

UNIVERSITY "Ss. CYRIL AND METHODIUS" in SKOPJE



INSTITUTE FOR SOCIOLOGICAL, POLITICAL  
AND JURIDICAL RESEARCH



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UNIVERSITY "Ss. CIRYL AND METHODIUS" - SKOPJE**

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## *CONTENTS*

---

FOREWORD .....	7
----------------	---

---

Lidija Robnik	
The Model of Financing Innovative Firms through Venture Capital .....	9

---

Eleonora Serafimovska, Marijana Markovik	
Comparing Macedonian and Austrian Students' Perception of Identity Aspects and Collective Identity .....	23

---

Milka Kabranova	
A Comparative Overview of HR Policies & Practices in South-East Europe: A Cross-Na- tional Analysis.....	37

---

Jasna Teofilovska	
Identifying and Facing Mobbing in the Enterprises of the Republic of Macedonia .....	51

---

Besa Arifi	
Does the Goal Always Justify All Means? – The Danger as well as the Crucial Need of Using Illegitimate Tools for Legitimate Causes – The Eichmann Case .....	61

---

Ninko Kostovski, Snezana Hristova, Ivana Frost Gasheva	
Diversity and Workplace Discrimination in Macedonia .....	71

---

Arta Selmani-Bakiu	
Deprivation of the Parental Rights According to the Macedonian Legislation .....	79

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## FOREWORD

It is my great pleasure to announce second issue of the international scientific journal “Annual of ISPJR”2016, especially because this year it is the 40-years anniversary of its publishing.

In this four decades the “Annual of ISPJR” promotes scientific research results, covers the social sciences and humanities, interdisciplinary research and cross-functional issues. With on line publishing twice a year and in accordance with the concept of open access, the Annual has become part of Macedonian and world science scene where promotes and actively contributes to social research.

In this issue main fields that have been covered are from: political science and human rights, sociology, law, organizational science, human resource management, entrepreneurial management, communication, new media, cyber culture, social development and other areas in social sciences. All papers have been selected by double-blind peer review from two experts from the proper field.

I hope that this edition of the “Annual of ISPJR” will reach as many readers and will attract the attention and the interest of the scientific and general public in the country, the region and broader.

Editor-in-Chief  
Mirjana Borota Popovska, PhD

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## **THE MODEL OF FINANCING INNOVATIVE FIRMS THROUGH VENTURE CAPITAL**

### Abstract

Entrepreneurs of companies keep asking themselves what sources to use in order to finance their own entrepreneurial ideas that enable growth, existence and income because they do not have sources of financing. One of these sources is risk capital, normally used by capital owners to finance innovative companies with a suitable business idea or challenge, a persuasive business plan and a vision of doing business with income that would be achieved in a certain period of time with the help of the business idea. Venture capital is a part of equity and venture capital funds, which enter a company, become its co-owners for a certain period of time. The research, provided among Slovenian entrepreneurs and investors of venture capital, shows that knowledge about the purpose and role of venture capital at financing high potential and development companies is rather poor. This is the reason why the development of venture capital can be expected in a couple of years.

**Keywords:** entrepreneurship, entrepreneurial knowledge, venture capital, income, venture capital funds

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## 1 IMPORTANCE OF RISK CAPITAL FOR ENTREPRENEURSHIP

Aspect of each entrepreneurship is finance – money plays an important part in economy. The familiar wisdom says that if there is enough capital, new companies will be established and vice versa (Hisrich and Peters 2004, 385). Success of small companies is based on friendly and personal networks because an individual cannot gain all sources necessary from suppliers, banks, public agencies, relatives, friends and non-refundable funds (Premaratne 2001, 368). O'Rourke (2000, 2) says that in the European Union the share of borrowing is 70 per cent, whereas it is about 30 per cent in the USA. Size and long-term relationships between foreign capital and bank financing are essential for startup companies because capital structures depend on property structure (Cassar 2004, 275).

The main factor of information economy of the 21st century is risk capital which allows, encourages and supports development and growth of business ideas, innovations from the beginning till the final market realization. Venture capital is permanent property employed in the company and presents sources of financing for companies in the early or development stage as well as for new risk businesses (Ribnikar 1991, 195). Venture capital appears when there are no other sources of financing or they are inaccessible on the goods or money market (Pratt in Khoylian 1988, 613). Investments of venture capital fund providers demand certain experience, knowledge and risk abilities – their rewards are high capital gains. Venture capital is collected in investment funds whose interest is to invest risk capital in new and growing companies where they want to have ownership according to the size of capital invested (Griffin in Ebert 1993, 570-571; Keeley in Kapp 1994, 99-100).

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The examples that can be found in foreign theory and practice show that investors of venture capital choose startup fast-growing companies dealing with high technology. It is important to know that venture capital fund admittance does not mean loss of management freedom, but it is about a common goal because each fund tends to grow and be profitable.

---

Development and progress of industry will be allowed by venture capital financing only. It is the only way of financing that can bring new business cycles in industry. There are important years ahead for venture capital investors because it is predicted that around 60 per cent of capital will be invested in industrial projects (Heesen 2005, 3). It is vital that venture capital fund providers use all knowledge necessary to find out where and what areas to invest in (De Clercq 2003, 39) because most of them want additional income (Henderson in Leleux 2003, 38-39).

## 2 FORMATION OF INNOVATIVE FINANCING WITH RISK CAPITAL MODEL

In the modern world, according to Steyn (2004), there are successful companies that produce and forward in new products and services. Business creativity and innovativeness are not just a pillar of competitiveness of individual companies but of the whole economy (Marrana et al., 2009).

The model includes guidelines and contents of the European model whose position is that of Zurich model, which is based on the assumption that the one who leads others in helping to solve a common problem has all legitimacy and authority needed. The model also includes certain opinions of Sankt gallen model, according to Bleicher (1994), where vision, culture and company participants are very important because company's mission, goals and basic operational aims depend on them.

The model presents operation intersection structure and process with schematic chart structure where the following elements are included:

- survival and existence of innovative companies,
- creation of pleasant business environment,
- access to financial sources for innovative companies,
- promotion of enterprise culture and mutual cooperation,
- cooperation among capital investors, owners of companies and business partners.

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- creation of pleasant business environment,
- access to financial sources for innovative companies,
- promotion of enterprise culture and mutual cooperation,
- cooperation among capital investors, owners of companies and business partners.

The model shows that a company is a dynamic and problematic system, partially open, autonomous, directed towards goals, searching for a system of cooperation and connection in business and financial sense. Planning and decision-making are oriented towards the future of the company, direct implementation leadership and realization of business aims and interest control.

In the forefront of solving management problems and duties are people so attention is given to:

- personal characteristics and goals of individuals,
- relations between owners and investors,
- interactions that appear between owners and risk capital investors with business and financial environment.

The model is based on the analysis results of our own qualitative and quantitative research. Owners of companies, risk capital investors and their interests, expectations and cooperation risk are included in the model.

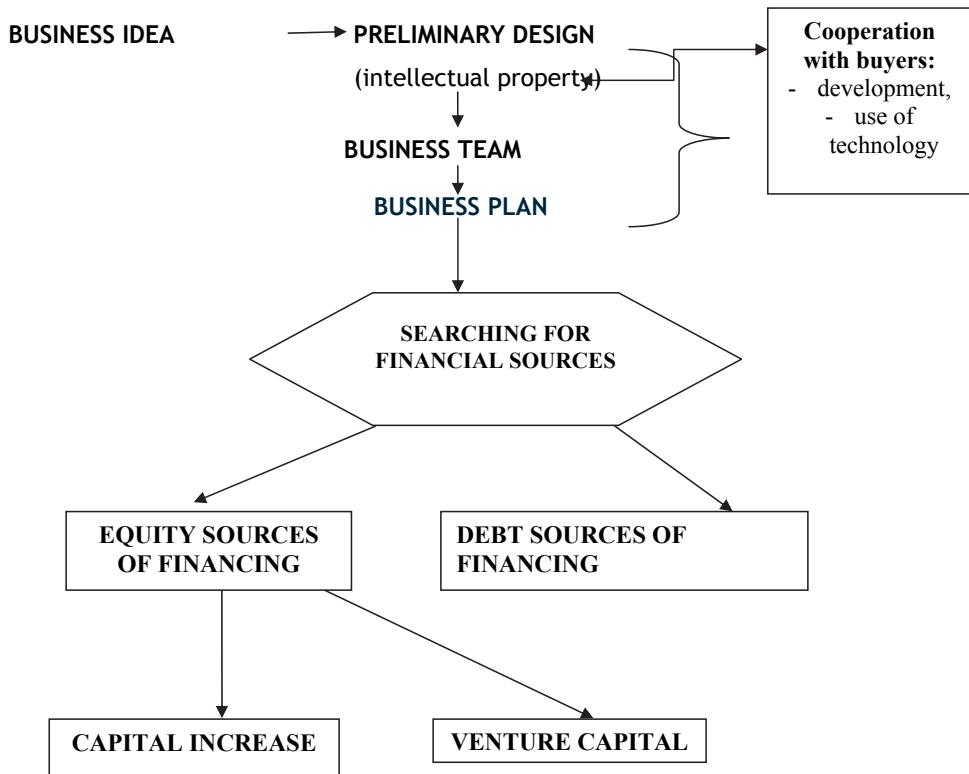
The purpose of the model is to form and introduce key factors that have an influence on business as well as financial cooperation between risk capital investors and owners of companies.

### 3 VENTURE CAPITAL FINANCIAL MODEL STRUCTURE

Establishing the model of innovative financing with venture capital includes definitions of problems and decision-taking concerning venture capital by owners of companies. Two expert groups in the model are presented by members of risk capital (funds) investors and owners of companies. When establishing the model theoretical knowledges as well as experience (foreign and local) were taken into account and based on them deficiencies and problems of venture capital investments were introduced.

Owners of companies look for financial sources to accomplish their business ideas, whereas venture capital investors search for challenges and readiness to invest capital in companies and business teams with good innovative business ideas. We agree that connections and cooperation with potential buyers should be implemented at the beginning of the product development and use of technology processes (picture 1).

**Picture 1:** *Searching for financial sources to accomplish business ideas*



The results of the research show that entrepreneurs lack knowledge in the fields of marketing, marketing researches, financing, fiscal charges, needed to offer business programmes, products and services. Furthermore, entrepreneurs who are not familiar with risk capital will not include it in their business financing.

The purpose of the research is to study, analyse, compare and compile findings, theoretical discussions and researches in the field of entrepreneurship development in the light of financial sources. Potential risks, on the company owners' as well as capital investors' sides, are exposed.

The research also shows that there is no proper venture capital supply and demand in Slovenian economy. Based on literature study, foreign researches and our own research we found the answer to the question why Slovenian companies cannot accede to venture capital funds and introduce their business ideas and ambitions. The finding is that domestic venture capital funds wait to be found by companies instead of having the ambition to find companies themselves and work out business, financial and profitable cooperation strategy with them.

When financing and reaching yields a certain financial source structure is needed, part of which are:

- knowledge,
- plans, goals and
- branch, a company is part of as a seeker for business ideas with venture capital.

The model follows the logics of yield obtained invested in innovative ideas and branches, not in branches without yields desired.

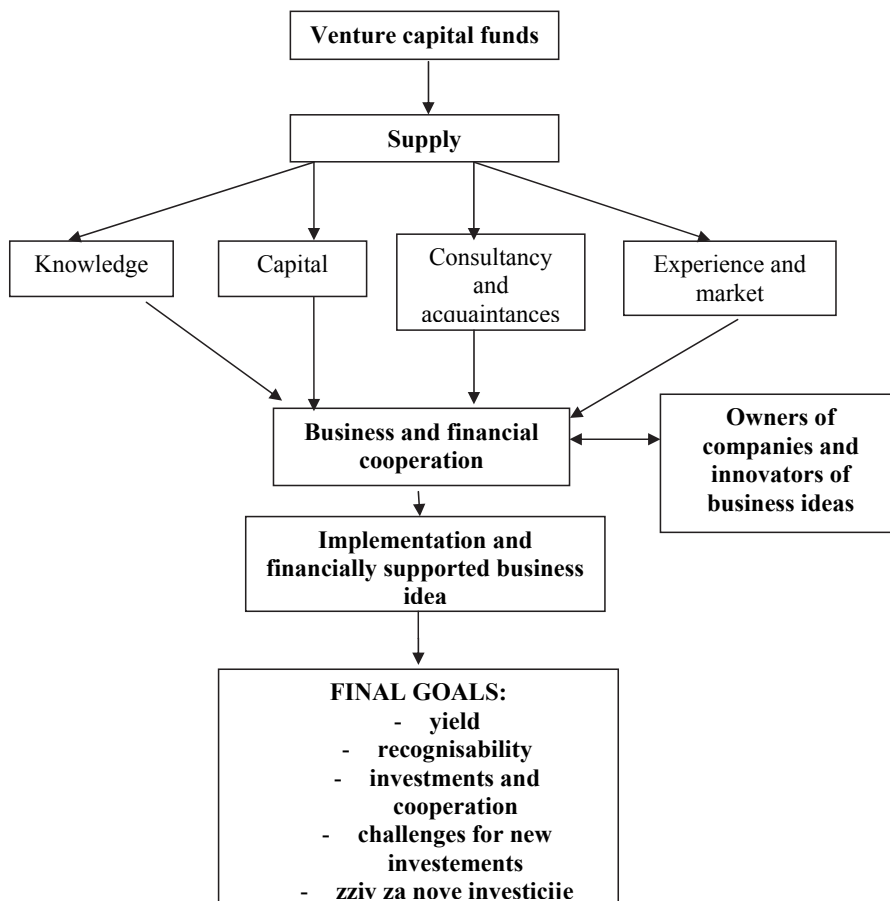
The results of questionnaires among owners of companies show that many of them are not familiar with venture capital and the role of venture capital representatives. The Slovenian entrepreneurs are more fond of equity (inner) financing. It is also obvious that education and entrepreneurs' awareness about alternative sources of financing are too small.

