leaves his or her representatives coming in his / her place as legal heirs, the assignment and distribution agreement retains its hereditary effects also against these descendants (Kreč and Pavić 1964, 342). Therefore, the consent of the descendants is not necessary for the validity of the contract. They share the legal fate of their predecessor, regardless of whether they are in agreement with respect to assigned property.

We believe that the second opinion is justified, since the transferred property is part of the legacy of the assignor's descendant, which will be inherited by his representatives, arising from the fact that the assignment consists in the registration of rights in the relevant real estate registers or handing over when it comes to movable property for the life of the assignor. In addition, injury to assignor's will would be avoided, since by assignment and distribution, he determined the manner of property satisfaction of the representative who gave his consent, obviously satisfied with the outcome of this legal transaction. If the first understanding is applied, the non-consent of the representative would cause the assignment and distribution agreement to be converted into a gift contract, and the assignment of property could be returned to settle the necessary part, which was not the intention of the assignor.

2.1 Rights of the assignor's spouse

Marriage is a living union of a man and a woman in which relationships of a personal nature are realized, but also relationships with an important property aspect (Krešić 2010, 544). In modern law, when a man and a woman enter into marriage, their personalities form a single entity in terms of law (Khertarpal 1969, 39), so it is adequate that the contract of assignment and distribution produces legal consequences for the spouse of the assignor.

Art. 134 of the ZON regulates the rights of a spouse and stipulates that they may be covered by a contract for the assignment and distribution of property for life if they give their consent. The assignor's spouse may be a contracting party at the conclusion of the contract or may give their consent regarding the content of the contract. He may or may not have these characteristics, as this will not affect the validity of the contract. If the spouse agrees or is not a contracting party, the contract will remain valid, whereby it will be converted into a gift contract with respect to the spouse, therefore the contract on assignment and distribution of assets for life will remain in force as such, but will not have full legal effect. In this way, the spouse is allowed to keep her right to the necessary part intact, which is consistent with the understanding that the spouse cannot, by his own will, deprive the spouse of part of his property that belongs to her by law (Morton, 162), since she inherits the law equally in the first inheritance along with the descendants of the decedent. However, although the spouse of the assignor has the same hereditary position as the children and descendants in the inheritance of the legacy, he evidently has an inferior position with respect to the assignment and distribution of property for life in relation to the ex lege heirs of the assignor. Namely, the consent of the children and possibly other descendants who will be called upon to inherit his property at the moment of the death of the assignor is necessary for the validity of the contract and the non-consent of one of them causes this hereditary contract to be converted into a gift contract with respect to all parties, while the spouse's consent or participation in this legal business does not produce such legal effect. We believe that this difference stems from the intention of the legislator to provide primarily the descendants of the assignor and to prevent property conflicts between them after his death. The spouse shall in any case be secured, and even in the event of the assignor's distributing all of his or her property to their offspring, he or she has the imperative right on the necessary part. Therefore, there will be two calculated values of the legacy, one in relation to

the offspring not included in the goods covered by this contract, and one for the spouse, which includes the goods covered by the contract for the assignment and distribution of assets for life, because only according to the spouse, these goods are deemed as a gift (Đurđević, 2015 247). The fact that other family members cannot be the subjects of this contract indicates the privileged status of the closest members, i.e. children, other descendants of the assignor and his spouse (Brassington 2019, 120). Also, some authors believe that inheritance is crucial for the development of social inequality (Boone, 2010, 98), but in the case of contracts for the transfer and distribution of property for life, unfair distribution is not possible, because the contract must be agreed by the closest persons to be invited to inheritance after the death of the assignor.

3. SUBJECT OF THE CONTRACT

The principal argument for inheritance, and therefore for assignment, is the preservation of capital (Tullock 1971, 465).

By assigning and distributing, the assignee undertakes to assign and distribute all or part of his property to his children and other descendants who inherit it *ex lege*. It is of utmost importance that the subject matter of the contract be determined or determinable, otherwise the contract will be void pursuant to Art. 47 ZOO. It follows that it is necessary for all the property subject to this contract to be described in detail and indicated. It is important for real estate to indicate the exact numbers of parcels and to describe the buildings because on the basis of the contract the rights are transferred by entry in the real estate cadastre (Miljković 2013). Precisely indicated and stated should also be movable things, because the legal formulation of “all movable things” would lead to indeterminacy or the impossibility to be determined, and consequently to nullity of the contract (Svorcan 2004, 399). Of course, the economic status of the assignor plays a significant role, as there is no doubt that his children will receive greater material benefits in this case (Bowles and Gintis 2002, 4).

It is not legally relevant whether all descendants will benefit from this legal work, only their consent is relevant. It is assumed that individuals, in this case the assignor, make their decisions on the basis of maximum utility (Stirzaker 1980, 574), and accordingly distribute their property to the descendants they believe will make the best use of the goods received by assignment and distribution. There is a possibility that the assignor's desire is to increase the assets of only certain descendants for free, while others will not be covered by the assignment and distribution. Here, we assume that the offspring who do not receive the benefit are materially satisfied through some other legal work of the assignor or otherwise. The question arises as to why the descendant who contributes the most to the common good of the assignor would not have the exclusive right to dispose of the items from the assignor's property (Jenkins 2008, 129), without the consent of others. The answer to this question should be sought in the importance of securing all the testator's descendants, in accordance with family solidarity, and the assignor may assign to the descendant most or all of the property, of course with the consent of the others.

Property means all things and rights which are the property of the assignor and which are inherently transferable. For example, they will not be able to cede the right of fruitful enjoyment or the right of residence because they belong to personal easements that are related to the personality of their title holder (Miljković 2013). Legal fruition can outlive its titular, which will be discussed later. The assignor may also transfer to the descendant all the rights he has in a dispute between him and another person over the property, provided, of course, that the dispute was pending at the time the contract was concluded (Svorcan 2004, 399).

It is necessary that the property covered by this legal transaction exists at the moment of the conclusion of the contract because the assignment and distribution clause found in the assignor's legacy will be null and void (Antic 2009, 342). In the event that such a clause is of extreme importance to the contract itself or was a condition, that is, a decisive impulse upon conclusion,

the entire contract will be void (Art. 105, para. 1 ZOO). Such an attitude of the legislator is understandable, since a contract that includes property acquired after the conclusion would be an inheritance contract that is forbidden in our law.

In the jurisprudence, cases of inclusion of these impermissible provisions have been more frequent, and in most cases the court declared them null and void, and for reasons of legal certainty, a provision was introduced to the law that forbids disposal of property that did not exist at the time the contract was concluded (Svorcan 2004, 399). In order to avoid the negative consequences reflected in the nullity of the provision or the entire contract, it is advisable to conclude an annex to the contract or a new contract for the assignment and distribution of assets for life.

The rule is that the assignor's contractors between whom the assignor has divided his property are not liable for his debts, except in two cases (Djurdjevic 2015, 248). When the subject of the contract is the transfer of the whole or part of that whole (craft shop, business premises, agricultural property with livestock, machinery), the person to whom such property is transferred shall be liable for debts relating to that whole or part thereof, in addition to the former holder and in solidarity with him, but only to the value of his assets (Art. 452 ZOO). A second case of liability for a debt is foreseen if so agreed at the conclusion of the contract or when it comes to property encumbered by a lien on a real estate mortgage. An agreement between a descendant who has taken over the debt and the assignor establishes a relationship in which the descendant commits himself to the ancestor to fulfil his obligation, and the creditor has no right to the descendant, and that contract is regulated by Art. 446 ZOO. The co-contractor who has assumed the obligation of fulfilment is solely responsible to the assignor if he fails to fulfil the contract. The mortgage accompanies the thing, and the offspring to whom the mortgaged property has been passed has to pay the assignor's debt, otherwise they will be deprived of property. It is necessary to make a written invitation to the creditor, and it will be considered that the mortgage creditor has tacitly agreed to the change of the debtor, unless they should refuse the invitation of the assignor within three months (Art. 447 of the ZOO).

If the contract is valid, the assets covered by it will not become part of the assignor's legacy, even the calculated value of the legacy, which shows that the necessary part cannot be settled by assigned and distributed property, as previously stated in the paper.

The obligation of the ancestor is the main act, but the legislator explicitly allows the obligations on the side of the offspring to be foreseen. These secondary acts are fulfilled by the offspring towards the assignor, the assignor's spouse, or some third party.

The legislator states that the contractual life annuity or the life-giving benefit in the event of the death of the assignor or his spouse belong in their entirety to the surviving spouse until their death, provided, of course, that these rights are agreed for both spouses together and unless otherwise agreed or arising from the circumstances of the case (Art. 133 ZON). It is interesting that the legislator binds all other rights that can be contracted to the assignor or his spouse to the titular person, while the right to a lifetime annuity or the right to enjoy life continues after their death. We believe this stems from the importance these rights have for the assignor or spouse, that is, the legislator wants the surviving spouse to be provided for the rest of his or her life. Spouses in marriage should be equal, respectful and supportive, so the spouse, by contracting the right on the side of his or her spouse, sought to materially secure him or her. Otherwise, the surviving spouse would probably be in a difficult financial position because he would not have the right to enjoy the property or receive the money he needed.

In practice, there are cases where a contract for the assignment and distribution of property for life is concluded as an unfair legal transaction, without additional burdens, but there are many more frequent cases where the right to live or enjoy the life of the ancestor is contracted (Stanojević 2008, 33). Other offspring commitments are not that common.

4. RELATIONSHIP BETWEEN THE AGREEMENT ON ASSIGNMENT AND DISTRIBUTION OF PROPERTY DURING LIFETIME WITH LIFE MAINTENANCE CONTRACT

A life support contract is also a contract of obligation that produces hereditary consequences and is a common contract of its kind, since it is concluded in practice on a massive and almost daily basis (Novakovic 2015, 142). It is defined as a contractual relationship in which “one contractor undertakes to support the life of another contractor or a third party, and in which the other contractor declares that he or she inherits all of his or her property or part thereof. It is a contract of alienation with compensation of part or whole of the property belonging to the recipient of maintenance at the time of the conclusion of the contract, whose yielding to the maintenance provider is postponed until the death of the maintenance recipient.” (Art. 139, para. 1 ZON). This definition of contract in the Law on Inheritance of the Republic of Srpska is extremely impractical and has no scientific justification. The identical definition was contained in the Federal Law of 1955 and lost its significance when, due to the change of normative jurisdiction from the federal to the republic rank, republican laws on inheritance were passed (Antic 2009, 348). We think that amendments to the law should go in the direction of narrowing and simplifying this definition.

The life support contract is strictly formal, named, bilaterally binding, in respect of which everything that is said for the assignment and distribution contract applies. The contract is encumbered because it is about the alienation of property and rights by the recipient with compensation from the donor, that is, each contracting party owes a compensation for the benefit it receives under the contract (Novakovic 2015, 174).

It is encumbered and always bilaterally obligated legal business, unlike contracts for the assignment and distribution of assets for life because obligations are foreseen on both the recipient and the provider side. The assignment and distribution agreement may also have the characteristics of an encumbered legal transaction and contain obligations both on the part of the assignor and on the side of his descendants, but it still retains its lucrative character, as explained previously.

The subject of the contract, which consists of the obligations of the grantor and the recipient of maintenance, must be possible, permissible, determined or determinable, otherwise the contract will not have legal effect (Antić 2009, 356). Also, the assets of the recipient of subsistence must exist at the moment of conclusion of the contract; it does not enter into the calculated value of the bequest and the necessary heirs cannot be settled from it. An identical solution regarding the specificity of the case, the existence of the property at the time of the conclusion of the contract and the inability to settle the necessary heirs is foreseen in the assignment and distribution.

Subjects to a life support contract can be both natural and legal persons, while the assignment and distribution are possible only between the ancestor, his spouse and descendants who invoke the inheritance after his death. An interesting situation is when a life support contract is entered into between persons who are legally required to support themselves. Namely, in practice, abuses that can occur due to the fact that the property covered by this contract does not belong to the legacy of the recipient of maintenance, and thus other heirs will be excluded from the inheritance (Gavrić 2014, 443). In the Draft Law on Inheritance of the Republic of Serbia there was a provision according to which “a life-long subsistence contract in which a person who is legally obliged to support a recipient is declared to be a survivor, unless others with a legal obligation to support have been heard before the conclusion of the contract” (Antic and Balinovac 1996, 507). Our opinion is on the side of the necessity of introducing this provision, as otherwise the abuses will continue and the courts will still have to assess the circumstances of each case and determine the existence of fraud, leading to overburdening and legal uncertainty. On the other hand, assignment and distribution encompass all successors of the

assignor and thus this contract is used as a mechanism for recognizing correct social norms that reflect justice as a basic virtue of society (Sloan 2019, 8).

For a life support contract, the life support provider acquires a civil law position that can be protected by entry in public registers, but in the event of a failure of the property due to force majeure or expropriation, the maintenance provider shall not be entitled to compensation due to the impossibility of applying the rules on real subrogation (Đurđević 2009, 204). On the other hand, by assignment and distribution, the property that is the subject of the contract is acquired by the descendants or spouse by entry in the real estate cadastre, that is, by the actual transfer by the assignor, as a rule immediately after the conclusion of the contract.

As already stated, assets covered by contracts for life support and assignment and distribution of assets for life cannot be used to settle the necessary heirs. Some authors believe that resistance to the establishment of a necessary part disturbs the balance of inheritance law and enables the emergence of social and ethical norms (Đurđević 2009, 204). On the other hand, there are opinions that the morality of inheritance distribution is viewed from the aspect of the giver of property (Halliday 2013, 619).

The great advantage of an assignment and distribution of property for life over a life-support contract is the absolute necessity for successors to give their consent for the contract to be valid, and in the event that they do not or are subsequently forced to repay what have received by assignment, their right to the necessary part remains intact.

5. TERMINATION OF THE CONTRACT

The extraordinary way of termination of the contract due to the circumstances that arose after its conclusion is termination of the contract (Arsić and Stanivuk 2019, 143).

When referring to termination of contracts for the assignment and distribution of assets for life, the legislator uses inadequate terminology because he uses the word revocation (Stojanovic 2008, 32). Namely, revocation is possible only with a unilateral declaration of will, which is certainly not the case here, and we believe that in the next amendments to the law this error should be corrected.

The legislator further states the possible reasons for the revocation, that is, termination by dividing them into two categories. The first category includes cases where the assignor has the right to demand that the contractor who has received the benefit of the contract return all that he has received through the assignment and distribution. The court is not empowered to assess the significance of the default on the assignor if the offspring has shown serious non-gratitude to him, failed to provide support to him or to any other person for whose benefit the contract was contracted, or failed to fulfil the agreed debts of the assignor (Art. 137 § 1 ZON). The second category includes other obligations imposed on the offspring whose main decision on the fate of the contract is made by the court. Namely, in the case of non-realization of other burdens, the court thoroughly assesses the importance of those burdens for the assignor and takes into account all the circumstances of the case, considers the reasons pro et contra, and only then decides whether to terminate the contract or only to enforce obligations (Art. 137, paragraph 2 ZON). Of course, it is possible to specify in the contract itself the ways and reasons for termination of the contract, in which case the court will appreciate what was agreed, regardless of the legal provisions. If there is a dispute over the reason for termination, the court decides on the lawsuit, but also the descendant has the right to appeal to the civil court by filing a lawsuit to establish the absence of reasons for termination of the contract (Antić and Balinovac 1996, 492). It is unclear why the legislator differently treats the non-realization of the burden with regards to the termination of the contract when each obligation can be of equal importance to the assignor (Stojanovic 2008, 32). Probably the intention was to protect the types of obligations that most often occur when concluding a contract, but such an attitude has no significant basis.