It is vital that venture capital funds know how to present their operations, mission, strengths and opportunities, interesting branches and cooperation goals (picture 2).

Their offer should consist of the following:

- knowledge,
- capital,
- acquaintance and advisory experience,
- knowledge of the market and buyers,
- knowledge of individual activities.

Picture 2: Cooperation factors of venture capital funds and owners of companies



An important factor of business and financial cooperation is owners of companies with their innovative business ideas venture capital funds are ready to support financially.

In case of successful cooperation goals will be achieved and expressed in:

- yield,
- new investments and
- recognition of companies and risk capital funds.

There is a possibility that conditions of acquisition and cooperation are unsuccessful. This is the reason why the role of an entrepreneur and his team or company owner is to look for business and financial cooperation possibilities with other providers of funds venture capital funds are part of.

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The model introduces challenges in business cooperation, search for venture capital investors, ability and achievement of interests of all participants. Their common cooperation is seen in:

- participants' authority
- common goals and
- different forms of formal and informal education

The model (picture 3) introduces the purpose of cooperation in realization of business culture and vision of company operations. It includes:

- transfer of knowledge and experience of all participants,
- implementation of competitiveness,
- access to markets and buyers,
- growth and development in business challenges and their realization.

Goals of cooperation (in the model) are presented in forms of:

- business idea realization,
- desired level of yield desired,
- division of business and financial risks of all participants and in
- recognition and further independent operation of entrepreneurs with a team or owners of companies.

In case that business idea is not realized due to lack of financial sources, this presents a negative factor of entrepreneurship and national economy development. It is presumed in the model that venture capital plays an important part in development and innovative entrepreneurship financing.

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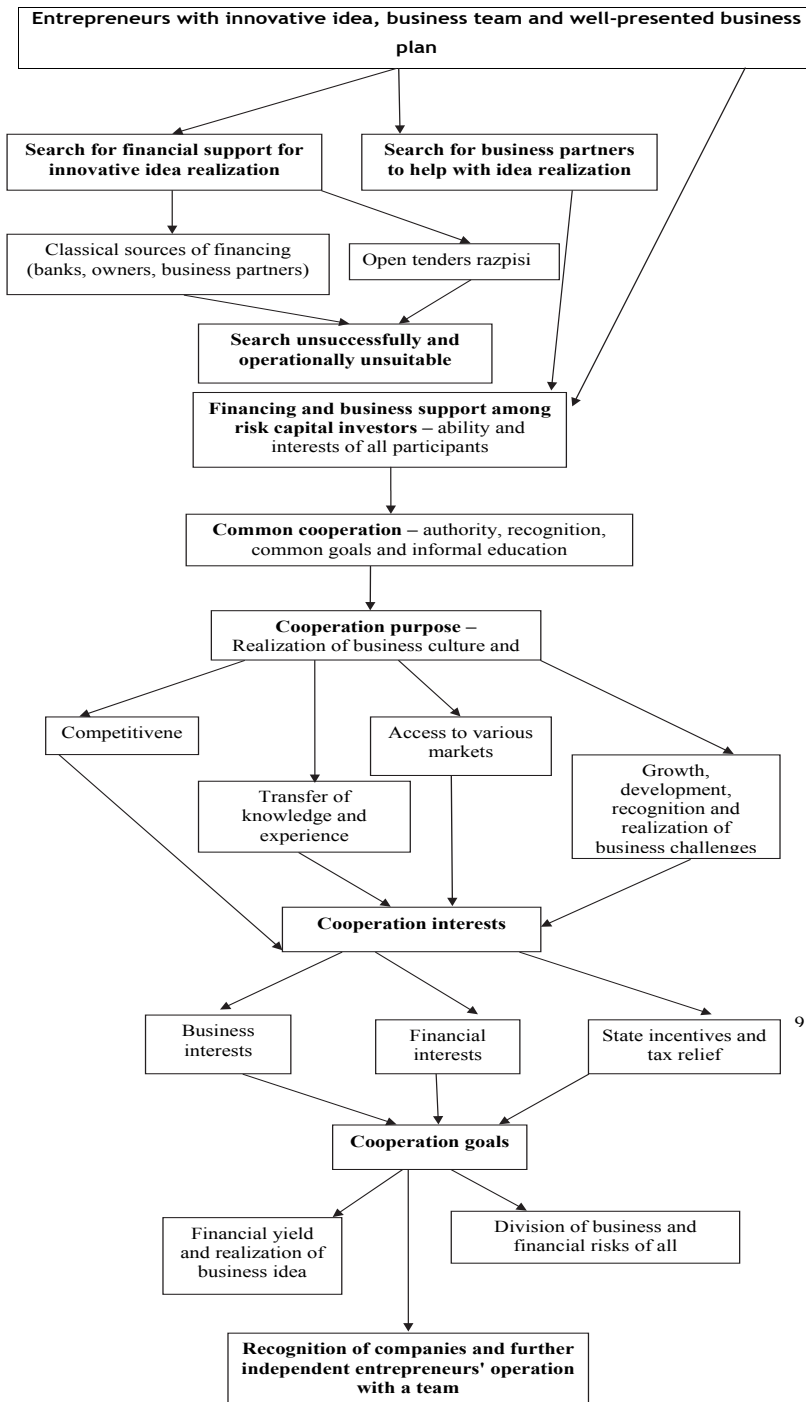
For entrepreneurs with innovative business idea that wants to be realized venture capital investors are essential for they possess financial as well as business interests and experience.

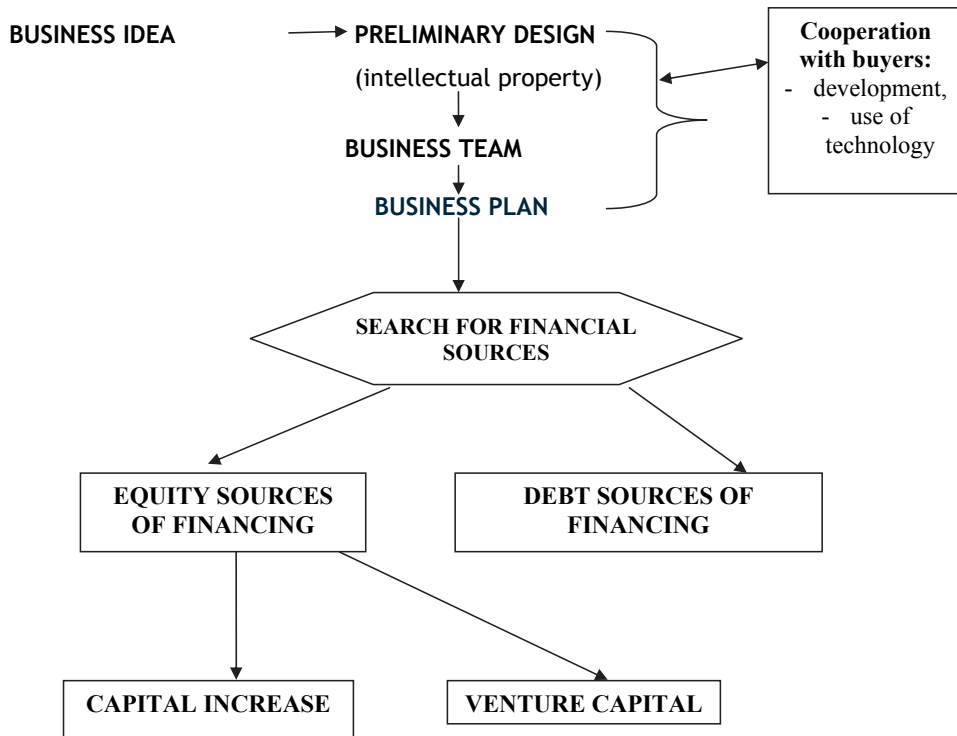
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We think that connections and cooperations with potential buyers should be implemented in the very beginning of the development process and use of technologies (picture 4). For innovators on the part of buyers feedback serves as a base for success or failure, taking into account stimuli, and at the same time causes higher success value on the market.



**Picture 3:** *Model of innovative financing with venture capital*

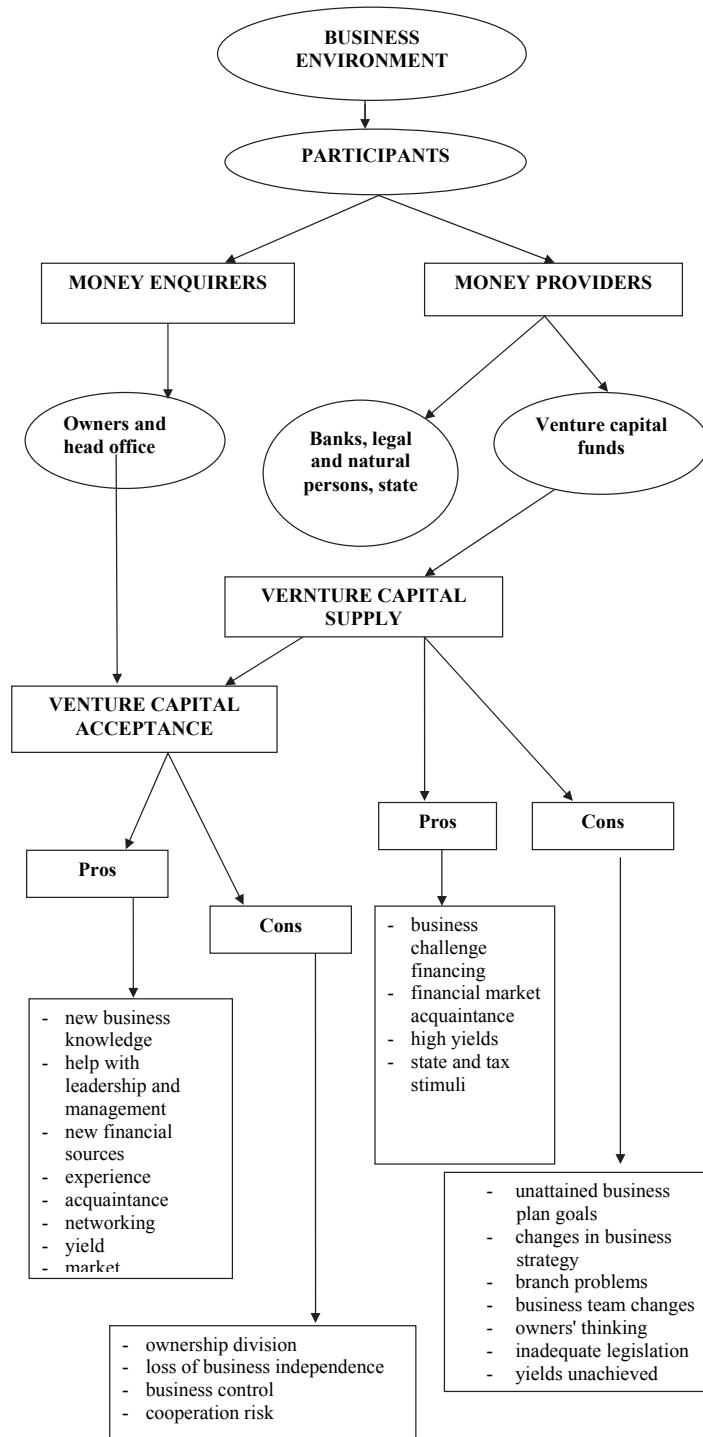


**Picture 4:** *Search of financial sources for business idea realization*

The empirical analysis emphasizes knowledge and misunderstanding of risk capital by owners of companies. The results of the research show that entrepreneurs lack knowledge in the fields of marketing, marketing researches, financing, fiscal charges, needed for the supply of business programmes, products and services.

Findings of our own researches show that in Slovenia business environment is more oriented towards individuality (picture 5). Entrepreneurs do not want or find it difficult to accept the fact that others interfere in their ownership, business and financial decisions. This is the reason why venture capital is not important to them. Such business attitude and business culture have no future and do not contribute to bigger growth, innovative entrepreneurship development and increase of gross domestic product. Owners of companies and venture capital funds must mutually accept pros and cons of financing and cooperation caused by venture capital.

**Picture 5:** Role of venture capital for participants in business environment



## 5 CONCLUSION

In modern world of entrepreneurship business and capital cooperation are essential both from local and from foreign sources of financing point of view, because they stimulate development of companies if they have proper vision, innovative ideas and business goals.

Business innovations are necessary because they allow growth and development of entrepreneurship. They should not be just a one-time activity but a continuous process. It is vital to support business ideas and individuals' knowledge that need financial support. The main factor of success in entrepreneurship is a team and its innovativeness, persistence and propulsive business ideas that can be carried out in practice. Support is desired both from owners of companies and from risk capital investors.

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**COMPARING MACEDONIAN AND AUSTRIAN  
STUDENTS' PERCEPTION OF IDENTITY  
ASPECTS AND COLLECTIVE IDENTITY**

Abstract

This research was focused on the association between aspects of identity orientation and collective identity among students in Macedonia and Austria. The survey in Macedonia was conducted among Macedonian and Albanian state university students, and in Austria, it was conducted among students from the Department of Political Science and Sociology at the University of Salzburg. The same methodological procedure was applied: orientation towards two aspects of identity - Personal aspect of Identity (PI) and Social aspect of Identity (SI), measured with the AIQ (Aspect of Identity Orientation) Scale. The collective identity was run through a grid of one scale (according to Laponce): importance was given to each of 13 social groups, such as: family, friends, gender, age, profession, religion, preferred political party, place of birth, residence, university, ethnicity, class, and

citizenship. According to the results on the PI and the SI scales, four groups of respondents were obtained. The first group, termed “Integrated”, was the group with high scores on both scales; the second group, termed, “Ego-oriented”, had high scores on the PI scale and low scores on the SI scale; the third group, “Pre-defined”, presented individuals with low scores on both scales, and the last group, “Over-socialized”, was the group that had high scores on the SI scale and low scores on the PI scale. The main topic of research was the importance that each of these four groups (in a Macedonian and Austrian context) assigned to the collective identity. The comparative study underlined some important issues: *family* and *friends* are the first and second most important social groups for the four groups in both samples; in both samples, the “Integrated” group places the highest importance to the collective identity; the collective identity is mostly predominant among the Macedonian students, and, no matter how much personality is integrated, the least important group for the Austrian sample of students is *religion*, while for the Macedonian sample of students - *political party*.

**Key words:** comparative study, aspects of identity orientation, social groups, non-EU country - Macedonia, EU country - Austria



## I. INTRODUCTION

### Defining the notions related to the term identity

The term “identity” should be delimited from the following terms: *identification*, *self*, *self-concept*, and *self-esteem* (Baumeister, 1986). The fundamental difference between the notions of *identity* and *identification* is that *identity* refers to the level of *sameness* (i.e. the difference in regard to others) of itself over time, and *identification* refers to the central process of continuous assimilation of properties, the properties of the “other”, which leads to complete or partial transformation in accordance with the identification model (Poro, 1990). In psychology, the term *identity* is associated with the *image of oneself* (the mental model that a person has created for himself/herself), the *self-evaluation* and term *individuality* (Weinreich, 1986). Psychologists usually use the term *identity*, referring to *personal identity*, i.e. those aspects which make a person unique (Krstikj, 1991).

*Personal identity* refers to everything that differentiates a specific person from others as a unique constellation of traits and characteristics that are durable over time. Theoretically, personal identity has two aspects: *personal aspect*, *private*, and *social aspect*, *public*. The *private aspect* of *personal identity* is the aspect of what may be “visible” only for the individual and refers to their own needs, thoughts, attitudes, feelings, values and moral standards, goals and expectations, fears, feelings of unity and continuity, and their self-evaluation. The *public aspect* of *personal identity* is what is “outside” the personal part, or the manifestation of personality, including: one’s physical appearance, their popularity, the reactions of others to the individual, their allure, the impressions they leave on others, and their overall social behavior.

The *social identity* refers to the perceived belonging to some larger or smaller social groups (Tajfel & Turner, 1986). This identity can also be viewed through two aspects: *relational aspect* and *collective aspect of the social identity*. The *relational aspect/self* reflects how we see ourselves in the context of our intimate relationships. *The collective aspect of social identity* refers to belonging to a particular group(s) in society: as male/female, Macedonian/Albanian/Turkish/Roma, psychologists/sociologists/lawyers, etc.

As regards personal identity, the psychologist Marcia extends the work of Ericsson and promotes the idea that sense of identity is determined mainly by two processes: the process of exploration and the process of commitment made in respect to certain personal and social characteristics. In accordance with the degree to which these two processes have been achieved, there are four identity

statuses (Marcia, 1966): *identity achievement*, *moratorium*, *foreclosure*, and *identity diffusion*. *Identity achievement* means completed exploration and achieved commitment. These people have developed well-defined personal values and self-concept. Their identities can be expanded further, but the foundations have already been laid. These people accept themselves and are capable of establishing intimate relationships. *Moratorium* means the exploration is completed, but commitment has not been reached. These persons have gained vague or poorly-formed ideological and professional commitments; they are still in search of identity. They are beginning to commit themselves to identity, but are still developing it. *Foreclosure* means unfinished exploration, but achieved commitment. These adolescents blindly accept the identity and the values that have been passed on by their family and their significant others. They are committed to the identity, but not as a result of their own self-exploration or crisis. In fact, they have not gone through an identity crisis, since they have avoided resisting and risking. *Identity diffusion* means unfinished exploration and non-reached commitment. Adolescents who are unable to cope with the need for development of identity avoid exploring or dedicating to something and remain in an amorphous state of identity diffusion, which can sometimes produce social isolation. This type of identity is the least complex and the least mature in comparison with the other three.

### **Main features of the Macedonian and Austrian societies**

Macedonia is a multi-ethnic, multilingual, and multi-religious society in which these divisions largely overlap and reinforce each other, placing the country in the group of so-called plural societies or “deeply divided societies” (Христова, 2014). According to the latest census of the Republic of Macedonia, which was carried out in 2002, the ethnic Macedonian population constitutes 64.2 %, while the ethnic Albanian population is approximately 25.2 %. The conflict between the two main ethnic groups began in 2001, and ended with the signing of the Ohrid Framework Agreement (13 August 2001), which introduced elements of the consociational model of power-sharing (according to Христова и др, 2014) in the constitutional system of the country (Maleska, 2005).

In 2015, the unemployment rate in Macedonia was 26.8%<sup>1</sup>. In 2012, the level of GDP (nominal) was a total of \$10.198 billion and per capita \$4,935<sup>2</sup>.

<sup>1</sup> *Indicators*. Republic of Macedonia State Statistical Office, Retrieved 20 November 2015., <http://www.stat.gov.mk/KlucniIndikator.aspx>

<sup>2</sup> *Report for Selected Country*. International Monetary Fund. Retrieved 9 November 2015., <http://www.imf.org/external/pubs/ft/weo/2012/02/weodata/weorept.aspx?pr.x=2&pr.y=17&sy=2008&ey=2012&scsm=1&ssd=1&sort=country&ds=.&br=1&c=962&s=NGDPD%2CNGD-PDPC%2CPPPDP%2CPPPCC%2CLP&grp=0&a=>

Austria is a parliamentary-representative democracy comprising of nine federal states.<sup>3</sup> It is one of the richest countries in the world, with a nominal per capita GDP of \$52,216. The country has developed a high standard of living and in 2014 it was ranked 21st in the world for its Human Development Index. Austria has been a member of the United Nations since 1955, it joined the European Union in 1995, and it is a founder of the OECD<sup>4</sup>. Austria also signed the Schengen Agreement in 1995, and adopted the Euro in 1999.<sup>5</sup>

The ethnic groups in Austria are: Austrians 91.1%, former Yugoslavs 4% (includes Croats, Slovenes, Serbs, and Bosnians), Turks 1.6%, Germans 0.9%, and others or unspecified 2.4% (according to the 2001 census). The GDP (nominal) for 2015 was \$380.555 billion and GDP per capita for 2015 was \$44,475<sup>6</sup>.

## II. RESEARCH METHODOLOGY

### Research problems

Is there a difference in the self-definition between students from the EU and non-EU country, how do they define their personal identity, and does the way they define their personal identity (a certain orientation in the self-definition process) affect their collective identity (as importance given to social groups to whom the respondents belong) - were the main research problems.

### Hypothesis

The general hypothesis states that *there is no difference in importance given to social groups to whom the respondents belong between the EU and non- EU country, as regards the aspects of identity orientation.*

<sup>3</sup> *The World Factbook*. Central Intelligence Agency. 14 May 2009. Archived from the original on 10 June 2009. Retrieved 31 October 2015., <https://web.archive.org/web/20090610113837/https://www.cia.gov/library/publications/the-world-factbook/geos/AU.html>.

<sup>4</sup> *Austria About*. OECD. Archived from the original on 6 May 2009. Retrieved 20 November 2015., [https://web.archive.org/web/20090506022708/http://www.oecd.org/about/0,3347,en\\_33873108\\_33873245\\_1\\_1\\_1\\_1\\_1,00.html](https://web.archive.org/web/20090506022708/http://www.oecd.org/about/0,3347,en_33873108_33873245_1_1_1_1_1,00.html)

<sup>5</sup> *Austria joins Schengen*. Migration News. May 1995. Retrieved 30 November 2015., [http://migration.ucdavis.edu/mn/more.php?id=643\\_0\\_4\\_0](http://migration.ucdavis.edu/mn/more.php?id=643_0_4_0)

<sup>6</sup> *Austria*. International Monetary Fund. Retrieved 25 November 2015., <http://www.imf.org/external/pubs/ft/weo/2015/01/weodata/weorept.aspx?pr.x=67&pr.y=14&sy=2014&ey=2020&scsm=1&ssd=1&sort=country&ds=.&br=1&c=122&s=NGDPD%2CNGDPDPC%2CPPPGD-P%2CPPPPC&grp=0&a=>

## Variables

*Citizenship* was a relevant demographic variable in the study and a base for comparison.

The *identity orientation* is determined by the scores obtained on both sub-scales of the Aspects of Identity Questionnaire (AIQ), namely: a Scale which measures the orientation towards the *personal aspect of personal identity* (PI Scale) and a Scale which measures the orientation towards the *social, public aspect of personal identity* (SI Scale).

One of the tested variables assumed as variable under the influence of the level of expression of the identity orientation is the *collective identity* and it is determined by the result on the Scale for intensity of importance given to different social groups (constructed by Laponce and explained below).

## Instruments

The AIQ (Aspect of Identity Questionnaire) was applied to measure the orientation towards the different aspects of identity. In fact, for the purpose of this research, two sub-scales from the Scale for measuring the aspects of identity orientation (AIQ), designed by Jonathan Cheek and Linda Tropp (Cheek & Tropp, 2002), were used.

The Personal Identity Scale (PI) measures the orientation towards the *private, personal aspect* of identity, and it refers to: own needs, thoughts, attitudes, feelings, personal values, etc.

The Social Identity Scale (SI) measures the orientation towards the *social, public aspect* of identity, and it covers the following aspects: one's physical appearance, their popularity, the reactions of others to the individual, their allure, the impressions they leave on others, and their social behavior.

The Austrian version of the AIQ was a 5-point scale, like the original one, while a 7-point scale was applied to the Macedonian sample due to the consistency of the answers with the other implemented instruments in the research "Perception of Identities among the Student Population in the Republic of Macedonia" (implemented during 2011).

The initially-implemented statistical procedures speak in line for justification of the use of both the SI and the PI scales in both (Macedonian and Austrian) samples (Христова и др., 2014).