The severing of the legal relationship between the whistle-blower and the co-contractors due to the gross non-gratitude expressed provides possibilities for different interpretations, since it is a legal standard. The expressed non-gratitude must be qualified as gross and not ordinary, and this is to be decided by the court in each particular case. However, due to case law, certain cases are already included in this reason for termination of charitable legal work. The assignor will have the right to demand repayment of everything that the offspring received in the name of assignment and distribution if the offspring commits a serious crime toward the assignor, whether done intentionally or by negligence, with the exception that a negligent relationship must be established in the existence of negligence (Miljković 2013). There are also cases where the offspring intentionally causes the assignor great property damage, physically abusing him, abusively treating him, threatening the assignor to be evicted from the house and the like (Đurđević 2015, 249). The cases of gross negligence represent a great thanklessness of the offspring to the assignor who has ceded and divided the property to them, and it is quite understandable that these situations lead to the termination of the contract, since the infringement of the assignor's rights is evident here.

When life support is contracted for the benefit of the assignor, his spouse, or a third party, the contract for the assignment and distribution of property has all the characteristics of a life support contract (Miljković 2013). If they are jointly contracted for the assignor and his spouse, after the death of one of them, they are transferred as a whole to the surviving spouse, and the legal provision for termination for failure to fulfil gives the right to termination only. Such a legal formulation opens possibilities for problems in practice (Svorcan 2004, 412). Since such a contract has all the features of a lifetime maintenance contract, it can be terminated only under the rules governing termination of the lifetime maintenance contract, i.e. termination can be requested because of default, influence of changed circumstances, unbearable life together or death of the maintenance provider whose obligation has not been assumed by his spouse or a descendant called for inheritance (Art. 142 ZON).

If the recipient of the property does not comply with the contractual obligation consisting in the payment of the assignor's debts, the conditions for termination of the contract will be considered fulfilled because that obligation was of extreme importance for the ancestor, which stems from the fact that it was contracted at the conclusion of the contract. It is also intensified by the fact that the offspring agreed to the obligation and knew it.

Prior to termination of the contract itself, the court should leave an adequate deadline for fulfilling the contractual obligation, regardless of the type of obligation involved, and to allow termination only after the expiry of this period, if the recipient has not fulfilled his obligation (Svorcan 2004, 415).

The legislator states that a descendant who had to return to the assignor all that he received in the name of assignment and distribution would be entitled to the necessary part, unless he was unworthy, renounced or excluded from the inheritance, and portions of the property transferred would be considered as a gift (Art. 138 ZON). The ambiguous wording of the provision raises the question of whether the assignment and distribution agreement is still valid, and if it is converted into a gift contract only to the descendant who returned the property or if the entire contract is converted to a gift contract. We believe that the first situation is fairer, since the principle of *favor contractus* is applied in domestic legislation, according to which the legislator seeks to keep the contract in force whenever possible (Arsić and Stanivuk 2019, 143), and other offspring and spouse should not suffer too great a consequence of doing something else. Also, if the position we represent is correct, the offspring should be barred from claiming the transferred property in the hereditary part, since the ancestor the desire not to account for the hereditary part by the very conclusion of the contract of assignment and distribution of property for life with other descendants and spouse, and by termination of the contractual relationship with the descendant (Stanojević 2008, 35).

CONCLUSION

The contract for the assignment and distribution of assets for life constitutes an extremely important contract in the matter of hereditary law, although it is not represented in practice to the extent that the contract for life support is. Its importance is reflected in the regulation of property relations between the ancestor and his legal heirs and the prevention of conflict in the succession debate. The paper presents irregularities that should be corrected in the legislation of the Republic of Serbia on the model of the domestic legislator, but also the need to remove the wrong terminology that is represented in the provision regarding termination of the contract. Transfer and distribution are intended to provide for the offspring during the assignor's life so that they can start their own household and be more financially independent. This contract is mostly unilaterally binding because it is intended to increase the offspring's assets free of charge. Also, the paper presents extensive options for contracting obligations on the side of descendants, when the contract receives the characteristics of an encumbered legal transaction and allows the assignor to receive appropriate compensation for the assigned property. There is a need for the legislator to clarify the distinction between unfulfilled burdens that entail termination of the contract and those of others, since any obligation may be equally significant to the assignor, as otherwise he would not even contract.

If life support is contracted, this contract assumes all the features of the life support contract, even terminating accordingly. The great advantage of the assignment and distribution is that it must be agreed upon by the descendants who will be called to the inheritance after the assignor's death and who have the imperative right to the necessary part. Since the property covered by this contract does not enter into the calculated value of the legacy, the consent of the necessary heirs fulfils the purpose of the assignment, since the rights of the descendants and spouse are protected. The authors believe that this contract should be more represented in practice, so that imperative heirs are not mistreated.

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AKTUELNI MOMENAT U OBLASTI GLOBALNIH FINANSIJA U SVETLU NEOLIBERALIZMA, ČETVRTE INDUSTRIJSKE REVOLUCIJE I DIGITALNOG VREMENA

Rezime: *Neoliberalna retorika usmerena na odvajanje libertarijanizma, politike identiteta, multikulturalizma, narcisoidnog konzumerizma, lične slobode i socijalne pravde od prakse državne regulatorne politike. Tako je započela nova faza kapitalističkog restrukturiranja - kao reakcija na krizu akumulacije kapitala. U tom slučaju analiziramo istu i odabranu oblast socijalne i finansijske politike. Ponovno tumačenje i kritičko posmatranje stavova socijalne, lične i finansijske sigurnosti u globalnom kontekstu i imenovanja za zemlje u razvoju.*

Ključne reči: *neoliberalizam, 4. industrijska revolucija, ekonomija i finansije, socijalna politika*

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UVOD

Neoliberalna politika, skrivena pod maskom monetarizma, postala je prilično uticajna kao nova ekonomska normalnost koja je regulisala državnu politiku, usvojivši ideju da treba ignorisati kejnzijanzizam kako bi ekonomija potražnje mogla da se koristi u svrhu okončanja ekonomske stagnacije. Centralne banke i MMF postepeno su odbacili finansijska ograničenja koja su im bila nametnuta, kao i fiskalna pravila, sa ciljem da se nova politika usmeri ka ograničavanju inflacije bez obzira na posledičnu nezaposlenost. Tako je započela nova era univerzalne deregulacije, posvećena pružanju neograničene tržišne slobode moćnih korporativnih interesa. Poreske olakšice za nove investicije su povećane kako bi kapital bio usmeren na veći procenat dobiti. Institucionalna praksa deindustrijalizacije i preuređenja proizvodnih pogona primenjena je širom sveta uprkos rastu nezaposlenosti, kao direktna posledica. Konkurencija i inovacije postali su sredstvo konsolidacije moći monopolista, sa najvećim mogućim smanjenjem direktnih poreza u istoriji čovečanstva. (Snower 2019; Ristić i drugi 2018).

Socijalna politika je, zapravo, prebačena na vlasnike obveznica i deonica na Vol Stritu, dok je nova politika smanjenja ogromnog budžetskog deficita bila usmerena na uspostavljanje niskih kamatnih stopa. Povratak Vokera u područje monetarizma i zapošljavanja od strane agencija eksperata koji su se suprotstavili regulativnoj državnoj politici bio je ubrzan kako bi kupovina imovine države, od strane privatnih vlasnika, bila olakšana i da proizvodnja omogući sticanje velike subvencionisane dobiti. (Ristić i drugi 2019). Fleksibilnost mera primenjenih na tržištu rada stvorila je mogućnost da se sve koristi koje proizilaze iz povećanog stepena prilagodljivosti u sferi raspodele radne snage prebace na kapital, dok stopa nezaposlenosti raste istovremeno sa

neoliberalnom retorikom o dobrovoljnoj nezaposlenosti koja se navodno pojavila, jer je „relevantni trošak“ rada bio previsok.

Porast koji se vidi u strukturalnoj adaptaciji i porast neoliberalnih reformi prisiljavao je građane da postanu „dodatak“ tržištu (Ristić i drugi 2018). Zalažući se za reformu globalnog menadžmenta sa poboljšanim regulatornim strukturama i strožim nadzorom finansijskih aktivnosti, Stiglitz i Krugman su se bavili pitanjima nejednakosti dohotka i vlasništva nad imovinom, što je izazvalo strukturalnu krizu i degenerativne strukturne reforme. Globalni ekonomski oporavak bez povećanja stope zaposlenosti i sa stagnacijom dohotka može se sažeti kao samo kontinuirani porast konzumerizma, primera američke ekonomije oslanjajući se na ogromne količine zajmova koji podržavaju njegovo rasipanje. Otuda, termin „tranzicijski“, korišćen tokom napredovanja ka savršenom neoliberalnom svetu, prepoznaje se kao pogrešna utopijska retorika neoliberalizma. Ideali neoliberalne ekonomije već pokazuju želju za alternativnim društvenim odnosima.

Svetska ekonomska kriza, zajedno sa uvođenjem neoliberalnog projekta, dokazala je da je centar globalne ekonomije pomeren iz proizvodnog sektora u finansijski sektor, kao da je ekonomska aktivnost izgubila na značaju. To je formalizovalo primitivnu individualnu slobodu izvlačenja profita od siromašnih u obliku tajno osmišljene privatne prednosti, poput konkurencije, kao ključnog agenta razvoja i pokretača monopola. Neoliberalna ograničenja nametnuta demokratskom upravljanju gurnula su javno obrazovanje, zdravstvo i socijalnu zaštitu u ruke države progane i na ostatke onoga što je nekad bio javni sektor. Još uvek je moguć jer siromašne države subvencionišu bogate zemlje, baš kao što siromašni pojedinci subvencionišu one koji su ultra bogati. (Desmet i drugi 2020)

Savremeni svet razvio je jedan paralelni, finansijski sistem u senci koji na raspolaganju ima sume novca veće od obrta realne ekonomije koju kontrolišu svetske elite, koja poseduje mašinu za štampanje neograničenih količina novca, mehanizam za spekulisanje sa virtuelnim derivatima, ogromne kamatne stope na zlato koje se čuva u sistemu federalnih rezervi i njegovom međunarodnom pandanu BIS (Banka međunarodnih nagodbi). Ključna poenta je činjenica da svetska elita veoma ozbiljno koristi finansijski sistem u senci kako bi promovisala sopstvenu ideologiju. To je dobro poznata snaga novca, zasnovana na kamatnim stopama i konzumerizmu, maloletnim tehnologijama i liberalnoj ideologiji finansiranja. Bogati neoliberalni kapitalisti stvorili su novi oligarhijski oblik dominacije nad srednjim klasama, radnicima i siromašnima.

Neoliberalizam predstavlja ekonomski i finansijski model čija je suština stvaranje uslova koji će podstaći mobilnost transakcijskog kapitala i uslova neophodnih za proizvodnju i distribuciju koji omogućavaju dinamičnije uključivanje određenih zemalja u globalni kapitalizam. Transnacionalni kapital koristi svoju moć da preuzme kontrolu nad državnim finansijskim sistemima i na taj način dodatno pogorša položaj radnika, povećavajući socijalnu nejednakost. Transnacionalni kapital koristi svoju moć da ubrza proces dekompozicije socijalne države i sistema socijalne zaštite.

1. RAST I STABILNOST

Da li je ekonomski rast kompatibilan sa stopom smanjenja emisije štetnih gasova i koliko je smanjenje intenziteta ugljen-dioksida po jedinici globalnog BDP-a? Istraživanje Majkla Usana pokazuje da je prepolovljenje globalnih emisija CO₂ moguće ostvariti prihvatanjem značajnog usporavanja rasta BDP-a. To znači da je zeleni rast mit: rast koji bi bio kompatibilan sa ograničenim materijalnim resursima (fosilna goriva, minerali, šume, voda, tlo) i sa strogo ograničavajućim klimatskim rizicima (za okeane i biološku raznolikost). Ali kako zamišljati ekonomiju i društvo bez ekonomskog rasta i da li je potrebno prihvatiti ekonomsku regresiju u ime ekologije i zaštite životne sredine? Zasićenje rasta dovodi do pada rasta, što sa usporenim demografskim rastom i generacijskim starenjem stanovništva dovodi do smanjenja potrošnje i slabljenja potražnje (uz slab pritisak na rast obrtnih sredstava) i akceleratora za život nove

tehnologije i tehnološki napredak „istiskivanje“ radne snage iz proizvodnih procesa sa smanjenim efektom na stopu rasta zaposlenosti. To razbija mit o ekonomskom rastu i kult prekomernog broja zaposlenih. Krhka stopa rasta već pati od porasta prirodne stope zaposlenosti, što savremeni teoretičari ne znaju objasniti. Nedovoljan rast je antiteza održivog rasta. (Ristić i Živković i Marjanović 2019; Ristić i drugi 2018).

U današnjem neoliberalnom kapitalizmu najveća vrednost je finansijski kapital, a ne ljudski kapital koji je savremeni tehnološki napredak svodio na „gluposti“. Danas se zaposleni kao ljudski kapital tretiraju kao suvišni, jer se koriste i amortizuju. Sudbina većine populacije preko pedeset godina ogleđa se u njihovoj zameni za novi model koji ima tridesetak godina bez potrebe za povećanjem plata i odlaskom u penziju. Uništeni smo robotizacijom proizvodnje, koja smanjuje troškove radne snage na jednu četvrtinu i zato je neviđena lakoća uklanjanja sa posla nova kapitalistička kolektivna šteta. (Ristić i drugi 2019).

Međutim, rast nije neophodan za otvaranje novih radnih mesta, jer je uvek moguće proizvesti više s istom količinom posla. U tom slučaju profit od proizvodnje ne zavisi od tržišta rada. A rast proizvodnje, niži od vrednosti proizvodnje, doprinosi smanjenju obima posla i obima poslova, pod uslovom da radno vreme ostane isto. Nadalje, harmonizacija proizvodnje i potrošnje uključuje kvalitet zajedničkih društvenih i ekonomskih dobara u središte ljudske aktivnosti kako bi se izbegao problem nejednakosti. To zauzvrat znači da održiva ekonomija po pravilu polazi od prirode, rada, ljudi i društava koja pribegavaju niskoj tehnologiji bez nedostatka inovacija. Svakako, u ovim konstelacijama postoji novi trend preoblikovanja radnih mesta. I to se razlikuje od visoke tehnologije trenutne ekonomičnosti produktivnosti, jer za istu količinu proizvoda očito treba više ljudskog rada da bi se proizvela ekološki u standardnim radnim i životnim uslovima. I to se postiže bez orijentacije na rast, a kada se dogodi ekonomski rast, nisu svi ciljevi makroekonomske politike „umanjeni“ u planu punog zapošljavanja. Zato je rast kult koji nestaje i zato se moraju istražiti novi načini ljudskog napretka. (Ferrara i Marsilli 2019).