The other tool that was applied in this study was a questionnaire designed by Laponce (2004), aimed at determining the *minority effect*. Laponce constructed a questionnaire concerning 14 different roles which every individual "plays" during

their life (gender, age, nationality, ethnicity, occupation, religion, preferred political party, nationality, place of residence, university, ethnic background, language, family, close friends)<sup>7</sup>. Each role also means belonging to a particular social group and is considered from the following aspects: common interests with the members of these groups, solidarity with them, how easy it is to make changes to any of the roles, general satisfaction of the members of a certain group with the current circumstances, and how important belonging to a group is for the individuals. This comparative study paid attention only to one aspect of Laponce's questionnaire: how important belonging to a certain social group is for the individuals. Each role/group was to be located between the polarities (very important to me and it does not matter to me) on the 5- or 7-level Likert scale.

### Sample

For the Macedonian sample the survey used a *target sample* consisting of 451 respondents. It included three public universities: "Ss. Cyril and Methodius" University in Skopje (originally UKIM), "Goce Delchev" University in Shtip (originally UGD), and Tetovo State University (originally DUT), from the Faculties of Social Sciences.

The Austrian sample consisted of 61 students from the University of Salzburg, from the Department of Political Science and Sociology. It was a *convenience sample*.

The distribution of respondents as regards gender is presented in Table 1 below.

**Table 1.** *Distribution of the sample according to university and state*

Country	Male		Female		Total	
Austria	30	49.2%	31	50.8%	61	100%
Macedonia	156	34.6%	295	65.4%	451	100%
Total	186	36.3%	326	63.7%	512	100%

## III. RESULTS

### Association between Personal and Social Identity Orientation and Collective Identity

<sup>7</sup> The role of language has been omitted from the initial Laponce version due to the fact that in the Republic of Macedonia the language matches the ethnicity, so in the final version a total of 13 social groups/roles will be listed.

The research question was the following: are there differences in the way that Macedonians' and Austrians' identity orientation affects the collective identity expressed through the given importance to social groups to which they belong.

The students' responses to the question as to how personally meaningful and important they find social groups/roles can be found in Table 2.

1. Characteristics of the "Over-socialized" group regarding the importance of social groups: *family* and *friends* are the most important social groups/roles for both samples of respondents who belong to the "Over-socialized" group as regards the scores on the PI and the SI scales. The least important social group/role for the Macedonian sample is that of *political party*, while for the Austrian sample it is *religion*. Besides *profession*, which is in the same position for both samples (in the the third position, or discounting *family* and *friends* - in the first position), *religion* for Macedonians and *university* for Austrians are the next important group/role.
2. The characteristics of the "Pre-defined" group regarding the importance of social groups: besides *family* and *friends*, the most important groups/roles for the Austrian respondents who belong to the category "Pre-defined" are *residence* and *place of birth*. For the Macedonian respondents in the "Pre-defined"- those groups are *religion* and *profession/student*. Once again, the least attractive social group/role for the Austrian respondents "Pre-defined" is *religion*, while for the Macedonian respondents "Pre-defined" is *political party*.
3. Characteristics of the "Ego-oriented" and "Integrated" groups regarding the importance of social groups:

**Table 2.** *Answers to the question: “How significant are the following groups to you concerning respondents’ category (Over-socialized, Pre-defined, Ego-oriented, Integrated)?”*

Over-socialized						Pre-defined						Ego-oriented						Integrated					
Rank	MK	M	R	Austria	M	Rank	MK	M	Rank	A	M	Rank	MK	M	R	A	M	Rank	MK	M	R	A	M
I.	Family	6,44	I.	Friends	6,50	I.	Family	6,37	I.	Family	6,31	I.	Family	6,76	I.	Family	6,31	I.	Family	6,73	I.	Friends	6,38
II.	Friends	6,26	II.	Family	6,30	II.	Friends	6,01	I.	Friends	6,31	II.	Friends	6,54	II.	Friends	6,19	II.	Friends	6,62	II.	Family	6,25
III.	Profession	5,55	III.	Profession	4,60	III.	Religion	5,58	II.	Residence	4,06	III.	Religion	5,97	III.	Prof.ession	4,75	III.	Religion	6,11	III.	University	5,25
III.	Religion	5,55	IV.	University	4,40	IV.	Profession	5,48	III.	Birthplace	4,00	IV.	Profession	5,83	IV.	University	4,13	IV.	Profession	6,04	IV.	Profession	5,19
IV.	Residence	5,42	V.	P. Party	4,00	V.	Birthplace	5,13	IV.	University	3,81	V.	Residence	5,90	V.	P. Party	3,88	V.	Residence	5,93	V.	Citizenship	4,13
IV.	Ethnicity	5,42	VI.	Residence	3,90	VI.	Residence	5,12	V.	Profession	3,69	VI.	Ethnicity	5,58	V.	Class	3,88	V.	Birthplace	5,93	VI.	Residence	4,00
V	Gender	5,32	VII.	Gender	3,70	VII.	Gender	4,94	VI.	Age	3,56	VII.	Age	5,39	VI.	Gender	3,81	VI.	Gender	5,79	VII.	Birthplace	3,88
VI.	University	5,21	VII.	Citizenship	3,70	VIII.	Ethnicity	4,83	VII.	Citizenship	3,38	VII.	Citizenship	5,39	VII.	Age	3,38	VII.	Ethnicity	5,78	VIII.	Age	3,75
VII	Age	5,20	VIII.	Class	3,60	VIII.	Age	4,83	VII.	P. Party	3,38	VIII.	Birthplace	5,37	VII.	Residence	3,38	VIII.	Age	5,64	IX.	Gender	3,14
VIII.	Birthplace	5,19	IX.	Age	3,50	IX.	University	4,81	VII.	Class	3,38	IX.	University	5,24	VIII.	Citizenship	3,31	IX.	Class	5,56	X.	Class	3,38
IX	Citizenship	4,91	X.	Ethnicity	3,30	X.	Class	4,38	VIII.	Ethnicity	3,31	X.	Gender	5,30	IX.	Ethnicity	2,75	X.	University	5,49	XI.	Ethnicity	3,20
X	Class	4,79	XI.	Birthplace	3,10	XI.	Citizenship	4,27	XI.	Gender	3,00	XI.	Class	4,90	X.	Birthplace	2,21	XI.	State	5,18	XII.	P. Party	3,13
XI	P.Party	3,44	XII.	Religion	2,90	XII.	P. Party	3,11	X.	Religion	2,88	XII.	P. Party	2,79	XI.	Religion	2,13	XII.	P. Party	3,54	XIII.	Religion	2,31
Total		5,28			4,12	Total	4,98			3,98			5,46		3,85				5,72			4,15	

The “Ego-oriented” and the “Integrated” respondents from both samples are the two groups that rank the same social groups as the most important ones besides *family* and *friends*. Namely, for the Macedonian “Ego-oriented” and “Integrated” respondents, the most important roles are *religion* and *profession*, and for the corresponding Austrian groups those roles are *university* and *profession*.

The analyses of the association between aspects of identity orientations (grouped in four categories) and the importance of all social groups (roles played) in society reveal that the Macedonian students place more importance on all social groups/roles than their Austrian counterparts (see Table 2). It can be said that collective identity is more important for the Macedonian respondents than for the Austrian ones ( $t=9,448$   $p<0,01$ ).

#### IV. DISCUSSION

This research was based on several basic assumptions: first, that *youth is undeniably a great potential in the development of a modern, democratic and human rights-directed society*. The selected sample composed of students is a set of people who share a common experience, people who have been socialized in similar conditions, and they represent the generation they belong to. Second, *one of the major incentives for involvement in social action or social movements should be sought in the characteristics of the collective identity of individuals*.

The object of this research was to see how young people in Macedonia and Austria define themselves, how they define their personal identity, and whether the way they define the personal identity affects their collective identity.

The research data show that students (from Macedonia and from Austria) in the process of self-definition are almost equally oriented towards the private aspect and the public aspect of identity. The identity orientation in the process of self-definition is a cross-cultural phenomenon and points out the expected potential of the individuals from the two countries for self-definition and distinction from others.

Summarized, the main differences which were found between the two groups (a EU and a non-EU country) in this research were the following:

1. The least important social group/role for all the students from the EU country is *religion* (no matter how personality is integrated), while for all the students from the non-EU country that is *political party* (no matter how personality is integrated);
2. After *family* and *friends*, *religion* is the most important social group in the Macedonian case for all four groups (“Over-socialized”, “Integrated”, “Ego-oriented”, and “Pre-defined”);



3. *Profession/Student* and *university* are very important social groups/roles for the following three Austrian groups: “Over-socialized”, “Integrated”, and “Ego-oriented”; for the “Pre-defined” it is *residence* (and this is also followed by *place of birth*);
4. The next most important group/role for the Macedonians (after *religion*) is *profession*, that is, to be a student, while they rank *university* as a relatively unimportant social group;
5. The collective identity is mostly predominant in the non-EU country respondents. For all the four groups in the Macedonian sample, the average score for the importance of all social groups is higher in comparison with the same average score in the Austrian sample (see Table 2).

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**A COMPARATIVE OVERVIEW OF HR POLICIES  
& PRACTICES IN SOUTH-EAST EUROPE: A  
CROSS-NATIONAL ANALYSIS**

Abstract

Nowadays, companies are operating in a very competitive environment that is also affected by the “pressures” of globalization and internationalization. Companies have realized that HR management is very important in order to compete in this kind of circumstances and the policies and practices that can be implemented can not only give them competitive advantages, but also can be used in the internationalization of the companies. The aim of this research is to present the cross national perspective of HR policies and practices that managers are implementing in order to improve management of employees. Nevertheless, a lot of theories have been written in order to help companies to manage better their employees and in order to increase their efficiency and effectiveness in the global market. According to the literature review, there are some disagreements regarding to the use of same policies and practices of the companies when they expand globally. Even though, the HR policies and practices are specific everywhere, there are differences in the level of their implementation and in the way that they are perceived among companies. In order to present the impact of globalization on HR policies and practices, northern and southern European countries are used. Furthermore, from the research made in those countries, it was concluded that northern European countries are practicing more consistently the HR policies and practices, and the HR manager is directly involved with the decision-making process in the companies. From another point of view, the southern European countries are still practicing basic HR and in some of them the HR tools and techniques are based on benchmarking. Although,

the European Union is considered to be the best example for trying to standardize the HR policies and practices across its member states, the discussion of empirical finding suggests that there are still differences in the level of implementation of HR tools and techniques, due to the different developments and cultural features across the EU countries.

**Key words:** HR policy, HR practice, EU countries.

## INTRODUCTION

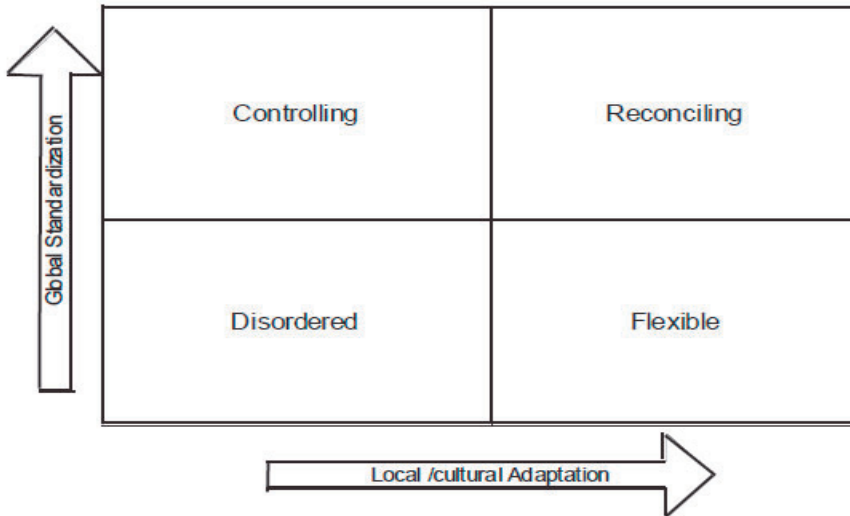
Living at era where globalization is a part of everyday activities, Human Resource (HR) Managers have a crucial role in order to maximize the benefits of the company from its internationalization without destroying the local and organizational culture. Nevertheless, HR managers and their ability to manage people across borders are fundamental regarding the different level of country's development in terms of technological progress, as well as differences amongst the states with regard to employees' registrations, regulations, wages etc (Friedman, 2007). Nevertheless, most of the models are related upon Anglo- Saxon features. Therefore, these can give "even harder times for the manager" due to the fact that these models referred to the view of HR policies and practices in the Anglo-Saxon countries which are different conceptualized in the rest of the world (Budhwar and Sparrow, 2002), which means that HR managers should have realized until which extend they can apply those models in their companies in order not to have negative outcomes form their application.

The aim of this paper is to identify the HR strategies as well as policies and practices that managers are applying in order to enable organizations to compete better in cross-national market. Nevertheless, the main research will be based on the differences between northern and southern Europe countries in the scope of exercising different external environmental tools in the aim of strategies, policies and practices that HR managers are using in order to maximize the benefits of the organizations.

## LITERATURE REVIEW

According to Lundy (1994), Strategic HR Management acquires the implementation of variety of tools and positions, such as: treating the employees as a "resource", maintaining open communication channels between employees and managers in order to increase workers' participation and involvement regarding to organization performance, as well as training and pay/ rewards programs which will increase the employees motivation for mounting the quality of the outcomes. This kind of situation is giving hard times as well as triggers the HR managers to exercise different strategies in order to "*maintain balance between the global standardization and local flexibility*" (Razi, 2006, p.63), which means that companies should use their own policies and practices, but they should still adapt to the local culture.

**Figure 1:** *Balance between the global standardization and local flexibility*

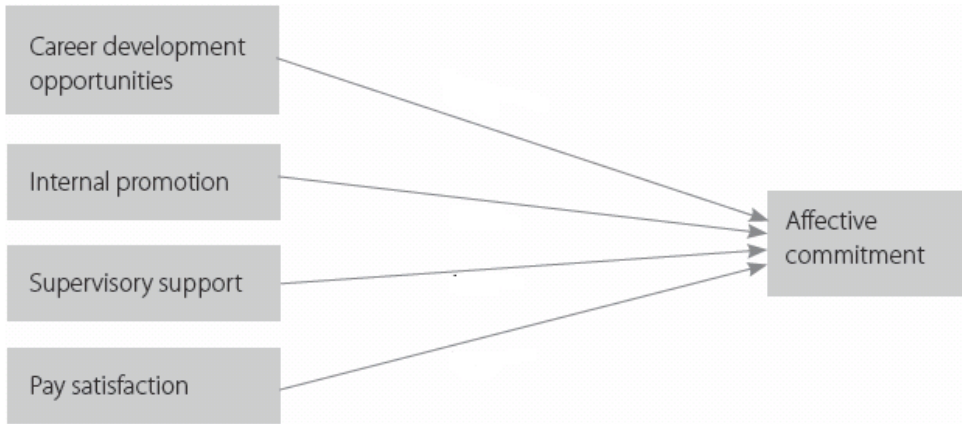


(Adapted from “Employing O. D. Strategies in Globalization of HR” by Nazneen Razi, p. 63.)

A lot of theoreticians have argued that SHR managers should implement “best practice” and “best fit” strategies in order to increase the competitiveness of the companies in the global market. According to Bae and Rowley (2001), HR managers should implement the “best practice” or benchmarking in order to gain competitive advantages, which is contradictory according to Delery and Doty (1996) who argue that “best practice” and benchmarking cannot always lead to “best fit” or positive outcomes while in many cases it is difficult or even impossible to be transferred in subsidiaries that operate in a different cultural context (Garham and Trevor, 2000).



**Figure 2:** *Common best fit components*



(Adapted from “Work and Organizational Commitment: Am I attached to the organization?” by PSYCH, Lesson 12)

**Figure 3:** *Common best practice components*



(Adapted from “Work and Organizational Commitment: Am I attached to the organization?” by PSYCH, Lesson 12)

On the other side, according to Morton and Beaumont (1998), the best practices of the HR management can be transferred globally only if the inside organizational benchmarking is used, but the local culture is important as well, which means that the managerial tools (policies and practices) should be adapted to the local population. According to Lepak and Shaw (2007), HR policies characterize the processes, techniques and programs (resourcing, development, rewarding and employment relationship) that should be implemented by the organization in order to maximize the outcomes of the HR practices. From another point of view, HR practices stand for the actual programs, techniques and processes applied by the company. Additionally, depending on the employee's preferences, HR managers can reward them by offering monetary value or personal development and training.

According to Delery and Doty (1996), HR management performance is based on three perspectives *universalistic, configurational and contingency*. According to the universalistic perspective the companies should apply equal practice for the global market such as same wage, employee's security, training and information sharing (Pfeffer, 1995). Nowadays, companies are going internationally in order to accomplish 'the economy of scale' by increasing profits and lowering cost (Babcock, 2004; Noe, 2006), and this universalistic perspective cannot be implemented. The configurational perspective suggests that companies should implement different practices in different countries in order to increase its efficient and effective performance. Additionally, contingency perspective applies a combination of universalistic and configurational perspectives in order to gain the maximum level of specific circumstances. Even though, same practices and policies can be applied in different geographical areas, the quality of the outcomes can fluctuate because of the different mentality of the human resources. Furthermore, Brewster et al. (2005) argue that global HR management is not just practicing tools and model for managing people, but also involves the PEST analysis (political, economical, social and technology development) and as well as culture, institutional roles and policies. According to Bae and Rowley (2001), as the globalization trend increases, the managerial tools and techniques that are implemented by HR managers are similar, which particularly lead to "universal" practices and policies that can be implemented globally. Brewster et al (2005) made a model of the main elements that companies should focus on in order to apply the global human resource practices. This research has limitations because it refer only on multinational corporation, and gives negative results in its implementation because of the nature of some factors that cannot be managed (such as the willingness of information sharing between departments) as well as the mentality and beliefs of the employees regarding to the importance of HR management. Additionally, Gerhart and Fang (2005, p.974) suggest that "*the generalization of HR policies and practices depends on the*

*characteristics of the particular country*”; which means that the same techniques can be used if the countries have or share similar characteristic such as mentality, behavior, technical development etc. Furthermore, Brewster et al. (2005) argue that global HR is more than HR management in the home country, and recruitment, reward management, communication as well as knowledge and technology can be crucial for the business in the process of transferring, based on the different values and perspectives that employees and as well as customers are sharing in other countries. Additionally, global HR managers have important role when expatriates are chosen for international assignments, which are crucial in gaining positive or negative results based on the ability and professional attitude of the expatriates. Furthermore, Budhwar and Sparrow (2002) suggest four management frameworks for understanding cross-national HR practices, but for the purpose of this assignment the environmental approach is taken into consideration, which is specifically based on the “assumption that managerial effectiveness is a function of the external environmental factors such as socio- cultural, economics, education, legal and political” (Budhwar and Sparrow, 2002, p.381).

Moreover, according to Smale (2008), when companies are operating internationally they can apply the mechanism for global HR management integration. Nevertheless, this model contains all the tools and models that were discussed above, which have been divided into four categories:

1. Centralisation--based mechanism is related with the authority that the headquarters are practicing and is also connected with the decision making processes, determination of salary as well as programs which are related with recruitment and development of the employees.
2. Formalisation-based mechanism is related to the procedures and policies that are established on global level. Additionally, formal and informal control and communication are characteristics of this category.
3. Information--based mechanism is related to the quality of information flow between headquarters and subsidiaries.
4. People based--mechanism is related with the knowledge and culture that are transferred between countries using expatriates.

## RESULTS OF THE COMPARATIVE DATA ANALYSIS

According to the theories and findings explained in the literature review, countries across the world have managed to implement similar policies and practices, but the main difference is the level of their implementation, which is based on the organizational perspectives for the importance of the policies and practices, as

well as the culture that is present in the organizational or country level. In order to identify the differences in the cross-national perspectives for HR policies and practices, northern and southern European countries will be used as a sample.

According to the research made by Brewster (2004), northern Europe countries are practicing more strategic HR management, emphasizing more on communication with employees, but weak internal recruitment is present. Additionally, the northern Europe countries are characterized by flexible operations which are based on external training and high market orientation (Ignjatović and Svetlik, 2003). These kinds of circumstances give positive effects on the organizations performance in northern Europe, while this is not the case for southern Europe countries where those findings were negative. The findings of the aforementioned research further confirmed by Nikandrou et al. (2005), who argue that countries in northern Europe (Sweden, Germany, Norway) have hard involvement of the HR managers in their strategic decisions, where the rest of the countries still practice the basic HR management participation. Furthermore, the “*collective incentive programs as well as calculative practices*” are used more in northern Europe countries (Denmark, Netherlands and Belgium) which is not the case in southern Europe where the employees are more concentrated on collaboration and team work orientation (Poutsma, et al., 2006, p.541). According to Kiriazov et al (2000), southern Europe countries (with concentration on the eastern European countries) are using job training which is more based on memorizing instead of learning, and it is characterized with low level of employees discipline (Russian case). From the generic presentation for northern and southern Europe, it can be concluded that companies which operate in developed countries, such as Germany, Netherlands, Sweden etc, the HR policies and practices are very important, due to the fact that those countries are considering employees as a source of competitive advantage. Additionally, by using similar tools for managing the work-force, there is an opportunity for the companies to go internationally and use the same HR policies and practices as in the host country, knowing that the methods used will give positive results in the subsidiaries.

From another point of view, empirical research (Fay et al., 2000; Fay and Bjorkman, 2001) shows that the Russian companies are implementing the HR management policies and practices and that HR department is playing significant role in the decentralization of the decision making which is related with motivation and empowerment of the employees, and as a result the outcomes for the organizations were defined as significantly positive. Furthermore, the research shows that HR managers are using different motivational tools regarding to employees position. Nevertheless, job security and good salary were used as motivation tools for low level employees, while personal and career development was offered to managers and career -oriented employees. Furthermore, in northern countries (UK and Germany)

employees are practicing more flexibility in terms of tasks, “*low perceived need for centralizations and strong vertical hierarchy*” (Faulkner et al., 2002 p. 108). Employee’s education, with regard to the employment process, is very important in France, where companies prefer to employ people with formal education and qualification for particular tasks, which is not the case in Britain (Ramirez and Fornerino, 2007). Additionally, this research shows that in both countries the HR policies and practices are evidently implemented in organizations that use high technology, which means that the training, development and job rotation are very important. As opposite of this, the companies that do not use a lot of technology have insufficient training and development programs included in the HR policies and practices. Katou and Budhwar (2006; 2010) conduct a research based on Greek territory. The results that they found show that the involvement of the HR managers in company’s strategies and operation can have positive outcomes. Additionally, the employee’s behavior related with motivation, two-way communication, increased satisfaction as well as health relationship between managers and employee’s have great impact regarding to organizations performance which gives contentment results of the company’s outcomes regarding profits. Nevertheless, the reward and training programs have given positive results towards employee’s productivity and higher involvement in their tasks. Moreover, based on the research made by Lucas et al. (2004) in Slovenia, regarding the hotel industries, the data show that hotel organizations are using benchmarking as an HR strategy most of the time. Additionally, most of the hotels were using internal recruitment for employees, which can be considered as insufficient method for using new “brains” for gathering entrepreneurial and innovative ideas. Nevertheless, job rotations as well as professional training programs are not the case in the Slovenian hotel industry. Consequently, even though, Slovenia is a part of EU, the level of implementation for HR policies and practices is different in countries with Germany, France, Greece and other EU members.

In the case of Serbia, HR management department has insufficient number of employees, who are indirectly involved with the organizations strategies and decision-making, HR managers are not so much preoccupied with the practices related with their department but rather performing administrative tasks (Milikic et al., 2008). Considering the recruiting programs, Serbian organizations are using the same programs as Slovenians companies, or internal recruitment. Additionally, according to Milikic et al. (2008) training programs are considered an important part of the employment in order to achieve better organizational performance, but the development programs such as job rotation and carrier opportunities are not implemented at all. As opposite from Serbia and Slovenia, Portugal has established a strong culture which is related with a higher need for HR managers, but the HR

managers still do not have the freedom for taking serious decisions, due to the fact that HR management is relatively new for the Portuguese organizations, and the number of HR professionals is low. Additionally, according to the research made by Cabral-Cardoso (2004), the line managers are playing the role of HR managers in terms of making decisions. Nevertheless, in organizations, where HR management is adopted, the recruitment process is made by the HR managers and in some cases the line managers are involved. Regarding to development programs, Portuguese companies appear to be similar with Serbian and Slovenian ones, which means that enlargement as a part of HR model is missing. Croatian organizations have similar characteristics with regard to the HR policies and practices in companies with the countries that were discussed above. The research for the territory of Croatia was conducted by Pološki Vokić and Vidović (2008), and the data collected show that organizations have not still developed HR departments or managers. Nevertheless, in organizations that the HR managers exist, their performance with regard to the implemented policies and practices were estimated as poor and insufficient for managing employees in order to sustain a competitive advantage. Additionally, most of the companies are using benchmarking HR, but according to Pološki Vokić and Vidović (2008) this method is not considered to be the proper one, due to the negative performance of HR and the insufficient use of the tools and methods in comparison with those that Western countries are following.