Robustna ekonomija i sinhronizovani rast ostaju neostvarivi san o svetskoj ekonomiji: „*Sada su nejednakosti i polarizacija u odnosu na nerazvijene ekonomije već alarmantni, jer globalni rezultati u razvijenim ekonomijama ukazuju na neravnomerni i krhki rast, visoku zaduženost, demografsku napetost, nisku stopu ulaganja, pad produktivnosti i neophodno redefinisavanje monetarnih i fiskalnih mera za rast proizvodnje i smanjenje turbulencija na finansijskim tržištima, jer: industrijska proizvodnja je i dalje slaba na globalnom nivou, svetska trgovina je u usporavanju, inflacija je i dalje ispod cilja (uprkos stabilnosti osnovne inflacije), cene nafte i dolara nastavljaju da opadaju, prinosi na državne obveznice rastu (usled uvođenja programa kvantitativnog ublažavanja) i zato što je došlo i do pada cene zaduživanja*“ (Ristić i drugi 2018).

Niži rast investicija rezultat je slabljenja domaće tražnje, sporiji rast osnovnog kapitala, loša situacija na tržištu rada i pad ulaganja u ljudski kapital negativno su uticali na pad produktivnosti faktora. To je dovelo do brojnih neravnoteža na makroekonomskom planu: proizvodnja je rasla sporije od prihoda, potražnja je rasla brže od dohotka, investicije su rasle brže od štednje, sporo prilagođavanje cena i zarade dovele su do rasta oštećene proizvodnje iznad potencijalne proizvodnje, što je ukazivalo na potrebu produžavanja stimulatивnih reformi: u šemi snabdevanja (možda je MMF ukazao da se oko dve trećine usporavanja ekonomskog rasta može pripisati cikličnim faktorima, a samo jedna trećina stimulatивnoj potrošnji). U tom kontekstu, još manje rasprave o interakciji između deviznog kursa, spoljne trgovine i privrednih aktivnosti umanjile su konvencionalni model da je depresijacija domaće valute sigurno sredstvo za povećanje izvoza (jer se ispostavilo da stvarna efektivna depresijacija od 10% povećava izvoz za samo 1,5% BDP-a i to uglavnom zbog povećanog učešća globalnih lanaca u svetskoj trgovini, zbog ekonomske fragmentacije, sa proizvodnim segmentima koji su locirani u nekoliko zemalja (u cilju donošenja konačnih proizvoda iz mnogih ekonomija).

U diskusiji o finansijskoj stabilnosti u globalnom kontekstu identifikujemo da su se centralne banke, zbog slepog verovanja u finansijsku stabilnost, po pravilu fokusirale na inflaciju. Sada,

pre vremena, takođe, su čvrsto usmereni na ekonomski oporavak i finansijsku stabilnost, ali ne i na nezaposlenost i rast, jer ekspanzivna monetarna politika (tzv. kvantitativno ublažavanje) više je posvećena finansijskoj stabilnosti, nego makroekonomskoj stabilizaciji. (Ristić i drugi 2018).

A kada je američka ekonomija pala u krizu, FED je spustio kamatne stope na nulu da bi podstakao oporavak. Sada je kroz program kvantitativnog olakšavanja u sistem ubacio čak 4500 milijardi dolara kako bi ublažio inflaciju i ubrzao ekonomski oporavak.

U praksi postoje već četiri dokaza da ekonomije postižu bolje rezultate na određenim tržištima rada i sa manjom nejednakošću. Niske plate neće značiti visoke profite, niti će niske kamate stope značiti visoke cene obveznica. Zbog toga je FED bio veštiji u postizanju stabilnosti cena i mnogo manje uspešan u promociji pune zaposlenosti. Ali sa stagnacijom plata, jačim dolarom i inflacijom ispod ciljanih dva procenta, samo visoka cena kapitala može biti podrška zdravom rastu (iako su banke veoma rezervisane u pogledu finansiranja) i finansijskoj stabilnosti.

Uz skoro najniže poreske stope, visoke poreske odbitke i snažne subvencije, poreska opterećenja stranih kompanija u našoj zemlji su 5-6%, što znači da državni budžet gubi oko 0,5% BDP-a godišnje. U praksi naprednih zemalja se ispostavlja da nivo oporezivanja nije ključni element za donošenje odluka o investiranju, niti je ključni faktor u povećanju konkurentnosti ponude.

Zato se inicirani valutni rat, najpre intenzivirao u uvozno-izvoznoj politici otvorenim protekcionističkim merama i skrivenim mehanizmima stimulisanja, a zatim prešao iz realnog sektora u bankarsku industriju i finansiranje novih ekonomija, najviše putem zajma i finansijskih derivata da uruše finansijsku stabilnost. Deregulacija je doprinela finansiranju ekonomije. Loše regulisan finansijski sektor usko povezan sa nejednakošću, što omogućava manipulaciju „pravilima igre”. Politika finansiranja je tako postala presudni faktor povećanja nestabilnosti ekonomije. Ali nepravedni poreski sistem reformisao je ekonomiju, uzrokujući veću nejednakost nakon poreskog odbitka, veću nestabilnost i degradaciju rasta. (Grief i Murat 2013).

Monetarna politika stoga zanemaruje ekonomski kod globalne ekonomije koji podrazumeva da jeftini novac ide u realni sektor, tj. proizvodnju, a ne hartije od vrednosti, tj. bezvredne papire i derivate. Uz to, zavisnost o merama štednje među državama Evropske unije i periferijom evrozone doprinela je rastućem nepoverenju investitora, a posledično usporavanju ekonomskih aktivnosti i retroaktivno dovelo do „korupcije” rasta kao mita ili kulta.

2. SOCIJALNO OSIGURANJE I SOCIJALNA POLITIKA

Neoliberalistički model (antikolektivni, neokonzervativni) iznova potvrđuje centralna načela vlasničkog socijalno-ekonomskog modela, socijalno-ekonomskih odnosa i socijalne i fiskalne politike koji se zasnivaju na principima *laissez-faire*. Epicentar ovog modela postavlja tržište kao vrhunski prirodni mehanizam za rešavanje socijalnih sukoba i ekonomskih kontradikcija, kao efikasan mehanizam za alokaciju dobara i usluga i kao racionalan regulator odnosa ponude i potražnje. U tom kontekstu, država ima zadatak da obezbedi ekonomske slobode i institucionalne aranžmane za preduzetništvo i ništa više. Država se ne sme mešati u ekonomska kretanja kako ne bi ometala privatnu inicijativu. Protagonisti originalnog modela liberalističkog koncepta civilnog društva predstavljaju neoliberalistički model sa klasičnim idejama o savršenoj tržišnoj igri, maksimiziranju potreba potrošača i maksimiziranju profita proizvođača. Haiek i Fridman, kao tipični predstavnici neokonzervativnog i antikolektivističkog razumevanja stanja blagostanja, najviše su doprineli teorijskom potvrđivanju neoliberalističkog modela. Prema Hajeku, sloboda izbora i sloboda delovanja oduvek su predstavljali osnove ukupnih ljudskih sloboda i odrednica ekonomskih i društvenih odnosa. (Ristić i Živković i Marjanović 2019).

Međutim, Haiek se ne zaustavlja samo na ovoj izjavi, već nastavlja da upozorava na rizik državne intervencije u socijalnu sferu društveno-ekonomskog života. On se protivi ovom

uticaju ne samo u odnosu na socijalnu pravdu i slobodu pojedinaca, već i sa aspekta društvene strukture, ukazujući na rastući paternalizam moderne države, koji mešanjem tržišta i društvenih odnosa narušava ravnotežu sistema i sužava mogućnost izbora. Na taj se način država meša u suštinu ekonomskih i socijalnih odnosa. Uplitanje države u ekonomiju i državne programe socijalne zaštite, prema ovom autoru, glavni su uzroci ekonomske propasti i ekonomske krize. Ovo je Haiekovo mišljenje. Fridman deli njegovo mišljenje prema kojem je apsolutna privatizacija gotovo svih segmenata socijalnih i ekonomskih odnosa i eliminacija uplitanja države u tržišne i društvene odnose suštinski preduslov za povratak početnim načelima civilnog društva. „Mogući izuzeci su samo oni delovi društvenih struktura koji utiču na mogućnost jednakog učešća u slobodnoj konkurenciji i izboru pojedinaca, kao što su obrazovanje ili opšte aktivnosti koje se ne mogu postići na tržišnim principima (na primer, zaštita životne sredine). Država, takođe, ima ulogu jačanja i razvoja informacionih sistema potrebnih za slobodan izbor i odlučivanje, kao i zakonodavstva kojim se smanjuju monopoli, uklanja zloupotreba tržišta i podstiče konkurencija i rivalstvo među konkurentima. Pomoćni model državnih socijalnih usluga može da funkcioniše samo ako prethodni mehanizmi tržišne, porodične ili druge pojedinačne solidarnosti i milosti nisu eliminisali siromaštvo i uskraćenost inferiornih na tržištu”. (Ristić i Živković 2019).

Međutim, selektivne socijalne mere ne smeju ugroziti princip slobode, odlučivanja i izbora i sticanja imovine na osnovu dokazanih tržišnih sposobnosti i rezultata. Jedan nedavni rezime Fridmanovog dela zaslužuje pažnju zbog pokušaja projekcija prelaznog perioda za bivša socijalistička društva. Fridman je očigledno uperio strelice u bivša socijalistička društva koja su degradirala liberalističku opciju. Zbog toga Fridman insistira na tome da se postsocijalistička društva zalažu za građanske, ekonomske, političke i lične slobode svih svojih građana. Ključno za to su ekonomske i političke promene zasnovane na dosledno sprovedenim principima tržišnih pravila. Prelaz na slobodu građana i društva moguć je uz četiri ključna uslova: 1. prenošenje osnovnog društvenog bogatstva u privatno vlasništvo, 2. osnovna i zagarantovana zaštita lične svojine, 3. strogo ograničenje državne uprave, čija je funkcija zaštita zakonitosti i 4. odnosi na slobodnom tržištu, nadzor nad izvršavanjem privatnih ugovora i nikako uplitanje u privredu i društvene aktivnosti, posebno u monetarnim poslovima i kurs stranih valuta i relativno stabilan monetarni sistem.

Raspodela i distribucija potreba, dobara i usluga, uključujući socijalne, najbolje se ostvaruju na tržištu. Koristi se kao mehanizam ugrađen u raspodelu dobara i usluga, realizovan kroz mehanizam takozvanih društvenih aktivnosti. Izuzetak su one aktivnosti koje zavise od slobode pojedinaca i njihove početne jednakosti u tržišnoj konkurenciji. Fridman se snažno protivi pružanju pomoći tranzicijskim ekonomijama, jer bi se tako sačuvala uloga države u procesu uobičajene preraspodele resursa.

Ako postoji monopol vlasnika robe ili usluga, tada ne postoji efikasno tržište. Neke su robe društvenog karaktera da se ne mogu distribuirati putem tržišta. Ovo je problem u odnosu na one robe ili usluge koji su više opšteg tipa i počivaju na ideji solidarnosti i opšteg interesa. Pitanje slobode izbora na tržišnim principima posebno se postavlja onima koji nemaju dovoljno prihoda, posebno u vezi sa socijalnim uslugama. To se, takođe, može reći i o tendenciji najniže cene usluga za marginalnu ponudu, jer to može uticati na kvalitet i obim usluga. U vezi s tim, postavlja se pitanje dominacije korisnika socijalne zaštite, pogotovo jer oni deluju pojedinačno u tržišnim uslovima i inače ne mogu izraziti ili nametnuti svoj zajednički interes.

Marginalizovane i siromašne klase nemaju ni ekonomsku ni političku moć. Situacija je slična u pogledu kvaliteta usluga i dostupne robe prema tržišnim kriterijumima, zbog insistiranja na nepostojanju propisa (osim mehanizama ponude i potražnje) i standarda robe i usluga. Drugim rečima, uvođenje tržišnih zakona ne znači i automatsko praćenje efikasnosti u društvenim aktivnostima. O potonjem se najbolje može proceniti na osnovu pokazatelja efikasnosti sistema privatnog zdravstvenog osiguranja u Sjedinjenim Američkim Državama.

Za razliku od neoliberalnog modela, socijaldemokratski model privlači pažnju u gotovo svim evropskim zemljama tržišne ekonomije, što u principu rešava rastuće socijalne suprotnosti i

rastuće socijalne tenzije. Odnos socijalne politike, socijalnih institucija i promena promatra se dinamički u okviru socijaldemokratskog modela. Socijalna politika socijalne države jedno je od sredstava za podsticanje i usmeravanje društvenih promena, pre svega posmatranih kao kvalitativne činjenice. Stanje ravnoteže u određenoj fazi, pod uticajem kvalitativnih promena, pretvara se u stanje neravnoteže koje zahteva nova sredstva, rešenja i prilagođavanje socijalnih institucija novim potrebama.

Država se pojavljuje kao značajna integrativna institucija društva (Duvnjak 2018) i istovremeno promovise promene, naročito u socijalnoj sferi. Za razliku od drugih modela, socijaldemokratski model socijalnu državu i njen razvoj vidi kao način za prelazak civilnog u socijalističko društvo na miran parlamentarni način.

U realizaciji ovog globalnog cilja, najvažnije promene se dešavaju kroz fiskalnu politiku, industrijski razvoj i socijalnu politiku. Socijalna politika, koja se u osnovi zasniva na principima jednakosti, socijalne pravde, zagarantovane socijalne sigurnosti i integracije građana, posmatra se kao put društvenih promena i uspostavljanja ravnopravnog i demokratskog pluralističkog društva u kome postoji ravnoteža između ekonomske, tj. politička i socijalna prava i slobode. Socijalizacija državnog bogatstva redistributivnom funkcijom socijalne države predstavlja način prevazilaženja kontradikcije proizvodnje koja nije socijalizovana, ali je dominantno privatna.

Socijalna zaštita deo je socijalne politike i način za smanjenje razlika, posebno u odnosu na marginalizovane i ugrožene ljude. Razvoj institucija u socijalnoj sferi, smanjenje razlike u primanjima kroz progresivni poreski sistem i drugi mehanizmi državne intervencije u raspodeli dobiti važni su načini društvenih promena, razvoja i širenja u socijalističko društvo.

Država blagostanja, u neku ruku, predstavlja sredinu između kapitalizma i socijalizma. To ide korak dalje, što predstavlja postkapitalističko ili postindustrijsko društvo. Ove poslednje stavove ne treba mešati sa idejama o smrti ideologija i konvergenciji. Socijalna politika je, dakle, kao sredstvo socijalne reforme i promene jedno od moćnih sredstava postepenog širenja kapitalizma i temeljne suprotnosti između kolektivnog stvaranja i individualne distribucije.