Additionally, most of the countries that were discussed above, such as: Greece, the UK, Germany, France etc. are part of the European Union, and due to the regulations of EU these countries should follow same HR policies and practices. Nevertheless, using the aforementioned assumptions, it can be concluded that the EU countries cannot fully implement the same tool and techniques due to the different cultural features and developments in these countries. Furthermore, the non EU countries are trying to implement the policies and practices that are used in EU, but the level of their implementation is still different across the EU states. Even though the EU is trying to bring a convergence in the 'adopted' HR policies and practices through various ways (e.g. Directives, Regulations, common employment policy etc), these policies and practices are still significantly divergent across EU nations due to the different perspectives on HRM and variances in cultural values.

## CONCLUSION

Bearing in mind all of the above-mentioned, it can be concluded that HR management has a crucial role for the organizational performance. Nevertheless, based on the cultural and states regulations, the level of implementation of HR

policies and practices are different across nations. According to the literature review, theoreticians are trying to help companies to implement similar tools and techniques, in order to compete in international borders. Furthermore, different perspectives for HR policies and practices such as: best practices and best fit, global HR management of integration, universalistic, configurational and contingency perspectives, cannot be fully adapted across different countries. Moreover, based on the empirical findings, it can be concluded that organizations across different nations have managed to implement similar tools and techniques, for example: northern Europe are practicing stronger HR in terms of managers involvement in decisions making as well as considering the training and development programs as important for the outcomes of the companies. On the other hand, southern countries are still practicing the basic HR. Overall, the European Union can be considered as the best example for trying to bring a potential convergence in the adopted HR policies and practices. In particular, the EU is trying to standardize the tools and techniques that HR managers should use across the nations. However, from the discussion of findings it can be suggested that some countries cannot fully implement the EU regulations and divergence of the HR policies and practices. Taking into consideration all of the facts mentioned above, one can conclude that even though theoreticians are making efforts to conduct cross-national HR models, based on the differences of the countries that were discussed in the empirical findings, it is most probably that the application of the model can bring negative results.

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**IDENTIFYING AND FACING MOBBING IN  
THE ENTERPRISES OF THE REPUBLIC OF  
MACEDONIA**

Abstract

Mobbing or psychological (moral) abuse of employees is a rather widespread phenomenon in the enterprises in the Republic of Macedonia indicated by the results of existing studies and surveys conducted with the employees in the public and private sector. However, since no concise or express and accurate definition exists related to workplace mobbing, this study is focused on defining existing plentiful literature dedicated to this matters, and taking into consideration the applicable legal framework, or more precisely Law on Protection against Harassment at Workplace. In that light, the possible cases of workplace mobbing were differentiated from other types of labor violence or other rights. Furthermore, cases are indicated where mobbing behavior is not in question; in fact certain professional norms and requirements by employers are concerned, which cannot be treated as abuse of the employee. In addition, consequences to the mobbing victim are highlighted, which seriously harm both his/her physical health and personal and professional integrity and position of the enterprise. Taking into consideration the number of employees subjected to mobbing in Macedonian enterprises, a range of measures to assist the employers to easier cope with this serious problem are proposed.

**Key words:** mobbing, enterprise, legislation, mobbing victim, employer

## 1. INTRODUCTION

Modernization, globalization and transition to capitalist business lead to changes in the employees' behavior as a result of increased requirements, deteriorated interpersonal relations and office abuse.

Practices of efficient organizations confirm that strategic management of human potentials strives to build adequate system to overcome mobbing in the workplace as a form of discrimination, and to ensure support to realization of better organizational performances. On the other hand, management is under big pressure and endeavors to verify its justification and demonstrates its active contribution related to enhancement of the organizational performances. Those two factors are drivers of management studies, key objective of which is to inspect mobbing impact as a psychical and moral bullying and abuse (*employee abuse, workplace terror, bullying*), workplace terror and influence of such circumstances against organizational performances and sustainable competitive advantage.

## 2. CURRENT MOBBING SITUATION IN THE REPUBLIC OF MACEDONIA

Workplace mobbing is a rather widespread phenomenon evidenced by its treatment from various aspects within different scientific disciplines. A comprehensive and precise definition of mobbing, however, does not exist, which can be concluded from the existing literature. In general, mobbing is categorized as personal and psychical threat related to workplace behavior. It occurs on daily basis irrelevant of the victim's education level, material status or gender. As an average, four persons per week report workplace bullying. Incredibility in the judicial system and harmed health condition are some of the reasons why persons being bullied do not file a complaint in courts but in the Office for Assistance and Education of Mobbing Victims.<sup>8</sup>

With reference to the legal framework associated to this problem, there is Law on Protection against Harassment at Workplace.<sup>9</sup> Experts are still discussing some ambiguous and imprecise provisions; however it provides for that, if

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<sup>8</sup> Office for Assistance and Education of Mobbing Victims commenced its operation on December 21, 2010 within the Trade Union of Financial Activities, which is part of the Federation of Trade Unions of Macedonia. It is aimed at providing advisory, legal, health and social and other type of assistance to harmed employees.

<sup>9</sup> Some EU Member States and other countries have adopted relevant mobbing-related laws in the past years. Relevant bodies in the Republic of Macedonia have established that the current mobbing-related legislation is incomplete and insufficient; therefore a new Law on Protection against Harassment at Workplace has been drafted and adopted in 2013.

present, it is easily evidenced.<sup>10</sup> So, a mobber's bullying and harassment can be established from copies of letters, e-mails, faxes, SMS and etc. The persons are requested to provide eventual notes related to the occurrence perceived by other persons or witnesses. Moreover, of considerable significance for evidence in the trial is the employee's logbook. Those are notes written out by the employee in his/her logbook on daily base: threats, assaults, harassments and etc. In the Office believe that the citizens are not familiar how to act in such situations to provide evidence for the court. They, however, notify about cases where mobbing is not concerned.

### 3. THEORETICAL FRAME

Some suggestions and our own perceptions are given below to assist in resolving this dilemma (see also: Armstrong 2003; Leymann 1990; Leymann 1992, etc.).

#### 3.1. What is mobbing

In order to be absolutely unacceptable behavior characterized as mobbing and a victim thereof, and finally to be able to file a complaint against abuse protection, it is not sufficient that such behavior happen only once but it has to occur repeatedly. For that purpose, it is important to construe that the person acting inappropriate has had intention to undermine your dignity, reputation, integrity or harm your health.

The following procedures are considered workplace mobbing or abuse:

- disabling normal communication (yelling, intimidations, insults, unjustifiably and willingly interrupting the employee to express his/her opinion, discontinuing the employee's speaking, permanent phone calling and harassing, if the object fails to come to a job interview, and etc.);
- serious undermining interpersonal relationships (ignoring the employee's presence, avoiding communication, unjustified physical isolation or prohibiting his/her communication with the other employees, failure to call him/her at a meeting, unjustified attachment of his/her working tools, and etc.);
- undermining personal integrity (teasing, gossiping, false allegations, demerit comments on the employee's personal characteristics, imitation of his/her voice, gesture, movement and etc.);
- undermining personal standing (unjustified persistent criticizing,

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<sup>10</sup> Recently news has been published that the first mobbing sentence was adjudged in Macedonia. For further information, please visit: <http://www.akademik.mk/donesena-e-presuda-za-mobbing-vo-makedonija-se-sozdava-sudska-praksa-koja-ohrabruva-veli-advokatot-petro-janura/> (accessed 13 August 2016).

undervaluing the employee's work, allocation of meaningless work tasks, precluding the employee to perform his/her obligations, allocation of humiliating tasks under the employee's level of knowledge and skills, unrealistic time limits, frequent changes of the work tasks or inappropriate work interruptions, imposition of malicious tasks not related to employee's position and workplace, excessive work monitoring, ungrounded or excessive use of control and other mechanical devices and intentional exclusion from additional education and professional training, and etc.);

- harming the employee's health (permanent pressure and intermediation, such as quitting job, termination of employment contact or application of psychological harassment, physical bullying, without any crime elements, intentionally provoking conflicts and stress, and etc.); and
- sexual harassment (offensive and inappropriate comments and actions of a sexual nature, attempt or indecent of undesired physical contact, inducement of sexual favor by promising rewards or threats or extortions, and etc.).

### 3.2. What is not mobbing

There are practices and behaviors that we may face at work, and which may resemble to (emulate) workplace abuse; however, from a legal aspect they cannot be treated as mobbing. In such cases other violence of the employee rights may exist, for which various methods of protection are envisaged.

This may refer to the following:

- *individual employer's act (decision, offer of annex to the employment contract, warning, and etc.) containing decision on the rights, obligations and the employee's responsibilities related to the employment (the Law on Employment Relations provides for the right to initiate proceedings against such acts);*
- *deny or deprive of a right determined by law, general act or employment contract, such as not to pay salaries and other receiving in case of overtime in opposition to the law, if one is deprived of one's right to daily, weekly or annual holiday and etc. (for all this matters we can refer to the Labor Inspectorate or initiate labor court dispute);*
- *implementation of employee discipline intended for better organization of the work (for instance, prohibition of access to Facebook during work hours or prohibition of meal consumption in premises for visitors);*
- *reasonable activities aimed at health and safety protection at work (use of employee's electronic identification card when arriving and leaving workplace or obligation to wear helmets at construction site);*

- *discrimination or unfair relation among the employees due to their personal characteristics (discrimination is prohibited, while protection is ensured by special procedure);*
- *behavior that can be characterized as workplace bullying but not repeatedly or no intention exists to undermine dignity or health (employees behaving inappropriate or improper may be imposed disciplinary fine);*
- *occasional different opinions, conflicts and problems occurring and related to the work, if no intention exists for harm or insult.*

### **3.3. Crimes and bullying at work**

It is important to make difference between mobbing and crime. For instance, cases of inflicting minor or serious body injuries, rape and etc., are not categorized as mobbing but something much more serious.

There are procedures such as crime, abuse and torture, safety threatening, insult or false allegations, which are indisputable, referred to as crime, and if they repeatedly occur this can mean workplace bullying at the same time. If you have been insulted once only, then you are a crime victim but not mobbing victim.

In cases of psychological harassment and bullying by the superior, the victim has several possibilities. To quit job, initiate court proceedings, publicly oppose taking the risk to be dismissed from work or tolerate. Few persons initiate proceedings, and even fewer accept the risk of being dismissed. According to the knowledge so far, more persons will ask for assistance but they are aware that they cannot find a new job and even they lack money to cover the court fees; they keep silent and tolerate bullying as long as a possibility for a new job appears, or long-term exposure to such hardships will seriously harm their health. Victims often know to withdraw when court procedure is concerned due to the above reasons. Experience indicates that in RM an employee will rarely withdraw and quit.

## **4. RESEARCH SO FAR**

The Federation of Trade Unions of Macedonia increasingly faces psychological pressure on its membership – employees. Taking into consideration frequent appeals of the union membership for protection of the right to safe and health conditions at work and protection of the employee’s dignity in securing existence, the CCM intensively treats mobbing. The manual „Psychological Pressure at work – Mobbing“ has been published for the purpose of high level of information on this negative occurrence. This is first edition of the kind in the Republic of Macedonia

and its primary purpose is to offer general information on the term mobbing, its recognition, consequences thereof and handling therewith.

This can be perceived from the results of the survey conducted by the Federation of Trade Unions of Macedonia, which clearly indicates to expressive form of mobbing in RM. This is first survey of the kind in the country providing insight in mobbing prevalence and impact on the employees' mental and physical health. The survey was conducted on representative sample size in bigger cities of the country, assuming national, gender, status and any other structure important for perceiving this situation. A total of 510 respondents were surveyed, which is a relatively large sample size to confirm the data relevance. The deviations range around 5%.

The survey was conducted in different activities and sectors represented as follows:

Industry	193	38%
Trade	155	30%
Public sector	162	32%
Total	510	100%

*T-1: Mobbing survey in public and private sectors*

*Source: Federation of Trade Unions of Macedonia (2009), Survey "Mobbing – Psychological Pressure at Workplace"*

It shows that 40% of the respondents were victims of mobbing, mostly by insinuations and excessive controls; major reason of mobbing was political affiliation; mobbing was assumed mostly by superiors (55%); prevalent consequences were: harmed employees' social and emotional balance and general health (40% felt headaches, tachycardia, and high blood pressure).

With reference to protection against mobbing, the respondents' expectations were that The Federation of Trade Unions is the only organizational form for their protection, indicating to the need for further instructions related to the manners and possibilities to cope with this occurrence provided by this employee organization.

The following results were obtained from the survey responses (we present the results in relation to each of the questions).

- Have you been a victim of mobbing?

Yes	207	41%
No	303	59%
Total	510	100%

*T-2: Mobbing survey in public and private sectors*

*Source: Federation of Trade Unions of Macedonia (2009), Survey "Mobbing – Psychological Pressure at Workplace"*



The high percentage of mobbing victims is impressive and much higher than the European average (25%). The response to this question should be south either in high level of the respondents' sincerity or in the fact that this occurrence is present and more frequent in societies in transition.