Socijaldemokratski model upravljanja dobrobiti je u osnovi električni model koji je pogodan za empirijsku analizu. Dakle, to je pragmatičniji model kroz koji se vrši uticaj ideoloških mogućnosti konkretnog društva. U velikoj meri insistira na institucionalnim promenama i razvoju teorijskih osnova globalnog modela. Švedski tip socijalizma najviše je inspirisao dalji razvoj socijaldemokratskog modela socijalne zaštite, koji danas ima posebnu korist za društva u tranziciji i postsocijalističke ekonomije. Prelaz iz kapitalizma u socijalizam, prema ovoj opciji, ima nekoliko stepeni. Prva faza, izjednačena sa političkom demokratijom, ostvaruje se ostvarivanjem građanskih prava, slobodom stvaranja udruženja, posebno sindikata i političkih organizacija na principima interesa.

Jačanjem uloge radničkih partija i sindikata, širokim obrazovanjem masa u političkom odlučivanju i, naročito, socijalizaciji raspodele resursa i profita, mehanizmi socijalne države uvode se u sledeću fazu, a to je socijaldemokratija i socijalna država. Ova faza je posledica istorijskog kompromisa između radničke klase i kapitala. Ekonomska demokratija, kao sledeća faza, za koju se sve manje tvrdi da predstavlja prelaz u socijalizam, povezana je sa uvođenjem sredstava za plaćanje zaposlenih putem međusobnih ugovora, što predstavlja osnovu takozvanog modela države saglasne socijalne države, kao mogućnost opstanka osnovnog modela socijalne države koji se suočio sa ozbiljnom i fundamentalnom kritikom, kako sa levičarske, tako i od desničarske ideološke pozicije. (Ristić i Živković i Marjanović 2019).

Zbog rastućih stvarnih ekonomskih teškoća u nekim zemljama OECD-a došlo je do povećanja uticaja neophodnog smanjenja poreskih opterećenja na velika primanja i velikog kapitala te imperativnih smanjenja socijalne potrošnje, kako bi se izbegli rastući budžetski deficiti i smanjili rastuća nezaposlenost. Bilo je potrebno smanjiti troškove države i njenih institucija koje pokušavaju da namame svoje glasače atraktivnim socijalnim programima.

3. ZDRAVSTVENO OSIGURANJE

Medicinska doktrina zagovara širi pristup definisanju zdravstvenog sistema i zdravstvene zaštite. U tom smislu, zdravstvena zaštita bi se mogla definisati kao skup institucija i aktivnosti koje rade na očuvanju i unapređenju zdravlja. No, ovaj pristup zdravstvenom sistemu je nešto uži od sistema zdravstvene zaštite koji, pored aktivnosti zdravstvenih ustanova, uključuje i sve druge mere usmerene na očuvanje i poboljšanje zdravlja, odnosno zdravstveni sistem uključuje i ostale sektore koji aktivno doprinose unapređenju zdravlja. U najširem smislu te reči, zdravstveni sistem podrazumeva i zdravstveno osiguranje, koje uključuje socijalnu sigurnost građana. U užem smislu, zdravstveni sistem se primenjuje na mere koje su usmerene na suzbijanje i sprečavanje bolesti, lečenje i rehabilitaciju. Elementi zdravstvenog sistema su zdravstvene ustanove, zdravstveno osoblje, zdravstvena tehnologija i zdravstvene procedure. Zdravstveni sistem je podeljen na delatnosti sistema primarne zdravstvene zaštite i zdravstvene zaštite i specijalističko-konsultantske aktivnosti, čiji je zadatak ispitivanje pacijenata u specijalističkim klinikama, uključujući značajan deo laboratorijskih dijagnostičkih aktivnosti i deo terapijskih i rehabilitacionih aktivnosti, aktivnost stacionarne zaštite zdravstvenih usluga (sveobuhvatna zdravstvena zaštita) koja pretpostavlja integralno lečenje, tj. funkcionalno povezivanje svih ovih aktivnosti.

U tom kontekstu, primarni lekar je centralna figura zdravstvene zaštite koja „uravnotežuje“ preventivne, lekovite i socijalne aktivnosti. U svojoj funkciji, primarni lekari nadgledaju proces dijagnostike i lečenja pacijenata, sprovode postbolničku negu i kućno lečenje i uključuju se u proces konsultacija-specijalističke i stacionarne zdravstvene zaštite. A budući da su opremljeni odgovarajućom laboratorijskom dijagnostičkom službom, doprinose smanjenju pritiska potreba za skupim zdravstvenim uslugama visoko specijalizovanih klinika i bolnica. U našem zdravstvenom sistemu, timovi primarnih lekara smešteni su u zdravstvenim centrima preduzeća i lokalnih zajednica, u ambulantama, uključujući složenu službu primarne zdravstvene zaštite, higijensko-epidemiološku aktivnost i laboratorijsku dijagnostičku službu.

Dogovorena poliklinička aktivnost vrši se u bolničkim poliklinama i nezavisnim dijagnostičkim centrima te u okviru posebnih domova zdravlja. Stacionarnu zdravstvenu zaštitu obavljaju opšte, specijalne i kliničke bolnice, kao i razne druge stacionarne zdravstvene i socijalne ustanove. Osnovni zadatak ovog definisanog sistema zdravstvene zaštite i zdravstvene zaštite je očuvanje i poboljšanje zdravlja kao opšte dobro. Realizacija ovog cilja odražava proces postizanja konačnog zadatka - kao prelaznog cilja - svakog društva, koji se ogleda u podizanju nivoa blagostanja ljudi, koji sintetiše povećanje kvaliteta života, podizanje kreativnih mogućnosti i obezbeđivanje socijalne sigurnosti. (Garnitz i drugi 2019).

Stoga su ciljevi zdravstvenog sistema (1) očuvanje i poboljšanje zdravlja (povećanje kvaliteta života, povećanje kreativnih kapaciteta i povećanje socijalne sigurnosti), (2) povećanje produktivnosti rada, (3) jačanje odbrambene sposobnosti zemlje i (4) povećanje doprinosa ekonomskom i socijalnom razvoju društva, dok su oblici zdravstvene zaštite (1) primarna zdravstvena zaštita (preventivna i lekovita), (2) polikliničko-konsultantska zdravstvena zaštita i (3) stacionarna zdravstvena zaštita. Dakle, oblici funkcionalne organizacije zdravstvene zaštite su (1) u primarnoj zdravstvenoj zaštiti - zdravstvena stanica, dom zdravlja, medicinski centar, (2) kliničko-konsultantska i stacionarna zaštita - klinike, opšte i specijalne bolnice, specijalne ustanove, medicinski centri, (3) druge ustanove - zdravstvene ustanove, domovi hitne medicinske pomoći i apoteke.

Ekonomija zdravstvenog sistema se po pravilu bavi utvrđivanjem nivoa i strukture zdravstvenih potreba, pronalaženjem najefikasnijih metoda za zadovoljenje zdravstvenih potreba, procenom zdravstvenog stanja nacije, utvrđivanjem inputa i outputa u zdravstvenoj zaštiti i merenjem koristi ili gubici u slučaju nezadovoljstva ili neispunjavanja zdravstvenih potreba.

U tom su kontekstu važne osnovne ekonomske karakteristike zdravstvenih usluga, koje su brojne i različite u odnosu na ekonomska dobra i usluge. Prof. Jurković navodi sledeće karakteristične ekonomske karakteristike zdravstvenog sistema i zdravstvenih usluga: (1)

nepravilnost i nepredvidivost izbijanja bolesti, (2) postojanje takozvanih „spoljnih“ efekata, (3) nemogućnost pojedinca da proceni svoje zdravlje, (4) dvostruka priroda izdataka za zdravstvenu zaštitu, istovremeno posmatrana i kao potrošnja i kao investicija, (5) niska supstitucija inputa i relativno visoka angažovanost rada i resursa po jedinici proizvodnje, (6) međuzavisnost osnovnih aktivnosti sa procesom obrazovanja novog osoblja (tzv. proizvodnja srodnih proizvoda) i (7) nekonkurentna priroda zdravstvene zaštite. Posledice konceptualnih reformi ili intervencija u oblasti socijalne medicine i zdravstvene zaštite doprinele su stvaranju novih pojmova i koncepata, kao što su: „kvalitet života, zdravstveni razvoj, životni stil, modifikacija ponašanja, holističko zdravlje, promocija zdravlja, samobriga, uzajamna pomoć, s ciljem zamene klasičnih izraza kao što su prevencija, zdravstvena zaštita, zdravstvena edukacija, zdravstvene informacije. (Ristić i Živković i Marjanović 2018).

ZAKLJUČAK

Socijalne usluge, kao sredstvo socijalnog osiguranja, mogu se angažovati samo ako navedeni mehanizmi nisu uspešni ili ne ciljaju neke pojedince. Funkcionisanje socijalnih usluga zasniva se na principu selektivnosti i smatra se potrebnim samo u slučajevima apsolutne nemoći pojedinaca u cilju ublažavanja njihovih najtežih problema. Međutim, socijalne službe ne preuzimaju odgovornost za pojedinca. Stoga bi svojim angažmanom trebalo da pomognu pojedincu ili porodici da prihvati i ponaša se u skladu sa opštim društvenim principima i pravilima. Međutim, za razliku od principa supsidijarnosti, principi selektivnosti i milosrđa proizilaze iz diskrecionog prava socijalnih usluga, odnosno iz ideje samoizbora. Socijalni programi ne mogu potkopati prirodne nejednakosti među ljudima, a individualna odgovornost za vlastiti društveni položaj ne može biti zamenjena kolektivnom odgovornošću. Suprotno tome, mi identifikujemo da je socijalna država zasnovana na socijalnom osiguranju u koliziji sa, zapravo, neoliberalnom, globalnom politikom i savremenim tretmanom rasta i stabilnosti.

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CURRENT MOMENT IN SELECTED AREA OF GLOBAL FINANCE IN LIGHT OF NEOLIBERALISM, FOURTH INDUSTRIAL REVOLUTION AND DIGITAL TIME

Summary: *The neoliberal rhetoric aimed at separating libertarianism, identity politics, multiculturalism, narcissistic consumerism, personal freedom and social justice from the practices of the state regulatory politics. This is how a new stage in the capitalist restructuring began – as a reaction to the crisis of capital accumulation. In that case, we analyse the same and selected area of social and finance politics. Reinterpreted and critical observing the stances of social, personal and financial security in a global context and for an appointment for developing countries.*

Key words: *neoliberalism, 4th industrial revolution, economics and finance, social politics*

JEL classification: *E16, G20*

INTRODUCTION

Neoliberal politics, hidden under the mask of monetarism, became rather influential as a new economic orthodoxy that regulated state politics, adopting the idea that Keynesianism should be rejected so that the economy of demand might be used with the purpose of ending the economic stagnation. Central banks and the IMF gradually dismissed the financial restrictions imposed on them as well as fiscal rules with the purpose of directing a new politics towards restricting inflation regardless of the consequential unemployment. Thus, a new era of universal deregulation was started, dedicated to providing limitless market freedom of powerful corporate interests. Tax reliefs for new investments were increased for the capital to be directed to a higher percentage of profit. The institutional practice of deindustrialization and rearrangement of production facilities was applied worldwide despite the rise of unemployment, as its direct consequence. Competition and innovations became the means of consolidation of monopolists' power, with the largest possible reduction of direct taxes in the history of humankind. (Snower 2019; Ristić, et al. 2018)

Social politics was actually transferred to the owners of bonds and stocks in Wall Street, whereas a new politics of the reduction of an enormous budget deficit was aimed at establishing low-interest rates. Walker's return to the area of monetarism and employment by agencies of the experts who opposed the regulatory state politics was accelerated so that the purchase of the property of the state by private owners could be facilitated and the production enabled to acquire

large subsidized profits. (Ristić et al. 2019) The flexibility of the measures applied in the labour market created the possibility by which all the benefits resulting from an increased level of adaptability in the sphere of workforce distribution could be transferred to capital, whereas the unemployment rate rose simultaneously with the neoliberal rhetoric about voluntary unemployment which allegedly emerged because the “relevant cost” of labour was too high.

As Ristić et al. 2018 said an increase evident in the structural adaptation and the growth of the neoliberal reforms forced citizens to become an “addition” to the market (Ristić et al. 2018). Advocating a reform of the global management with improved regulatory structures and stricter supervision of financial activities, Stiglitz and Krugman tackled the issues of income inequality and property ownership, which caused the structural crisis and degenerative structural reforms. A global economic recovery without an increase of the employment rate and with an income stagnation could be summarized as only a continuous rise of consumerism, exemplified in the American economy relying on enormous amounts of loans that support its squandering existence. Hence, the term “transitional”, used in the course of progressing towards a perfect neoliberal world, is recognized as wrong utopian rhetoric of neoliberalism. The ideals of the neoliberal economy are already showing a desire for alternative social relations.

The world economic crisis, together with the introduction of the neoliberal project, proved that the center of the global economy had been moved from the production sector to the financial sector, as if the economic activity had lost its importance. This formalized the primitive individual freedom of extracting profit from the poor in the form of a secretly devised private advantage, such as competition, being the key agent of development and generator of the monopoly. Neoliberal restrictions imposed on the democratic management pushed public education, health and social care into the hands of the exiled state and onto the sands of what used to be the public sector. Still feasible since poor countries subsidize rich countries, just as poor individuals subsidize those who are ultra rich. (Desmet, 2020)

The contemporary world developed a parallel, shadow financial system that has at its disposal the sums of money larger than the overturn of the real economy controlled by the world elites, who own the machine for printing limitless amounts of money, the mechanism for speculating with virtual derivatives, enormous interest rates on gold kept in the system of federal reserves and its international counterpart BIS (Bank of International Settlements). The key point is the fact that the world elite uses the shadow financial system very seriously in order to promote its own ideology. It is a well-known power of money, based on interest rates and usury, juvenile technologies and liberal ideology of financing. The rich neoliberal capitalists created a new oligarchic form of domination over the middle classes, labourers and the poor.

Neoliberalism represents an economic and financial model whose essence is the creation of the conditions that will stimulate the mobility of the transaction capital and of the conditions necessary for the production and distribution that enable a more dynamic inclusion of certain countries into the global capitalism. The transnational capital uses its power to undertake control over the state financial systems and thus additionally worsen the position of workers, increasing social inequality. The transnational capital uses its power to accelerate the process of decomposition of social state and social care system.

1. GROWTH AND STABILITY

Is economic growth compatible with the rate of reduction of emissions of harmful gases and how much is the reduction of the carbon dioxide intensity per unit of global GDP. Michel Usan's research shows that the halving of global CO₂ emissions can be realized by accepting a significant slowdown in GDP growth. This means that green growth is a myth: growth that would be compatible with limited material resources (fossil fuels, minerals, forests, water, soil) and with strictly limiting climate risks (for oceans and biodiversity). But how to conceive the economy and society without economic growth and whether it is necessary to accept economic

regression in the name of ecology and environmental protection. Saturation of growth leads to the declination of growth, which with slowed demographic growth and generational ageing of the population leads to a reduction in consumption and a weakening of demand (with a weak pressure on the growth of working funds) and the accelerator to the life of new technologies and technological progress "extrusion" of the labour force from production processes with a reducing effect on the growth rate of employment. This breaks the myth of economic growth and the cult of overstaffing. The fragile growth rate is already suffering from the rising natural rate of employment, which modern theorists do not know how to explain. Insufficient growth is the antithesis of sustainable growth. (Ristić and Živković and Marjanović 2019; Ristić et al. 2018)

In today's neoliberal capitalism, the highest value is the financial capital rather than human capital, which modern technological progress reduced to "nonsense". Today the employees as human capital, are treated as superfluous since they are used and amortized. The fate of the majority of the over-fifty population is reflected in their replacement for the new model „trioxo olds“ without the need to increase salary and to go to minimum retirement. We are destroyed by the robotization of production, which reduces the cost of the labour to one quarter, and that is why the unseen ease of removal from jobs is the new capitalist collective damage. (Ristic et al. 2019)

However, growth is not necessary for the creation of new jobs, because it is always possible to produce more with the same amount of work. In that case, production profit does not depend on the job market. And a production growth lower than the production value contributes to the diminishing volume of work and volume of jobs, under the condition that work hours stay the same. Further, the harmonization of production and consumption incorporates the quality of common social and economic goods into the centre of human activity in order to avoid the problem of inequality. This, in turn, means that a sustainable economy, as a rule, starts from nature, labour, people and societies that resort to low technology without lack of innovation. Certainly, in these constellations, there is a new form of redesigning jobs. And this is different from the high technology of the current productivity economy because, for the same quantity of products, obviously more human labour should be needed to produce ecologically in standard working and living conditions. And this is achieved without an orientation to growth; and when economic growth occurs, not all macroeconomic policy goals are "diminished" in the full employment plan. That is why growth is a cult that is disappearing and that is why new ways of human progress must be explored. (Ferrara and Marsilli 2019)

The robust economy and synchronized growth remain the unachievable dream of the world economy: *“now the disparities and the polarization relative to underdeveloped economies are already alarming, as global performance in developed economies is indicative of uneven and fragile growth, high indebtedness, demographic tension, low investment, a drop in productivity, and the necessary redefinition of monetary and fiscal measures for output growth and the reduction of turbulence in financial markets, because: industrial production is still weak at the global level, world trade is in a slowdown, inflation is still below target (despite the stability of core inflation), oil prices and the dollar continues to decline, yields on government bonds are rising (due to the introduction of the program of quantitative easing), and because there has also been a drop in the price of borrowing”*. (Ristić et al. 2018) Lower investment growth is the result of the weakening of domestic demand; a slower growth of stock capital; the poor situation in the labour market and the decline of investment in human capital adversely affected the decline in factor productivity. This led to a number of imbalances on the macroeconomic plane: the output grew slower than income, demand grew faster than income, investments grew faster than savings, the slow adjustment of prices and earnings led to the growth of the damaged output above the potential output, which indicated the need to prolong the stimulative reforms: in the supply scheme (perhaps the IMF pointed out that about two-thirds of the slowdown in

economic growth can be attributed to cyclical factors and only one third to stimulative spending). In this context, even smaller debates about the interaction between the foreign exchange rate, foreign trade and economic activity have diminished the conventional model that the depreciation of the domestic currency is a safe means of increasing exports (because it turned out that the real effective depreciation of 10% increases exports by only 1.5% of GDP), and this is mainly due to the increased participation of global value chains in world trade, due to economic fragmentation, with production segments located in several countries (in order to bring the final products out of many economies).

In the discussion of financial stability in a global context, we identify that central banks, due to the blind belief in financial stability, focused, as a rule, on inflation; now, tardily, they are also firmly focused on economic recovery and financial stability, but not on unemployment and growth; because expansive monetary policy (so-called quantitative easing) is more committed to financial stability than to macroeconomic stabilization. (Ristić et al. 2018)

And when the US economy fell into crisis, the Fed lowered interest rates to zero to stimulate recovery. Now, through the program of quantitative easing, the Fed has pumped into the system as much as 4,500 billion dollars in order to mitigate inflation and accelerate economic recovery. In practice, there are already four proofs that economies achieve better results in certain labour markets and with lower inequality. Low salaries will not mean high profits, nor will low interest rates mean high bond prices. Therefore, the Fed was more skilful in achieving price stability, and much less successful in promoting full employment. But with the stagnation of wages, stronger dollar and inflation below the targeted two per cent, only the high price of capital can be a support for healthy growth (even though banks are very reserved in terms of financing) and financial stability.

With almost the lowest tax rates, high tax deductions and robust subsidies, foreign companies' tax burdens in our country are 5-6%, which means that the state budget loses about 0.5% of GDP annually. In the practice of advanced countries, it turns out that the level of taxation is not a key element in making investment decisions, nor is it a key factor in increasing the competitiveness of the offer.

That is why the initiated currency war, is first intensified in the import-export policy with open protectionist measures and hidden stimulus mechanisms, then moved from the real sector to the banking industry and the financing of new economies, mostly through a loan of "debts" and financial derivatives to "tear down" financial stability. (Grief et al. 2013) Deregulation contributed to the financialization of the economy; a poorly regulated financial sector closely related to inequality, allowing manipulation of the "rules of the game". Financialization has thus become a crucial factor in increasing the instability of the economy. But the unjust tax system reformed the economy, causing greater inequality after tax deductions, greater instability and degradation of growth. (Grief and Murat 2013).

Monetary policy thus ignores the economic code of the global economy that implies that cheap money goes into the real sector, i.e. production, and not securities, i.e. worthless papers and derivatives. Additionally, the dependence on austerity measures among the countries of the European Union and on the periphery of the eurozone contributed to the growing distrust of investors, and consequently the slowdown in economic activity and retroactively led to a "corruption" of growth as a myth or cult.

2. SOCIAL SECURITY AND SOCIAL POLICY

The neoliberalist model (anti-collective, neo-conservative) reaffirms the central principles of the proprietary social-economic model of social-economic relations and social and fiscal policy based on the principles of laissez-faire. The epicentre of this model puts the market as the superior natural mechanism for resolving social conflicts and economic contradictions as an efficient mechanism for allocating goods and services and as a rational regulator of supply and demand relations. In this context, the state has the task of providing economic freedoms and

institutional arrangements for entrepreneurship, and nothing more. The state should not interfere with economic trends so as not to derail a private initiative. The protagonists of the original model of the liberalist concept of civil society represent a neoliberalist model with classic ideas about a perfect market game, maximizing the needs of consumers and maximizing the profit of the producers. Hayek and Friedman, as the typical representatives of the neo-conservative and anti-collectivist understanding of the state of welfare, contributed the most to the theoretical reaffirmation of the neoliberalist model. In Hayek's opinion, the freedom of choice and freedom of actions had always represented the basics of total human freedoms and determinants of economic and social relations.

However, Hayek does not stop at this statement only but goes on to warn about the risk of state intervention in the social sphere of social-economic life. He opposes this influence not only in relation to social justice and freedom of individuals but also from the aspect of social structure, pointing to the growing paternalism of the modern state, which by interfering with the market and social relations disturbs the balance of the system and narrows down the possibility of choosing. In this way, the state interferes with the essence of economic and social relations. State interfering in the economy and state welfare programs are, according to this author, the main causes of economic ruin and economic crises.

This is Hayek's opinion. Friedman shares his opinion, according to which the absolute privatization of almost all segments of social and economic relations and the elimination of state interference in the market and social relations is an essential prerequisite for returning to the starting principles of civil society. "Possible exceptions are only those parts of the social structures that influence the possibility of equal participation in free competition and the choice of individuals, such as education or general activities that cannot be achieved on market principles (protection of the environment, for instance). The state also has the role of strengthening and developing the information systems necessary for free choice and decision-making, as well as legislation that reduces monopolies, eliminates market abuse and fosters competition and peer rivalry. The subsidiary model of the state social services can only function if the previous mechanisms of the market, family or other individual solidarity and mercy had not eliminated poverty and deprivation of the inferior in the market. (Risitić and Živković and Marjanović 2019).

Selective social measures must not, however, jeopardize the principle of freedom, decision-making and choice and acquisition on the basis of market-proven abilities and results. One recent summary of Friedman's deserves attention because of attempted projections of a transition period for former socialist societies. Friedman apparently pointed his arrows to former socialist societies that degraded the liberalist option. For this reason, Friedman insists that post-socialist societies bet their odds on the civil, economic, political and personal freedoms for all their citizens. The key to this are economic and political changes based on consistently implemented principles of market rules. The transition to the freedom of citizens and society is possible with four key conditions: 1. transferring the basic social wealth to private ownership, 2. basic and guaranteed protection of personal property, 3. a strict limitation of state administration, the function of which is the protection of legality and 4. free-market relations, the supervision over the fulfilment of private contracts, and in no way interference in the economy and social activities, especially in monetary affairs and the exchange rate of foreign currencies, and a relatively stable monetary system.

Distribution and allocation of needs, goods and services, including the social ones, are best achieved through the market. It is used as a mechanism embedded in the allocation of goods and services, realized through the mechanism of the so-called social activities. The exception to this are those activities that depend on the freedom of individuals and their initial equality in market competition. Friedman strongly opposes providing assistance to transition economies, as it would preserve the state's role in the process of habitual redistribution of resources.

If there is a monopoly of the owner of goods or services, then there is no efficient market. Some goods are of such social character that they cannot be distributed through the market. This is a problem in relation to those goods or services that are more of a general type, common, and rest on the idea of solidarity and general interest. The question of freedom of choice on market principles is especially raised for those who do not have enough income, especially in relation to social services. This can also be said about the tendency of the lowest price of services for the marginal offer, as this can affect the quality and the scope of services. In this regard, the question of the domination of social welfare beneficiaries is raised, especially since they operate individually in market conditions and they are otherwise unable to articulate, express or impose their common interest.

Marginalized and poor classes do not have either economic or political power. The situation is similar in relation to the quality of services and available goods according to market criteria, due to insistence on the absence of regulations (except for supply and demand mechanisms) and standards of goods and services. In other words, the introduction of market laws does not mean automatic monitoring of efficiency in social activities. The latter can best be judged on the basis of the effectiveness indicators of the private health insurance schemes in the United States.

In contrast to the neoliberal model, the social-democratic model attracts attention in almost all European countries of the market economy, which, in principle, resolves the growing social contradictions and the rising social tensions. The relationship between social policy, social institutions and change is viewed dynamically within the framework of the social democratic model. Social policy of a welfare state is one of the means of encouraging and directing social changes, first of all seen as qualitative facts. The state of equilibrium at a certain stage, under the impact of qualitative changes, is transformed into a state of imbalance that requires new resources, solutions and adaptation of social institutions to new needs.

The state appears as a significant integrative institution of society (Duvnjak 2018) and at the same time promotes change, especially in the social sphere. Unlike other models, the social-democratic model sees the welfare state and its development as a way for the transition of a civil society into a socialist one in a peaceful parliamentary way.

In the realization of this global goal, the most important changes are made through fiscal policy, industrial development and social policy. Social policy, basically based on the principles of equality, social justice, guaranteed social security and integration of citizens, is viewed as a path of social change and the establishment of an equal and democratic pluralistic society, in which there is a balance between economic, political and social rights and freedoms. The socialization of the state wealth through the redistributive function of the welfare state represents the way to overcome the contradiction of production that is not socialized but is dominantly private.

Social protection is a part of social policy and a way to reduce differences, especially in relation to marginalized and disadvantaged people. The development of institutions in the social sphere, the reduction of income differentials through the progressive tax system and other mechanisms of state intervention in the distribution of profits are important ways of social change, development and expansion into a socialist society.

The welfare state, in some respects, represents the midpoint between capitalism and socialism. It goes a step further, as to represent a post-capitalist or post-industrial society. These last stances should not be confused with ideas about the death of ideologies and convergence. Social policy, therefore, as a means of social reform and change, is one of the powerful means of a gradual expansion of capitalism and the fundamental contradiction between collective creation and individual distribution.

The social-democratic welfare management model is essentially an electric model that is suitable for empirical analysis. Therefore, it is a more pragmatic model, through which the influence of the ideological opportunities of a concrete society is exerted. It largely insists on institutional changes and the development of the theoretical foundations of the global model.

The Swedish type of socialism most inspired the further development of the social democratic model of social welfare, which today is of particular benefit to societies in transition and post-socialist economies. The transition from capitalism to socialism, according to this option, has several degrees. The first stage, equated with political democracy, is achieved through the realization of civil rights, freedom of creating associations, especially trade unions and political organizations on interest principles.

By strengthening the role of workers' parties and trade unions, broadly educating the masses in political decision-making and, in particular, socializing the distribution of resources and profits, the mechanisms of the welfare state of are introduced into the next stage, which is designated as social democracy and a welfare state. This stage is a consequence of a historic compromise between the working class and the capital. Economic democracy as the next stage, which is less and less claimed to represent a transition to socialism, is related to the introduction of payment funds of employees through mutual contracts, thus forming the basis of the so-called model of the consensual welfare state, as a possibility of survival of the basic welfare state model that has faced serious and fundamental criticism, both from the leftist and the rightist ideological positions. (Ristić and Zivković and Marjanović 2019).

Due to the growing real economic difficulties in some OECD countries, there has been an increase in the impact of the necessary reduction of tax burdens on high incomes and large capital, and imperative cuts in social spending, in order to avoid growing budget deficits and decrease growing unemployment. It was necessary to reduce the cost of state and its institutions trying to lure their voters with attractive social programs.

3. HEALTH INSURANCE

The medical doctrine advocates a wider approach to defining a health care system and health protection. In that sense, health care could be defined as a set of institutions and activities that work to preserve and promote health. But this approach to the health care system is somewhat narrower than the health protection system, which in addition to the activities of medical health institutions, includes all other measures aimed at preserving and improving health, that is, the health care system includes other sectors that actively contribute to health promotion. In the broadest sense of the word, the health care system also includes health insurance, which incorporates the social security of citizens. In a narrower sense, the health care system applies to measures that are aimed at combating and preventing illness, treatment and rehabilitation. The elements of the health care system are healthcare facilities, health personnel, health technology and healthcare procedures.

The healthcare system is divided into the activities of primary health protection and health care systems and specialist-consulting activity, the task of which is to examine patients in specialist clinics, including a significant part of laboratory diagnostic activities and part of therapeutic and rehabilitation activities; the activity of stationary protection of health services (comprehensive healthcare) that presupposes integral treatment, i.e. functional linking of all these activities.

In that context, the primary physician is the central figure of health care that "balances" preventive, curative and social activities. In their function, primary doctors monitor the process of diagnosis and treatment of patients, conduct post-hospital care and home treatment, and are involved in the process of consultation-specialist and stationary health care. And since they are equipped with the appropriate laboratory diagnostic service, they contribute to reducing the pressure of demands for expensive health services of highly specialized clinics and hospitals. In our health care system, the teams of primary doctors are located in health centres of enterprises and local communities, in ambulances, including a complex primary health care service, hygienic-epidemiological activity and laboratory diagnostic service.

Conciliatory polyclinic activity is carried out in hospital polyclinics and independent diagnostic centres and within special health centres. The stationary health care is carried out by general, special and clinical hospitals, and various other stationary health and social institutions. The basic task of this defined system of health care and health protection is the preservation and improvement of health as a common good. Realizing this goal reflects the process of achieving the final task - as an intermediate goal - of every society, which is reflected in raising the level of well-being of people, which synthesizes the increase of quality of life, raising creative possibilities and ensuring social security. (Garnitz et al. 2019).