Occurrence of mobbing in our country is not of a recent date; it however gains ground in the transition period as well as in the post-transition period. Consequently, mobbing as a disease of modern civilization and communication kitsch is one of many consequences of these periods in the entire social life in our country. It is directly related to the socioeconomic development and to the social safety system and requires multidimensional approach in achieving better lifestyle of the citizens as fundamental human right and need.

## 5. CONSEQUENCES TO MOBBING VICTIM AND ENTERPRISE FUNCTIONING

The list of mobbing causes and consequences can be neither final nor universal considering the fact that each individual has own specific features and needs. However, general and common mobbing consequences are that it:

- harms general health (causes occurrence of organic or psychical disease – interference in memory, anxiety, nightmare, concentration problems, stomachaches, slackness, unrest, depression, lack of initiative, vomiting, apathy, irritation, restlessness, aggressiveness, unsteadiness, perspiration, arrhythmia, breathlessness, blood pressure problems, sleeplessness, nausea, loss of appetite, weepiness, loneliness, isolation, shiver, and etc.);
- influences professional workability (due to physical, emotional and mental deterioration), feeling of inefficiency, fatigue and exhaustion appears due to requirements opposite to the individual's competence, or require outsized physical and psychical input against low compensations, status or career promotion (Koic & Apostolovski, 2006: 16).

For mobbing victims bullying experience is very hard. They often do not express their feelings being afraid of misunderstanding and disbelief by the others. In such situation, it usually happens that the victim is not supported and understood even by his/her family members, which doubles the problem.

## 6. SUGGESTIONS AND RECOMMENDATIONS HOW TO COPE MOBBIING IN THE ORGANIZATIONS IN THE REPUBLIC OF MACEDONIA

Irrelevant of the actual, methodologically-imperfect condition of the area of mobbing survey in the Republic of Macedonia, it is imperative to indicate to insufficiently operationalized term of mobbing and nature of the matter. Therefore we keep to the phases through which we can establish the existence of mobbing;

– **First phase** – the victim's deprivation of work, isolation and does not have company anymore during the breaks – indication for intention to be dismissed either they consider that she/he is needless or because they are envious and feel jeopardized of her/his capacity. It is easy for the person to pull out of this phase; she/he has to immediately settle the problem and simply ask the superior what the matter is and "show her/his attitude". The answer may tell her if a normal problem at work is in question that is to be solved, or she is really a victim of mobbing.

– **Second phase** – mobbing usually takes longer period and the victim fails to notice while asking her/himself whether he/she is working hard enough or makes mistakes, cannot accustom to the work, feels less valuable, and loses reputation and right to express.

– **Third phase** – the victim is "the villain of the piece" for all omissions and inefficiency of the team, being blamed to hinder the work.

– **Fourth phase** – the victim struggles for the workplace survival, endeavors to complete all entrusted tasks although he/she is aware of their extensiveness and intentionally given unreasonable deadlines.

– **Fifth phase** – the victim is completely excluded from the work process, feels sick, depressed, sees a psychiatrist, leaves the work and even assumes suicide.

Erosion of business ethics is a result of the business and business competitive relations, and on the other side it demolishes moral elements of the business culture. Particularly important in this frame appears to be dealing with mobbing by taking initiative on the following levels:

- ❖ individual level – the person is to eliminate or reduce the situations resulting from mobbing in his/her surrounding, to estimate potential damages and minimize the level of pressure experienced as a result of mobbing.
- ❖ organizational level – to analyze the work in order to create conditions to change the work environment, or to manage the workplace conflicts; to motivate and secure the employees:
  - health and safe conditions for work;
  - stimulating opportunities for personal development and self-efficacy;
  - impartial and fair rewarding;
  - conditions of inexistence of prejudices and discrimination on any grounds;

- conditions for the employee to feel useful, efficient and respected;
- participation in setting mutual objectives and decision-making, settling and dealing with problems;
- balanced work and private life of the employees;
- right to privacy and own opinion, positions and attitudes (conditions for existence of plurality of ideas in the organization);
- socially responsible work environment (organization open for the employees' needs) (Kostelic i Martić, 2005: 69).

When development of mobbing process has been established, it is the employer's obligation to protect the victim. His/her stigmatization has to be precluded and he/she must be in a condition to retain his/her previous reputation and capacity. The victim has to take a sick leave and offered professional rehabilitation. It is a great omission for the employer to permit the person concerned to go through the mobbing process and just dismissed afterwards.

Furthermore, the employer has to choose one or more persons in the organization to whom the employees concerned by mobbing can refer to for advice. In addition, the employer has to observe and apply current regulations that could help in the fight against mobbing and ensure the employees' rights related to maintaining physical and psychical health at work. To that end, he/she has to provide regular control of the work environment and ensure the necessary work conditions.

## 7. CONCLUSION

The objectives of workplace mobbing and harassment policy is usually focused on raising awareness to this problem to easily recognize key challenges at different levels both in organizations and society as a whole; to act on organizational and individual levels and encourage and sometimes help organizations to take actions.

Governmental policies, preventions and interventions as well as possibilities to reduce mobbing vary among the countries. As a result, national and international sectors express their concern and take different measures and activities to prevent and deal with workplace mobbing.

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**DOES THE GOAL ALWAYS JUSTIFY ALL  
MEANS? – THE DANGER AS WELL AS THE  
CRUCIAL NEED OF USING ILLEGITIMATE  
TOOLS FOR LEGITIMATE CAUSES – THE  
EICHMANN CASE**

Abstract

This article analyzes the use of illegitimate tools to achieve legitimate goals in the international criminal law. It especially deals with the case of Eichmann, a former high official of the Third Reich who lived in disguise for 10 years in Argentina until he was captured and kidnapped by the Israeli secret service, and brought to trial in Jerusalem where he was punished by death penalty. The article argues that using an illegal tool such as kidnapping could contribute to achieving a legitimate and just goal such as putting to trial a war criminal, however, this kind of action should be avoided in order to give way to an efficient mutual cooperation between states in combatting international crimes based on instruments of law.

**Keywords:** Eichmann, international crimes, Israel, Argentina, legality, legitimacy

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## INTRODUCTION

The Eichmann case is usually regarded as one of the most controversial and unique cases when talking about the prosecution of perpetrators of international law. This case brought up numerous questions related to the nature of law and its main principles. It was regarded as a severe violation of the doctrine of absolute sovereignty, non-interference into the interior affairs of a foreign state, and especially as an overruling of the principle of not using illegal ways to achieve justice. But on the other hand, it was also regarded as a way to show the world that there should not exist a safe heaven for perpetrators of serious atrocities identified as international crimes. Some authors argue that everything should be done to achieve this goal, even if “everything” includes illegal measures. Or as the Romans would say: *Fiat iusticia, pereat mundus!* (May justice be achieved even if the world collapses)

First of all, this case clearly indicates the difference between what law is and what it should be. Law students encounter two opposite concepts as soon as they begin studying law: *de lege ferrenda* (what law should be) and *de lege lata* (what law is). As Llewellyn indicates: “No less important than what people think law is, is what people conceive that law should be” (Llewellyn 2003: 38). There are numerous examples where certain things are written in the laws and entirely other things happen in reality. There are rules, but there is an exception from every rule. It is interesting that when an “important” goal is to be achieved, people give themselves the luxury to break some other, “less important” rules in order to keep up the major ones. Sometimes this situation is compared with the concepts of self-protection or extreme need, according to which the person who committed a crime is released from criminal responsibility if it is proved that no other way existed to defend a more important good.

But the question remains: Can injustice produce justice? Can crime produce law? As professors, we teach our students that this should not happen, that this is forbidden and unacceptable. However, cases like Eichmann make students wonder if that is truly so.

Many authors agree that the law after Eichmann has substantially changed. Llewellyn argues that: “the trend of the most fruitful thinking about law has run steadily towards regarding law as an engine (a heterogeneous multitude of engines) having purposes, not values in itself; and that the clearer visualization of the problems involved moves towards ever-decreasing emphasis on words, and ever-increasing emphasis on observable behavior (in which demonstrably probable attitudes and thought-patterns should be included)” (Llewellyn 2003, p. 38). Even though one may think that values are not completely left out, almost everybody agrees that the idea of “purpose” is leading, re-establishing the Machiavelli principle that the goal justifies the means.

The purpose of this paper is to analyze this case from the scope of the relation between legal formalism and legal pragmatism, to give some ideas about what could be done so that the “unlawful” part of the case would not occur and naturally, what can be done in order to avoid similar situations in the future.

## THE EICHMANN CASE

There are no doubts that the kidnapping of Eichmann from Argentina by Israeli agents and his transfer to Israel to face trial for his senior role in the genocide of six million European Jews that occurred 15 years after Nuremberg and Tokyo trials, at 1960, is an interesting precedent that raised many important questions and issues. Numerous contradictory reactions appeared to this event.

For example, in her controversial book “Eichmann in Jerusalem - A Report on the Banality of Evil” *Hannah Arendt* claims that it’s useless to condemn an individual who acted according to the rules of an evil society. She raises the question whether Eichmann was aware that his actions were in fact criminal (Arendt 1963) She asserts that “under conditions of the Third Reich only exceptions could be expected to react normally” (Arendt 1963: 26-27)”. So according to this, Eichmann acted obeying the rules of the society he lived in, following the orders that were given by that society. It is clear that the ideology that existed in the Third Reich proclaimed the crimes that were to be committed and were committed as completely legal and legitimate. Even concrete laws were passed in reference to this question. But is this a ground for finding people who committed those terrible crimes not guilty? Even though there are authors who recognize the importance of ius-positivism, (Hart 2003: 80-82), these crimes can never be declared as legal in a ius-naturalistic approach, therefore, authors such as L. Lon (Lon 2003) object to the positivistic approach of Hart and others who claim that there is a strict separation between law and moral.

Other authors argue in the opposite of the above explained attitude. *Rosenbaum* explains that: “the Holocaust was committed by fully responsible, fully engaged human beings, and not by unthinking bureaucratic automatons. The Nazis were human beings capable of making moral choices who consciously chose radical evil” (Rosenbaum 1999). Thus, one should not be deceived by the “just following orders” alibi because this would lead to a cynic and “sophisticated form of denial: not denying the crime but denying the full criminality of the perpetrators” (Rosenbaum 1999). Furthermore, this approach is included in the fourth Nuremberg Principle, which indicates that “The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under

international law, provided a moral choice was in fact possible to him” (Nuremberg Principles, 1945) (Ratner and Abrams, 2001: 350). It should also be remembered that Eichmann was not just a simple soldier following orders, but he was one of the heads of the Final Solution Operation.

On the other hand, the fact that Eichmann managed to escape from the U.S. detention, survive for five years in different European states and then fled to Argentina where he lived in peace with his family, under an alias name, for another ten years until he was captured in May 1960, represents a complete failure of the justice systems in these countries. It is obvious that the international cooperation in criminal matters was not yet developed in the 1960s, however, it is frustrating to learn that a notorious criminal managed to avoid the justice for 15 years.

Furthermore, it’s not only the personality of Adolf Eichmann that intrigues the opinion; but rather the role the two concerned countries played in the entire situation.

On one side there was Argentina, which was recognized at that time as a safe heaven for many Nazis. Can a state really not know what happens in its territory?! The conscious indifference of the state institutions towards the fact that there are people prosecuted for grave atrocities living within the territory of that state represents a serious violation of international principles of justice, peace and security. It is a similar situation with the tax-free countries that offer “excellent” conditions for opening bank-accounts and complete transactions under the principles of bank secrecy what creates major problems in regard to preventing and punishing white collar crime and money laundering. Thus, tolerating similar situations of either covering the identity of notorious criminals or covering profits gained in illegal way makes the concerning state accomplice in the committed crimes.

On the other side, there was Israel and the simple question: Is kidnapping (which represents a criminal act) a way to achieve justice? It sure looked so back then. It was a simple and a typical use of the principle “The goal justifies the means”. It is true that the goal was noble: an effective prosecution for international atrocities. The means, however, were certainly illegal.

When I try to explain this situation to my students, I like to compare it to something they learn in Comparative Law: the way Napoleon effected the adoption of the French Civil Code of 1804. No one opposes the fact that it was a great code for that time, an entirely new, understandable and very efficient code. However, the adoption of this revolutionary code was sabotaged by Napoleon’s political opponents in the Parliament who didn’t oppose the code itself but had a problem with Napoleon’s growing power, so what he did was that he withdrew the code from the parliamentary procedure, “cleaned up” the Assembly from the opponents, and



then restarted the procedure in which the code was, of course, adopted (Zweiger and Kötz 1998). Obviously, this entire process was far from being legal and legitimate from the legal formalism viewpoint, however, taking into account the fact that the French Civil Code of 1804 was in power for around two centuries, so Napoleon's behavior can be certainly distinguished as pragmatic.