Therefore, the goals of the health care system are (1) the preservation and improvement of health (increasing the quality of life, increasing creative capacities and increasing social security), (2) increasing labour productivity, (3) strengthening the country's defence capability, and (4) increasing the contribution to the economic and social development of society; while forms of health protection are (1) primary health care (preventive and curative), (2) polyclinic-consulting health care, and (3) stationary health care. Thus, forms of the functional organization of health protection are (1) in primary care - health station, health centre, medical centre; (2) clinic-consultation and stationary protection - clinics, general and special hospitals, special institutions, medical centres; (3) other institutions - health care institutions, emergency medical centres and pharmacies.

Health care system economics, as a rule, deals with the identification of the level and structure of health needs, finding the most effective methods for meeting health needs, assessing the health status of the nation, determining inputs and outputs in health care and measuring benefits or losses in case of satisfaction or failure to satisfy health needs.

In this context, the basic economic characteristics of health services, which are numerous and different in relation to economic goods and services, are important. Prof. Jurković states the following distinctive economic characteristics of the health care system and health services: (1) irregularity and unpredictability of disease outbreaks; (2) the existence of the so-called "external" effects (3) the inability of an individual to assess his or her health, (4) the double nature of health care expenditures, simultaneously observed both as consumption and as investment, (5) low substitution of inputs and relatively high engagement of both work and resources per unit of output, (6) interdependence of core activity with the process of educating new staff (so-called production of related products), and (7) non-competitive nature of healthcare activity. Consequences of conceptual reforms or interventions in the field of social medicine and health protection have contributed to the creation of new terms and concepts, such as: "quality of life, health development, lifestyle, behaviour modification, holistic health, health promotion, self-care, mutual aid, with the aim of replacing classical terms such as prevention, health protection, health education, health information. (Ristić and Zivković and Marjanović 2019).

CONCLUSION

Social services as mean social security can only be engaged if the aforementioned mechanisms are not successful or do not target some individuals. The functioning of social services is based on the principle of selectivity and is deemed necessary only in cases of absolute impotence of individuals to alleviate their gravest trouble. Social services, however, do not assume the responsibility of an individual. Therefore, by their engagement, they should help an individual or family to accept and act in accordance with general social principles and rules. However, unlike the principle of subsidiarity, the principles of selectivity and mercy derive from the discretionary right of social services, that is, from the idea of self-selection. Social programs can not undermine natural inequalities among people, and individual responsibility for their own social position cannot be substituted with collective responsibility. In opposite stances, we identify that welfare state based on social security is in conflict with actually neoliberal global politics and contemporary treatment of growth and stability.

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PRAVNA PRIRODA USTAVNOG SUDA

Rezime: *Rad sadrži razmatranje pravne prirode ustavnosudske funkcije kao državne funkcije novijeg datuma i njenog mjesta u postojećem tradicionalnom sistemu trihotomne podjele vlasti. Danas je opšteprihvaćen stav da upravo ustavno sudstvo predstavlja najdjelotvorniji mehanizam očuvanja ustavom konstituisane podjele vlasti. S obzirom na to da podjela vlasti ne isključuje mogućnost preplitanja nadležnosti različitih nosilaca državne vlasti, u tom smislu, posebno je značajna uloga ustavnog suda.*

Upravo je specifičnost ustavno-sudske funkcije, koja se ogleda u rješavanju ustavnih sporova, otvorila dilemu da li je ustavni sud oblik specifičnog zakonodavnog djelovanja, sudski organ ili pak poseban državni organ sui generis. Iako ustavni sud ima sličnosti kako sa zakonodavstvom, tako i sa sudstvom, ipak su brojne razlike i osobenost ustavnosudske funkcije dovoljne da se ustavni sud izdvoji kao poseban državni organ.

Ključne riječi: *ustavni sud, ustavnosudska kontrola, negativan zakonodavac, sudski organ, organ sui generis*

JEL kalasifikacija: *K1, K10*

UVOD

Ustavnosudska funkcija, u odnosu na tradicionalne državne funkcije, spada u državne funkcije novijeg datuma. Izdvajanje ustavnosudske funkcije kao posebne funkcije državne vlasti vezuje se za dvadesete godine prošlog vijeka, odnosno pojavu austrijskog Ustavnog suda. Međutim, sama ideja kontrole ustavnosti javila se mnogo ranije (Košutić 2013, 33), a svoje pravno uobličjenje je dobila u presudi Vrhovnog suda SAD-a, *Marbury vs. Madison* iz 1803. godine. Ovom odlukom Vrhovni sud SAD-a je utvrdio pravo redovnih sudova da ispituju saglasnost zakona sa ustavom. S druge strane, na evropskom tlu koncepcija savenosti parlamenta, koja proističe iz Rusoove ideje da je „zakon izraz opšte volje“, a koja je pretočena u pravni princip francuskom Deklaracijom o pravima čovjeka i građana iz 1789. godine, a kasnije i Ustavom iz 1791. godine, bila je glavna prepreka uvođenju sudske kontrole ustavnosti. Takođe, smatralo se da je kontrola ustavnosti u suprotnosti i sa monarhijskim oblikom vladavine. Iako nisu prihvatile američki sistem kontrole ustavnosti, evropske države su izgradile novi sistem, u kojem je kontrola ustavnosti povjerena specijalizovanom ustavnosudskom organu. U tom smislu, možemo govoriti o ustavnim sudovima u širem i u užem smislu. Pod ustavnim sudom u širem smislu podrazumijevamo posebni državni organi, koji po sudskom postupku rješavaju specifične ustavnopravne sporove. S druge strane, pod ustavnim sudovima u užem smislu se označavaju, pak, posebni državni organi čiji je osnovni zadatak kontrola ustavnosti. Međutim, bez obzira na činjenicu da se ustavno sudstvo danas smatra dijelom podjele vlasti, postavilo se pitanje koje se tiče njegovog mjesta u postojećem sistemu podjele vlasti. Bez obzira na samu pravnu prirodu ustavnog suda, nesporno je da upravo uvođenje ustavnosudske kontrole doprinijelo jačanju principa podjele vlasti. U tom smislu, ustavnosudska funkcija doprinosi

otvarivanju osnovnog cilja podjele vlasti, a to je sprječavanje zloupotrebe vlasti (Pajić Šavija 2014, 246). Podjela vlasti podrazumijeva uspostavljanje ravnoteže između vlasti koja donosi zakone i vlasti koja tumači pravo. (Allan 2003, 584). I uloga ustavnih sudova, u tom kontekstu, je postala mnogo značajnija i šira. U tom smislu, ustavni sud danas „igra važnu ulogu u procesu u kome donošenje normativnih akata prethodi kreiranje politike u državi i gdje se kao akteri pojavljuju vlast, oličena u zakonodavnoj i izvršnoj grani i političke partije, koje participiraju u vladi ili čine njenu opoziciju.“ (Pejić 2013, 57). Upravo su ustavni sudovi „poslužili kao zaštitni znak“ ili kao dokaz demokratskog karaktera određene zemlje (Solyom 2003, 134). Danas „ustavni sudovi imaju zadatak da štite demokratske vrijednosti, individualna prava i služe kao bedem koji štiti državu od povratka u totalitarnu prošlost“ (Trochev 2004, 514). Upravo je zbog toga, u prvim godinama tranzicionog procesa u postkomunističkim državama, uloga ustavnog suda bila od presudnog značaja u definisanju granica ovlašćenja najvažnijih nosilaca državne vlasti (Hatwig 1992, 449-470). Danas je nesporno da je ustavni sud neophodan u svakoj demokratski uređenoj državi. Pojava ustavnog sudstva uticala je na to da se i sam princip podjele vlasti posmatra u mnogo širem smislu. U konstitucionalnoj teoriji vođene su rasprave u pogledu mjesta ustavnog suda u tradicionalnoj trihotomnoj podjeli vlasti, odnosno da li bi se, s obzirom na ovlašćenja kojim raspolaže, moglo govoriti o posebnoj državnoj funkciji. Upravo je specifičnost ustavno-sudske funkcije, koja se ogleda u rješavanju ustavnih sporova, otvorilo dilemu da li je ustavni sud oblik specifičnog zakonodavnog djelovanja, sudski organ ili pak poseban državni organ sui generis.

1. USTAVNI SUD KAO „NEGATIVAN ZAKONODAVAC“

Prema prvom gledištu, ustavni sud posredno vrši zakonodavnu funkciju, odnosno on se pojavljuje u ulozi „negativnog zakonodavca“. Ova ideja potiče od H. Kelzena i u značajnoj mjeri je uticala na dizajn ustavnih sudova zapadnog svijeta (Sweet 2000, 134-135). Ona se bazira na činjenici da ustavni sud, ukidajući neustavne zakone, dijeli zakonodavnu vlast sa parlamentom (Kelsen 1942, 187). Sam Kelzen je pravio razliku između parlamenta, kao „pozitivnog zakonodavca“ i ustavnog suda, kao „negativnog zakonodavca“. Za razliku od parlamenta, koji je kao pozitivan zakonodavac slobodan da donosi zakone, u granicama određenim samim ustavom, zakonodavna funkcija ustavnog suda, kao „negativnog zakonodavca“ ograničena je, isključivo, na poništavanje onih zakona koji su u suprotnosti sa ustavom (Sweet 2007, 83). Dok je zakonodavac vezan ustavom samo u pogledu postupka donošenja zakona, izuzetno i opštim ustavnim načelima, kada je riječ o samoj sadržini zakona, djelatnost negativnog zakonodavca odnosno ustavnog sudije u potpunosti je podređena ustavu (Kelsen 1942, 225). Ustavni sud se zbog toga često označava kao „treći dom koji ima snagu da utiče na politiku odlučivanja u smislu da svojim odlukama podstiče određena zakonska rješenja, dok neka druga poništava“ (Epstein i Knight i Shvetsova 2001, 125). U tom smislu, često se govori da dolazi do postepenog preobražaja parlamentarne demokratije u „sudsku demokratiju“ ili čak „sudsku vladu“.

U prilog tvrdnji da ustavni sud rješavajući ustavne sporove vrši zakonodavnu funkciju, kao glavni argumenti navode se sličnosti ustavnosudske funkcije sa zakonodavnom, odnosno različitosti u odnosu na sudsku funkciju. Ustavni sud, vršeći normativnu kontrolu i uklanjajući neustavan zakon iz pravnog poretka, određuje koji zakon ne može opstati u pravnom poretku. Na taj način, ustavni sud odlučujući o ustavnosti zakona i sam vrši zakonodavnu funkciju. „Ovakvo djelovanje ustavnog suda ima dva ograničenja. Kao prvo, ustavni sud nije direktno uključen u sam zakonodavni proces, nego mora da postoji konkretan ili apstraktan spor o ustavnosti zakona. Drugo, ustavni sudovi često svoje pravo da vrše kontrolu zakona koriste kasno“ (Hönnige 2010, 4). Iako sam ustavni sud ne donosi zakone, odluka ustavnog suda je „*ex constitutione*“, u rangu zakona kojim se (potpuno ili djelimično) ukida izvjestan zakon, ide ruku-pod-ruku sa zakonskim regulama koje su neosporene, odnosno onima koje su izdržale ustavno-sudsku kontrolu, a nadmoćna je kasirajuća u pogledu zakonskih normi koje, kao

neustavne, upravo ta odluka direktno stavlja van snage“ (Tomić 2004, 67). Za razliku od zakonodavca koji propisuje zakone, ustavni sud određuje koji se akti ne mogu smatrati zakonom. „Kada ustavni sud odlučuje, on ispituje samo logičku kompatibilnost zakona sa ustavom, tako da odluke imaju kvazi-legislativni karakter. Sud ima ulogu zakonodavnog organa, ali samo u negativnom smislu, zato što može da proglašava zakone, a ne da ih donosi“ (Tripković 2004, 319).

Iako su granice djelovanja ustavnog suda postavljene u samom ustavu, njegova uloga je i stvaralačka, budući da uživa visok stepen samostalnosti u odlučivanju. Budući da su odluke ustavnog suda opšteobavezujuće one utiču i na naknadnu aktivnost zakonodavca, u smislu njegovog nastojanja da svoju zakonodavnu djelatnost u budućnosti usaglasa sa odlukama ustavnog suda. U tom smislu možemo govoriti o direktnom i indirektnom uticaju ustavnog suda na zakonodavnu vlast. Direktna uticaj podrazumijeva da ustavni sud svojim odlukama uspijeva da utiče na samu zakonodavnu politiku i zakonska rješenja (Sweet 2000, 93). To podrazumijeva da ustavni sud, kroz sam sadržaj odluke, uspijeva da realizuje svoje političke ciljeve (Smolak 2011, 212). Indirektna uticaj ustavnog suda na zakonodavca može se ostvariti na dva načina. Prvi se ogleda u postizanju efekta samokontrole od strane vlade i parlamentarne većine u iščekivanju odluke ustavnog suda o poništavanju nekog akta. Drugi vid indirektnog uticaja je tzv. „korektivna revizija“, koja podrazumijeva ponovno razmatranje zakonskog prijedloga u skladu sa odlukom ustavnog suda (Sweet 2000, 94). Imajući u vidu činjenicu da je uticaj ustavnog suda na zakonodavnu vlast nesporan, kao osnovni prigovor koji se upućuje ustavnosudskoj vlasti jeste upravo postojanje opasnosti od uzurpacije zakonodavne vlasti od strane ustavnog suda.

U prilog tvrđnji da je funkcija ustavnog suda mnogo bliža zakonodavnoj, a ne sudskoj funkciji navode se i sljedeće činjenice. Prije svega, odluke ustavnog suda, za razliku od odluka redovnog suda, djeluju *erga omnes*. Ustavni sud je pozvan da rješava sporove koji nastaju zbog povrede pravnog poretka, nezavisno od postojanja konkretnog spora. Takođe, ustavni sud je ovlašćen da samostalno pokrene postupak za ocjenu ustavnosti, za razliku od redovnog suda pred kojim postupak može biti pokrenut isključivo na zahtjev stranke. Da se ustavni sud razlikuje od redovnih sudova, odnosno da je njegova priroda bliža zakonodavnom organu govori i činjenica da ustavni sudovi rješavaju specifične sporove koji se zasnivaju na sukobu akata, dok s druge strane, redovni sudovi rješavaju sporove između pravnih akata. Prema tome, ustavni spor nije stranački spor, a ustav i zakon su jedino mjerilo prilikom odlučivanja ustavnog suda.

Bez obzira na činjenicu da ustavni sud, rješavajući ustavne sporove, naročito u postupku apstraktne kontrole ustavnosti, vrši uticaj na zakonodavnu vlast, ipak treba imati u vidu da ni ustavni sud nije svemoćan i da je granica između ustavnog suda i zakonodavnog organa, kao i drugih nosilaca državne vlasti, određena u samom ustavu. U tom smislu, ustavni sud je odvojen od zakonodavnog procesa, s jedne, ali i od primjene prava, s druge strane. Ustav kao pravni akt ima najviše pravne snage kojim se uređuje organizacija i nadležnost najviših nosilaca državne vlasti treba da osigura njihovu nezavisnost. Prema tome, zakonodavac je od eventualne uzurpacije vlasti od strane ustavnog suda zaštićen samim ustavom. S druge strane, zadatak ustavnog suda jeste da čuva ustav i da se stara isključivo o tome da li ostali nosioci vlasti vrše svoju nadležnost u granicama utvrđenim ustavom. Svako postupanje ustavnog suda izvan granica ovlaštenja koje su utvrđene ustavom predstavljalo bi narušavanje principa ustavnosti. Glavni zadatak ustavnog suda je „eliminisanje neustavnih zakona iz pravnog poretka, otklanjanje grubih pogreški zakonodavca i drugih kvalifikovanih slučajeva neustavnosti“ (Stojanović 2009, 359). I sam H. Kelzen je isticao da, iako je ustavnosudska nadležnost aktivnost negativnog zakonodavca, to ne znači da ustavni sud vrši zakonodavnu funkciju koju karakteriše sloboda stvaranja normi, a koja ne postoji u slučajevima poništavanja zakona. Njegov zaključak je da se ustavnosudska funkcija ostvaruje kao čisto pravna misija tumačenja ustava.

Smatramo da je pogrešno poistovjećivati ustavnosudsku funkciju sa zakonodavnom funkcijom, prije svega zbog činjenice da se ustavnosudska funkcija ne može poistovijetiti isključivo sa

funkcijom normativne kontrole. Ustavni sud obavlja i druge poslove koji nisu nužno skopčani sa ispitivanjem ustavnosti zakona. Iako se efekti normativne kontrole odražavaju na same zakone i zakonodavca to ne znači da ustavnosudsku djelanost možemo izjednačiti sa zakonodavnom funkcijom. Zakon je izraz političke volje, a politika se pojavljuje kao demokratska moć oblikovanja prava. Međutim, ustavni sud, kada odlučuje o ustavnosti zakonodavnih akata ili akata drugih organa vlasti, ne smije da se stavlja u ulogu zakonodavca (Scholz 2014, 39).

2. USTAVNI SUD KAO SUDSKI ORGAN

Prema drugom gledištu, akcentat se stavlja na sudski aspekt ustavnosudke funkcije, odnosno ustavni sud se posmatra kao sudski organ. Ovakvo shvatanje kod nas je zastupao R. Lukić. „Na prvi pogled izgleda nesumnjivo da ocjena ustavnosti zakona, tj. utvrđivanje da li je jedan zakon ustavan ili ne i izricanje sankcije protiv njega u slučaju da se utvrdi da je neustavan, tj. njegovo poništenje-izgleda da je tipičan sudski posao, da organ koji tu kontrolu vrši obavlja sudsku funkciju i donosi sudski akt“ (Lukić 1966, 95). Tako, D. Stojanović se slaže da „ustavni sudovi suštinski jesu i ostaju sudovi... Ustavni sud nije nikakav politički državni organ, već je to, ipak, sud, koji postupa i odlučuje rukovodeći se strogo pravnim rezonovanjem, a ne političkim razlozima“ (Stojanović 2015, 67-68). I u njemačkoj pravnoj teoriji preovladava stav da je Savezni ustavni sud dio treće vlasti, iako u poređenju sa ostalim oblicima sudske vlasti ima poseban status, jer se u odnosu na sve ostale ustavne organe javlja kao samostalniji i nezavisniji savezni sud. Ustavni sud na sličan način određuje i K. Hese. Za njega je Savezni ustavni sud samostalniji i nezavisniji savezni sud koji se nalazi iznad ostalih sudova po svom ustavnom položaju (Hesse 1999, 278-279). U tom smislu, ustavni sudovi se često označavaju i kao „posebna vrsta političkih sudova čiji je prioritet očuvanje suprematije ustava, integriteta ustavne vlasti i djelovanje kao najvišeg i krajnjeg čuvara ljudskih prava“ (Tanchev 8). U tom pogledu odluke ustavnih sudova su samo pravne u pogledu forme, dok su po svom sadržaju često političke. Suprotno ističe R. Lukić, koji kaže da je ustavno sudstvo isto toliko pravno kao i ostalo sudstvo. Ako bi se ustavni sud smatrao političkim sudom onda njegov zadatak ne bi bio ocjena ustavnosti zakona nego njegove političke cjelishodnosti (Lukić 1966, 98).

Kao glavni argumenti u prilog tvrdnji da je ustavni sud sud, odnosno da je njegova funkcija tipičan sudski posao, navodi se postupak i metod odlučivanja ustavnog suda. Postupak pred ustavnim sudom je sudski postupak koji se odvija prema strogo utvrđenim pravilima, a prilikom odlučivanja ustavni sud se oslanja isključivo na pravno mjerilo bez upuštanja u ocjenu cjelishodnosti osporenog akta. Da je ustavni sud sudski organ govori i činjenica da se ustavni sud aktivira samo ukoliko postoji spor. Kao i sud i ustavni sud odlučuje o spornom pitanju presdom. Odluka ustavnog suda kojom se utvrđuje neustavnost zakona, smatra Lukić, predstavlja pojedinačni pravni akt kao i sudska presuda. Iako se njome poništava zakon, koji je opšti pravni akt, to ne mijenja njenu prirodu, budući da se odluka ustavnog suda odnosi na jedan „tačno određen zakon, a ne na sve zakone date vrste“ (Lukić 1966, 96). Pristalice ovog gledišta, ipak, ne osporavaju razlike između ustavnog sudstva i redovnog sudstva, a koje se, prije svega, tiču samih stranaka između kojih nastaje spor i same odluke, o čemu je već bilo riječi. Ovakve razlike, međutim, smatraju, posljedica su specifične prirode samog spora koji je ustavni sud pozvan da rješava. „Ustavni sud ne rješava redovne sudske sporove (parnice, krivice i sl), nego posebne, ustavne sporove, koji nisu stranački sporovi, tj. sporovi između stranaka, već su to sporovi između pravnih akata“ (Marković 2007, 22).

Međutim, ustavni sud se zaista ne može poistovijetiti sa običnim sudom, prije svega zbog obima nadležnosti koje su značajno šire u odnosu na nadležnost redovnih sudova. „U odnosu na „običan“ sud, ustavni sud ima, vezujući se za ustavne norme i principe - i one u njemu zapisane, ali i one u njemu implicite sadržane, posebno na one međunarodno priznate obrasce - mnogo razuđenije i po posljedicama dalekosežnije zadatke i prerogative u poređenju sa „ostalim sudstvom“ (Tomić 2004, 66). U tom smislu, ustavni sud prevazilazi domete redovnog suda, jer

je njegova uloga i stvaralačke prirode. Takođe, ustavni sud prilikom odlučivanja uzima u obzir ne samo pravna, nego i politička mjerila. Još je jedna bitna razlika između postupanja redovnih sudova i ustavnosudskog djelovanja. Za razliku od redovnog suda, ustavni sudovi mogu postupati i samoinicijativno.

3. USTAVNI SUD KAO ORGAN *SUI GENERIS*

Treći teorijski pristup ustavno sudstvo određuje kao organ *sui generis* koji vrši specifičnu državnu funkciju. Istina je da ustavni sud ima sličnosti kako sa zakonodavstvom, tako i sa sudstvom, ali su ipak razlike i osobenost ustavnog sudstva dovoljne da se ustavni sud izdvoji kao poseban državni organ. U konstitucionalnoj teoriji sve je izraženije mišljenje da je ustavni sud samostalna i nezavisna državna vlast. Tako, I. Pejić ističe da „područje ustavnosudske kontrole zauzima svoj autentičan ustavni prostor, koji se nalazi na razmeđu prava i politike... Ustavni sud je, kao filigranski pravni korektiv, ugrađen u strukturu podjele vlasti i ona ga tokom niza godina nije odbacila. Utemeljen na snazi pravnih principa i bez mogućnosti da djeluje prinudom, ustavni sud očigledno raspolaže autoritetom, koji ga, u veberovskom smislu, može odrediti kao „četrta vlast“ (Pejić 2013, 69). U tom smislu, ustavnosudska funkcija je konstituisana kao posebna i samostalna funkcija, odvojena od legislative i egzekutive, ali i od sudske vlasti. Između zakonodavne i izvršne vlasti, koje su po svojoj prirodi izrazito političke funkcije i sudske vlasti, koja teži ka potpunoj depolitizaciji, ustavni sud „stoji negdje na pola puta između političkih vlasti, izvršne i zakonodavne, i nepolitičke, sudske vlasti“ (Orlović 2008, 240). Prema tome, nesumnjivo je da danas ustavnosudska funkcija predstavlja specijalni ogranak koji se može označiti kao četvrta poluga državne vlasti. Da bi se izbjegle bilo kakve dileme, Z. Tomić, čak, predlaže da bi se, po uzoru na Poljsku, umjesto naziva ustavni sud trebao koristiti naziv ustavni tribunal, čime bi se ukazalo da je ustavni sud „osoben organ izvan sudskog organizma, ali ne izvan matrice podjele vlasti“ (Tomić 2004, 66). Činjenica je da ustavni sudovi, utemeljeni na austrijskom modelu, imaju određena zajednička obilježja koja ih izdvajaju kao osobene državne organe: ustavnosudska kontrola sprovodi se pod različitim pretpostavkama u zavisnosti od konkretnog ustavnog sistema određene države, ustavni sud je nezavisno tijelo koje ne pripada redovnoj sudskoj vlasti, odlučivanje o ustavnim žalbama je izdvojeno iz nadležnosti redovnih sudova, nezavisnost ustavnog suda se, između ostalog, temelji i na finansijskoj i upravnoj autonomiji, postoji monopol ustavnosudske kontrole, odnosno koncentracija vlasti u jednoj instituciji, ustavne sudije najčešće imenuju najviša politička tijela, nadležnost ustavnog suda je osobena, a njegove odluke su pravne i političke prirode iako mogu imati i savjetodavni karakter, preovladava ustavnosudska kontrola zakona i ona je najčešće naknadna, represivna, iako se u manjem broju zemalja predviđa i mogućnost prethodne kontrole zakona.

ZAKLJUČAK

Da je ustavni sud osoben državni organ potvrđuje ne samo pravna teorija, nego i ustavna rješenja, a i praksa samog suda. Naime, većina ustava, odredbe o ustavnom sudu izdvajaju posebne dijelove ustava, izvan dijela koji se odnosi na uređene vlasti, odnosno zakonodavnu, izvršnu i sudsku funkciju. Čak i tamo gdje odredbe koje se odnose na ustavno sudstvo nisu sistematizovane u okviru posebnog dijela ustava, pažljivom analizom ustavnih odredbi, kojima se uređuje, prije svega, izbor i nadležnost ustavnog suda, kao i pravno dejstvo njegovih odluka, može se izvesti zaključak da je ustavni sud osoben državni organ koji vrši osobenu državnu funkciju.

Smatramo da je u pogledu mjesta ustavnog suda u sistemu podjele vlasti najprihvatljivije treće gledište prema kojem ustavni sud zauzima posebno mjesto u ustavnoj podjeli vlasti. U tom smislu, ustavni sud je, bez obzira na sličnosti i sa zakonodavnom funkcijom, u pogledu pravnog dejstva njegovih odluka i sa sudskom funkcijom, u pogledu postupka i načina odlučivanja,

poseban ustavni organ. Zbog toga je neophodno da ustavni sud „sačuva nezavisnost kako bi se spriječili politički pritisci zakonodavne i izvršne vlasti, koji bi mogli da utiču na same odluke suda. Odsustvo takve nezavisnosti bi moglo da ugrozi diferenciranje politike i prava, što bi potencijalno kulminiralo dominacijom politike nad pravom“ (Hein 2011, 17). Iako je zadatak ustavnog suda da čuva ustav i ustavom uspostavljenu podjelu vlasti, on ne predstavlja nikakav „super organ“ koji se izdiže iznad ustavne podjele vlasti, nego specifičnu funkciju državne vlasti koja se i sama nalazi pod okriljem ustava.

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Review

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THE LEGAL NATURE OF THE CONSTITUTIONAL COURT

Summary: *The paper contains a review of the legal nature of the constitutional-judicial function as a state function of more recent date and its place in the existing traditional system of trichotomous separation of powers. Today, it is generally accepted that the constitutional judiciary is the most effective mechanism for preserving the constitutional separation of powers. Considering the fact that the separation of powers does not exclude the possibility of overlapping the jurisdictions of different holders of state power, the role of the Constitutional Court is particularly important in this respect. It is precisely the specificity of the constitutional-judicial function, which is reflected in the resolution of constitutional disputes, that opens the dilemma whether the constitutional court is a form of specific legislative action, a judicial authority or a separate state body sui generis. Although the Constitutional Court has similarities with both the legislature and the judiciary, the numerous differences and peculiarities of the Constitutional Court function are sufficient to make the Constitutional Court a separate state body.*

Key words: *constitutional court, constitutional-judiciary review, negative legislature, judicial authority, sui generis authority.*

JEL classification: *K1,K10*

INTRODUCTION

The constitutional-judicial function, in relation to traditional state functions, belongs to the more recent state functions. The separation of the constitutional-judicial function as a special function of state power dates back to the twenties of the previous century, that is, the appearance of the Austrian Constitutional Court. However, the very idea of constitutional review emerged much earlier (Kosutic 2013, 33), and received its legal form in the US Supreme Court ruling, *Marbury Vs. Madison* from 1803. With this decision, the US Supreme Court established the right of regular courts to examine the conformity of law with the constitution. On the European soil, on the other hand, the concept of the sovereignty of parliament, stemming from Rousseau's idea that "law is an expression of the general will", which was translated into a legal principle by the French Declaration of Human and Citizens' Rights of 1789 and later by the Constitution of 1791, was a major obstacle to the introduction of judicial review of constitutionality. Also, the constitutional review was considered to be contrary to the monarchical form of government. Although they did not accept the US constitutional review system, European states have built a new system in which constitutional review is entrusted to a specialized constitutional court body. In this sense, we can speak of constitutional courts in a broader and narrower sense. By Constitutional Court in the broad sense, we mean state bodies which, in court proceedings, decide on certain constitutional issues (constitutional disputes) for the purpose of protecting the constitution. On the other hand, Constitutional courts, in the narrow sense, are referred to as special state bodies formed exclusively for the purpose of reviewing constitutionality. However,

notwithstanding the fact that the constitutional judiciary is now regarded as part of the separation of powers, a question has arisen as to its place in the existing system of the separation of powers. Regardless of the very legal nature of the Constitutional Court, it is indisputable that the introduction of constitutional judicial control contributed to the strengthening of the principle of separation of powers. In that sense, the constitutional court function contributes to the opening of the basic goal of the separation of powers, which is to prevent the abuse of power. (Pajić Savija 2014, 246). The separation of powers implies the establishment of a balance between the law-making authority and the law-interpreting authority. (Allan 2003, 584). The role of the constitutional courts in this context has also become more significant and broader. In that sense, the Constitutional Court today "plays an important role in the process in which the adoption of normative acts is preceded by the creation of policy in the state and where the government, embodied in the legislative and executive branches, and political parties, which participate in the government or form its opposition, appear as actors." (Pejić 2013, 57). It was the constitutional courts that served as a „trademark“ nor as evidence of the country's democratic character (Solyom 2003, 134). Today, "Constitutional courts are tasked with protecting democratic values, individual rights and serving as a rampart protecting the state from returning to a totalitarian past. (Trochev 2004, 514). Precisely because of this, in the first years of the transition process in post-communist states, the role of the Constitutional Court was crucial in defining the limits of authority of the most important holders of state power (Hatwig 1992, 449-470). Today, it is indisputable that a constitutional court is necessary for every democratically organized state. The emergence of the constitutional has influenced that the principle of separation of powers is viewed in a much broader sense. In the constitutional theory, discussions were held regarding the place of the constitutional court in the traditional trichotomous separation of powers, that is, given the powers it possesses, one could speak of a separate state function. It is precisely the specificity of the constitutional-judicial function, which is reflected in the resolution of constitutional disputes, which opens the dilemma whether the constitutional court is a form of specific legislative action, a judicial authority or a separate state body sui generis.

1. THE CONSTITUTIONAL COURT AS A "NEGATIVE LEGISLATOR"

According to the first view, the Constitutional Court indirectly performs a legislative function, that is, it appears as a "negative legislator". This idea originated from H. Kelsen and it greatly influenced the design of the constitutional courts of the western world (Sweet 2000, 134-135). It is based on the fact that the Constitutional Court, by repealing unconstitutional laws, shares the legislative powers with parliament (Kelsen 1942, 187). Kelsen himself distinguished between parliament, as a "positive legislator," and the Constitutional Court, as a "negative legislator". Unlike parliament, which, as a positive legislator, is free to legislate, within the limits set by the constitution itself, the legislative function of a constitutional court, as a "negative legislator," is limited solely to the annulment of those laws that are contrary to the constitution (Sweet 2007, 83). While the legislature is bound by the constitution only with regard to the procedure of passing laws, exceptionally and by general constitutional principles, when it comes to the content of the law itself, the activity of a negative legislator or constitutional judge is fully subordinated to the constitution (Kelsen 1942, 225). The Constitutional Court is therefore often referred to as "a third chamber that has the power to influence decision-making policy in the sense that it encourages certain legal solutions by its decisions while repealing others" (Epstein, Knight, Shvetsova 2001, 125). In this sense, it is often said that there is a gradual transformation of parliamentary democracy into a "judicial democracy" or even a "judicial government".

In support of the claim that the Constitutional Court, by solving constitutional disputes, performs a legislative function, the main arguments are the similarities of the constitutional judicial function with the legislative one, i.e. differences with respect to the judicial function.

“The Constitutional Court, by exercising normative control and removing unconstitutional law from the legal order, determines which law cannot survive in the legal order. In this way, the constitutional court, by deciding on the constitutionality of the law, also exercises its legislative function. Such action of the Constitutional Court has two limitations. First, the Constitutional Court is not directly involved in the legislative process itself, but there must be concrete or abstract dispute about the constitutionality of the law. Second, constitutional courts are often late in exercising their right to control the law” (Hönnige 2010, 4). Although the Constitutional Court itself does not legislate, the decision of the Constitutional Court is *"Ex constitutione*, in the rank of a law which (in whole or in part) abolishes a certain law, goes hand-in-hand with statutory regulations that are undisputed, that is, those that have withstood constitutional-judicial review - and is superior with respect to legal norms that, as unconstitutional, this decision directly repeals " (Tomic 2004, 67). Unlike the legislator who legislates, the Constitutional Court determines which acts cannot be considered law. "When the Constitutional Court decides, it only examines the logical compatibility of the law with the constitution, so the decisions are quasi-legislative. The court has the role of the legislature, but only in the negative sense, because it can promulgate laws, not pass them " (Tripkovic 2004, 319).

Although the boundaries of the constitutional court are set within the constitution itself, its role is also a creative one, since it enjoys a high degree of autonomy in decision-making. Since the decisions of the Constitutional Court are generally binding, they also affect the subsequent activity of the legislator, in terms of his endeavour to adjust his future legislative activities precisely to the views arising from the decisions of the Constitutional Court. In this sense, we can speak about the direct and indirect influence of the Constitutional Court on the legislature. Direct influence implies that the Constitutional Court, by its decisions, manages to influence the legislative policy itself and the legal solutions (Sweet 2000, 93). This implies that the constitutional court, through the very content of the decision, manages to realize its political goals (Smolak 2011, 212). The Constitutional Court's indirect influence on the legislature can be achieved in two ways. The first is reflected in achieving the effect of self-control by the government and the parliamentary majority in anticipation of the Constitutional Court's decision to repeal an act. Another form of indirect influence is the so-called "Corrective review", which implies a reconsideration of a legislative proposal in accordance with a decision of the Constitutional Court (Sweet 2000, 94). Considering the fact that the influence of the Constitutional Court on the legislature is indisputable, the main objection to the Constitutional-judicial power is the existence of a danger of usurpation of the legislative power by the Constitutional Court.

In support of the claim that the function of a constitutional court is much closer to a legislative rather than a judicial function, the following facts are also cited. First of all, the decisions of the Constitutional Court, as opposed to the decisions of the regular court, work *erga omnes*. The Constitutional Court is called upon to resolve disputes arising out of a violation of the legal order, regardless of the existence of a specific dispute. Also, the Constitutional Court is empowered to initiate proceedings on its own for reviewing constitutionality, unlike a regular court before which proceedings can be instituted solely at the request of a party. The fact that the constitutional court differs from regular courts, i.e. that its nature is closer to the legislative body, is also indicated by the fact that constitutional courts resolve specific disputes based on conflict of acts, while on the other hand, regular courts resolve disputes between legal acts. Consequently, a constitutional dispute is not a party dispute, and constitution and law are the only yardsticks in constitutional court decision making.

Notwithstanding the fact that the Constitutional Court, while resolving constitutional disputes, especially in the process of abstract constitutional review, exerts influence on the legislative power, it should nevertheless be borne in mind that the Constitutional Court is not almighty and that there is a border between the Constitutional Court and the legislative body, as well as other holders of state power, set out in the constitution itself. In this respect, the Constitutional Court is distanced from the legislative process, on the one hand, as distanced from the application of

these regulations, on the other. The constitution, as the legal act of the highest legal force governing the organization and jurisdiction of the highest holders of state power, should ensure their independence. Accordingly, the legislature is protected by the constitution itself from the possible usurpation of power by the constitutional court. On the other hand, the task of the Constitutional Court is to safeguard the constitution and to take care solely of whether other holders of power exercise their jurisdiction within the limits set by the constitution. Any act by the Constitutional Court beyond the limits of the powers established by the constitution would constitute a violation of the principle of constitutionality. The main task of the Constitutional Court is "to eliminate unconstitutional laws from the legal order, to remedy the grave errors of the legislature and other qualified cases of unconstitutionality" (Stojanovic 2009, 359). H. Kelsen himself emphasized that while constitutional jurisdiction is the activity of a negative legislator, this does not mean that the constitutional court exercises a legislative function characterized by the freedom to create norms, which does not exist in cases of annulment of laws. His conclusion is that the constitutional court function is realized as a purely legal mission of interpreting the constitution.

We believe that it is wrong to identify the constitutional-judicial function with the legislative function, primarily because of the fact that the constitutional-judicial function cannot be equated solely with the function of normative control. The Constitutional Court also performs other tasks that are not necessarily concerned with examining the constitutionality of the law. Although the effects of normative control are reflected in the laws themselves and the legislature, this does not mean that we can equate constitutional activity with the legislative function. Law is an expression of political will, and politics emerges as the democratic power of shaping the law. However, the Constitutional Court, when deciding on the constitutionality of legislative acts or acts of other authorities, should not be placed in the role of the legislator (Scholz 2014, 39).

2. THE CONSTITUTIONAL COURT AS A COURT AUTHORITY

In the second view, the emphasis is placed on the judicial aspect of the constitutional judicial function, that is, the constitutional court is viewed as a judicial body (Marcic 1963, 202). Such an understanding was represented by R. Lukić. "At first glance, it seems beyond doubt that the assessment of the constitutionality of the law, i.e. determining whether a law is constitutional or not, and imposing a sanction against it in the event that it is found to be unconstitutional, i.e. its annulment—appears to be a typical judicial job, that the authority exercising this control performs a judicial function and issues a judicial act" (Lukic 1966, 95). D. Stojanovic also agrees that "Constitutional courts essentially are and remain courts...The Constitutional Court is not a political state body, but it is a court, which acts and decides on the basis of strict legal reasoning, not political reasons" (Stojanovic 2015, 67-68). There is an opinion in German legal theory that The Federal Constitutional Court is, therefore, a part of the third power, although it has a special status in comparison with other forms of judicial power; it is a more independent federal court than any other constitutional body. The Constitutional Court is similarly characterized by K. Hese. For him, the Federal Constitutional Court is an independent federal court, which stands above other courts in its constitutional position (Hesse 1999, 278-279). In this sense, constitutional courts are also often referred to as "a special type of political court whose priority is to preserve the supremacy of the constitution, the integrity of constitutional authority, and to act as the supreme and ultimate guardian of human rights" (Tanchev, 8). In this respect, the decisions of the constitutional courts are only legal in terms of form, while in their content they are often political. The opposite is pointed out by R. Lukic, who says that the constitutional judiciary is as legal as the rest of the judiciary. If the Constitutional Court were to be considered as a political court then its task would not be to assess the constitutionality of the law but its political expediency (Lukic 1966, 98).

The main arguments in support of the claim that the Constitutional Court is a court, that is, its function is a typical judicial job, are the procedure and method of the constitutional court decision making. The procedure before the Constitutional Court is a court proceeding according to strictly defined rules, and in deciding the Constitutional Court relies solely on the legal standard without indulging in the assessment of the expediency of the impugned act. The fact that the Constitutional Court is activated only if there is a dispute speaks of the fact that the Constitutional Court is a judicial body. Like any court, the Constitutional Court also decides on the disputed issue by a court ruling. The decision of the Constitutional Court establishing the unconstitutionality of the law, Lukić believes, is an individual legal act as well as a court ruling. Although it repeals a law, which is a general legal act, it does not change its nature since the decision of the Constitutional Court refers to a "well-defined law and not to all laws of a given type" (Lukic 1966, 96). Supporters of this view, however, do not dispute the differences between the constitutional judiciary and the regular judiciary, which are primarily concerned with the parties in dispute themselves, and the decision itself, as discussed above. Such differences, however, are considered a consequence of the specific nature of the dispute itself, which the Constitutional Court has been called upon to resolve. "The Constitutional Court does not resolve regular court disputes (litigation, guilt, etc.), but special, constitutional disputes, which are not party disputes, i.e. disputes between the parties, but rather disputes between legal acts " (Markovic, 2007, 22).

However, the Constitutional Court cannot really be equated to an ordinary court, first and foremost because of the scope of jurisdiction that is significantly broader than the jurisdiction of regular courts. "In relation to the 'ordinary' court, the Constitutional Court has, with regard to constitutional norms and principles - both those enshrined therein and the implications contained therein, especially those internationally recognized patterns - tasks that are far more deliberate and far-reaching in their consequences and prerogatives compared to the other judiciary " (Tomic 2004, 66). In this sense, the Constitutional Court goes beyond the scope of the ordinary court because its role is also of a creative nature. Also, the Constitutional Court takes into account not only legal but also political criteria when making a decision. There is another important difference between the conduct of ordinary courts and constitutional court action. Unlike a regular court, constitutional courts can act on their own initiative.

3. THE CONSTITUTIONAL COURT AS AN AUTHORITY *SUI GENERIS*

The third theoretical approach defines the constitutional judiciary as an authority *sui generis* which exercises a specific state function. It is true that the Constitutional Court has similarities with both the legislature and the judiciary, but the differences and specificity of the constitutional judiciary are sufficient to distinguish the Constitutional Court as a separate state body. In the constitutional theory, it is increasingly expressed that the Constitutional Court is independent state power. Thus, I.Pejić points out that "the area of constitutional judicial review occupies its authentic constitutional space, which is at the intersection of law and politics ... The Constitutional Court, as a filigree legal corrective, is embedded in the structure of the separation of powers and has not been rejected by it for many years. Based on the force of legal principles and without the ability to act by coercion, the Constitutional Court clearly has the authority, which in Weber's terms can designate it as "the fourth power." " (Pejić 2013, 69). In that sense, the constitutional court function is constituted as a separate and independent function, separate from the legislation and the executive, but also from the judiciary. Between the legislative and executive powers, which by their very nature are highly political functions, and the judicial power, which seeks to be completely depoliticized, the Constitutional Court "stands somewhere halfway between political authorities, executive and legislative, and non-political, the judiciary powers " (Orlovic 2008, 240). Therefore, it is undoubted that today the constitutional-judicial function is a special branch which can be designated as the fourth lever of state power. In order to avoid any dilemmas, Z. Tomić even suggests that, following the

model of Poland, the name of the constitutional tribunal should be used instead of the name constitutional court, which would indicate that the constitutional court is "a special authority outside the judicial organism, but not beyond the power-sharing matrix" (Tomić 2004, 66). The fact is that the constitutional courts, based on the Austrian model, have certain common features that distinguish them as separate state bodies: constitutional review is carried out under different assumptions depending on the particular constitutional system of a particular state, a constitutional court is an independent body that does not belong to a regular judicial power, deciding on constitutional appeals is separated from the jurisdiction of regular courts, the independence of the constitutional court is based, among other things, on financial and administrative autonomy, there is a monopoly of constitutional-judicial control or concentration of power in one institution, constitutional judges are often appointed by the highest political bodies, the jurisdiction of the constitutional court is peculiar, and its decisions are legal and political in nature, although they may also be of an advisory nature, constitutional control of the law prevails, and it is most often subsequent, repressive, although the possibility of prior control of the law is also implied in a smaller number of countries.

CONCLUSION

Not only legal theory but also constitutional solutions and the practice of the court itself confirm the fact that the constitutional court is a separate state body. Namely, the majority of the constitutions allocate the provisions on the constitutional court into separate parts of the constitution, outside the part related to the regulation of authorities, i.e. legislative, executive and judicial function. Even where the provisions relating to the constitutional judiciary are not systematized within a separate section of the constitution, a careful analysis of the constitutional provisions governing, above all, the election and jurisdiction of the constitutional court, as well as the legal effect of its decisions, it can be concluded that constitutional court is a special state body exercising a special state function.

Regarding the position of the Constitutional Court in the system of the separation of powers, it is our opinion that the third view according to which the Constitutional Court occupies a special place in the constitutional separation of powers is the most acceptable one. In this sense, the Constitutional Court, regardless of its similarities to legislative function, with regard to the legal effect of its decisions, and with the judicial function, in terms of procedure and manner of decision-making, is a separate constitutional body. It is, therefore, necessary for the constitutional court to "preserve its independence in order to prevent political pressure from the legislature and the executive that could influence the court's decisions themselves. The absence of such independence could jeopardize the differentiation of politics and law, potentially culminating in the dominance of politics over law." (Hein 2011, 17). Although it is the task of the Constitutional Court to safeguard the constitution and the constitutionally established separation of powers, it does not constitute any "super-authority" that rises above the constitutional separation of power, but rather a specific function of state power that is itself covered by the constitution.

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