However, Israel was accused for endanger[ing] international peace and security. *Medoff*, explains that the New York Times rejected the Israeli claims that Eichmann's role in the Nazi genocide justified Israel's intrusion into Argentina, on the grounds that "no immoral or illegal act justifies another." The Times also denounced the idea of trying Eichmann in Israel. It preferred that he be brought before an international tribunal since "it was not against Israel but against humanity that his crimes were committed" (Medoff 2003). Furthermore, the same author indicates that an editorial in the Times of London warned that while the trial might be fair, it was tainted because it "springs from an admittedly illegal act - the abduction of Eichmann from Argentina" (Medoff 2003). So, despite the final result of the entire situation, using criminal activities for achieving justice is very dangerous, because once it becomes a precedent it can easily be misinterpreted and misused for other goals.

### WHAT COULD BE DONE DIFFERENTLY?

Since the rationale of the goal in Eichmann case was explained, it would be useful to mention some things that could be done differently in regard to this case.

Firstly, it is important to take into consideration the principle of universal jurisdiction in this regard, which appeared right after WW2 but was neglected for a couple of decades. This principle provides that "the fact that a crime did not occur within or have a discernible impact on the territory or security of a State (thus falling outside of territorial or protective principle jurisdiction) or that no national of the State perpetrated or was a victim of the act (active or passive personality jurisdiction) is no impediment to proceedings by the state authorities" (Brownlie and Lowe 2004: 106). Thus, *Brownlie and Lowe* indicate that the Eichmann case is considered to have "brought the doctrine [of universal jurisdiction] back to international attention in 1961" (Brownlie and Lowe 2004: 113). However, one must have in mind that Eichmann would have been a real case of universal jurisdiction only if he was tried in Argentina, under the principle of universal jurisdiction that already existed.

Secondly, there was a clear lack of any kind of official cooperation between the who states. Taking into consideration that Argentina didn't ask for the return

of Eichmann after his kidnapping, instead, it reached a compromise with Israel on considering this case closed, the question remains on whether a similar compromise on a regular extradition could be agreed. Israeli officials may have feared that Argentina would fail to extradite Eichmann and the entire operation would look like the Leipzig Trials after WWI, taking into consideration the fact that Eichmann had already lived freely for ten years in Argentina. They may have also feared from the possibility that Argentina, using the principle *aut dedere, aut iudicare* (either extradite or try in a court procedure), Argentina itself could choose to try Eichmann, which would be against Israel's wish taking into account the words of Israeli Prime Minister of that time David Ben-Gurion indicated that "...historic justice and the honor of the Jewish people demand that this trial should be done only by an Israeli court in the sovereign Jewish State" (Medoff 2003).

Thus, many legally appropriate manners to get Eichmann to trial could have been used in this case, which would avoid the legitimacy issues that overshadow the goal to put a war criminal into trial.

## THE SITUATION TODAY

Eichmann was certainly not the last case when illegitimate means are used to achieve legitimate goals. It usually happens in times of military interventions that do not always happen to be fully supported by the UN as the only competent organization for giving such orders. Often this is a result of differences in world politics and interests of different states.

The doctrine of universal jurisdiction remains the only way to avoid situations similar to the Eichmann case. It is regarded as something that "fills a gap left where other, more basic doctrines of jurisdiction provide no basis for national proceedings" (Brownlie and Lowe 2004: 106). Taking into account the reforms in many criminal justice systems, implementing the universal jurisdiction is possible and should be used more frequently.

Amnesty International has developed the Fourteen Principles on the Effective Exercise of Universal Jurisdiction, which ensure that national courts can: exercise universal jurisdiction over genocide, crimes against humanity, war crimes, torture, extrajudicial executions and "disappearances"; prosecute anyone suspected or accused of the crimes whatever their official capacity at the time of the alleged crime or anytime thereafter; exercise universal jurisdiction over the crimes no matter when the crimes occurred, including crimes committed before the universal jurisdiction law is enacted; ensure that there is no time limit after which a person accused of the crimes cannot be prosecuted; ensure that persons on trial in national courts can only

raise defenses that are consistent with international law - in particular, claiming that the person was acting on superior orders, under duress or out of necessity should not be permissible defenses; exercise jurisdiction over the crimes in cases where the suspect or accused is shielded from justice in any other national jurisdiction (for example, a person who has been granted amnesty by the authorities where the crime took place); exercising universal jurisdiction to investigate the crimes and, where there is sufficient admissible evidence, to prosecute, without waiting for a complaint by a victim or any other person with a sufficient interest in the case; ensure that the trial will be fair and prompt in strict accordance with international law and standards for fair trials - all branches of government, including the police, prosecutor and judges must ensure that these rights are fully respected; protect victims, witnesses and their families. Investigation of crimes must take into account the special interests of vulnerable victims and witnesses, including children. Courts must award appropriate redress to victims and their families, as well as they must ensure that the crimes are not punishable by the death penalty or other cruel, inhuman or degrading punishment (Amnesty International 1999).

Apart from the qualitative changes in the doctrine of universal jurisdiction, the reforms of the system of Mutual Legal Assistance in criminal matters is another important progress in the field of international prosecution of war criminals. Taking into consideration for example the new European Union Convention on Mutual Legal Assistance (European Union 2000), it is evident the great importance given to the efficient, timely cooperation between states, with less bureaucratic procedures, through direct channels of communication between competent institutions, and with less grounds for refusal.

The Pinochet case was the first typical case of universal jurisdiction, that triggered new cases in this regard, such as the detention in Mexico of a former Argentine military officer and suspected torturer (Amnesty International 2000), or the Belgian court verdict of June 2001 which convicted four Rwandese nationals of war crimes committed in Rwanda in 1994 (Amnesty International 2001).

However, different legislative shortcomings in regard to prosecuting international crimes and lack of efficient mutual legal assistance between states that still use the old way of assistance despite the new conventions challenge the proper use of the principle of universal jurisdiction. Yet, as indicated by Brownlie and Lowe “despite these difficulties, there is reason to believe that universal jurisdiction is deeply consonant with the underlying aim of international justice” (Brownlie and Lowe 2004: 127).

On the other hand, an evident change in regard to the legal problems in 1960s and 2010s must be emphasized: while back in 1960 the main problem related to the Eichmann case was perceived as using an illegitimate tool to achieve a legitimate

goal, today, in Macedonia, the most important problem is that the government very often uses legitimate tools to achieve illegitimate goals, thus, abusing the voting majority in the parliament as well as in other institutions, it obstructs the work of independent institutions, most evidently, through sabotaging the work of the Special Public Prosecution. In this regard, the illegitimate tools used in the Eichmann case may seem very appealing to be also used by institutions such as the Special Public Prosecution of Macedonia to achieve their legitimate goals, taking into consideration that the misuse of power by the regular state institutions often makes achieving justice simply impossible.

## CONCLUSION

If the main aspects of the Eichmann case would be summarized there are some important conclusions to be taken into consideration:

- it is very important that no safe heaven should be granted to people accused for international atrocities, and the use of the principle *aut dedere aut iudicare* must prevail,
- the use of illegitimate means to achieve the mentioned goal although sometimes appealing, should be entirely avoided,
- the principles of universal jurisdiction and mutual legal assistance should be used as an effective substitute of the mentioned illegitimate means.

Many things could have been done differently in the Eichmann case: he could be captured earlier and be part of the Nuremberg trials, he could be arrested in Argentina and tried there, or Israel could have found a legitimate way to bring him to court. It is also true that any of these possibilities could have failed because of issues of daily politics of that time. Therefore, the good will and trust between nations and states is essential in combating international crimes.

The paper has developed from the views of legal formalism through legal pragmatism to legal idealism, emphasizing the distinction between the pragmatism, morality, *ius naturalism* and *ius positivism* in the past and present. In this regard, Arendt's finding that the only hope of preventing future catastrophes must lie in a morality that is inherent in human nature, remains effective.

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## **DIVERSITY AND WORKPLACE DISCRIMINATION IN MACEDONIA**

### Abstract

Workforce diversity is praised as a source of competitive advantage and important organizational aspect in the contemporary business setting. However, its implementation has never been more challenging than today. The prolonged economic crisis creates fertile soil for various extreme movements that try to expel all who do not fit their common patterns. The managers and their companies are not isolated from society. This paper tries to put more light on the discrimination in organizations in Republic of Macedonia based on ethnicity, culture and religion diversity. Results indicate that despite the declared low discrimination, there are still some open questions and possible whitewashing motivated by the concern of the interviewed for their jobs.

**Key words:** Work Force, Diversity, Culture

## 1. INTRODUCTION

Concept of discrimination at the workplace is not new and has been issue for over 40 years. Even though and since then we have witnessed a positive change in terms of its recognition and marginalization within an organization, its presence is still regarded as overpowering (Green, 2003). Building upon the importance of the issue of discrimination in workplaces it is now one of the most globally debated issues. Moreover, in spite of the number of findings and case study reports for discrimination against, the issue remains to be beyond control (Bilkis at al., 2010). The traditional conservative social norms, exist even in modern societies (Green, 2003). They silently or openly oppose the diversity at the workplace defined as “variations in social and cultural identities among people existing together in a defined employment or marketing setting” (Cox, 2011). Williams and O’Reilly (1987) defined diversity as “degree of heterogeneity among team members on specified demographic dimensions” and surveyed how “such heterogeneity affects team processes and performance”. Main purpose of this study is to explore the anti-discrimination policies and the actual situation with the discrimination at the workplace.

## 2. METHODOLOGY

A narrative review approach is used to help refreshing of the topic in the academic literature (Baumeister et al., 1987). A quantitative research was developed to help understanding of actual practice in the domain of job related discrimination and the standings of the employees in several companies in the Republic of Macedonia. Having in mind the population in focus is according to the State Statistical Office is 720.000 the sample size of 85 is not sufficiently big the conclusions to be statistically supported, except when the answers show clear tendency. For these questions, the margin of error is 8.5% at confidence level of 95%. However, the sample has some other flows (limited number of companies, limited number of communities) that a prudent reader should not neglect before drawing firm conclusions.

## 3. LITERATURE REVIEW

In a broader sense, the term discrimination refers to any action that prevents equal treatment of any individual because he/she belongs to some specific social group. The prohibition of discrimination is considered one of the fundamental



human rights (Bilkis at al. 2010). The international perspective of discrimination further outlines that any woman or man has the equal right against discrimination based on gender, race, ethnicity, sexual orientation in relation to the workplace environment (Green, 2003). The Human Rights Movements in the mid of the 20<sup>th</sup> Century made significant impact upon the public attitude towards members of racial minorities, as well as, women, and led to the creation of legislation that required equal opportunities for employment. Since then, the call for equal opportunities continued onwards and expanded towards nondiscrimination against age, sexual orientation, pregnancy and disabilities. However, the discrimination remains to be an important cause of economic inequality (Bilkis at al., 2010). The discriminatory treatment within the labor market is the major cause of this inequality. However, it may be difficult to detect it and there is some confusion regarding the specific grounds upon which the discrimination may be based on (Wright at al., 2011). In general, the discrimination at the workplace can be regarded from the viewpoint of the inter-relationships between the race, the gender, the disability, the age, the sexual orientation and the ethnicity of the people in an organization. The labor discrimination is any the valuation of the personal characteristics of the workers unrelated to their productivity (Arrow, 1973). If the employers have prejudiced about the relative productivity of a given group, it will affect their perceived marginal productivity of that group and thus they will offer lower wages to its members, argued Arrow. This labor discrimination is harmful since it affects the economic outcomes of otherwise equally productive workers directly and indirectly through feedback effects (Blau and Lawrence, 2007). For Darity and Patrick (2004), the difference in earnings or job placement that cannot be attributed to the education or experience of the workers are result of their discriminatory treatment. For Figart (1997), the labor market discrimination is a multi-dimensional interaction of economic, social, political and cultural forces in both, the workplace and the family, resulting in different outcomes involving pay, employment, and status. In other words, the discrimination is not only about the measurable but also about many unquantifiable consequences. For example, the gender norms so embedded in the labor market that it is not easy to separate the discrimination from the regular productivity-related inequalities (Elson, 2006). Moreover, although the racial labor market inequalities have declined, in terms of the gender it persists argues Sundstrom (1994). Black are three times more likely to be refused for a job compared to white and Hispanics are three times more likely to be discriminated in comparison with Caucasians (Fix at al., 1993). Bendick and his colleagues (1994) noticed that white female testers have higher chances of be called for interview compared to black female testers. Moreover, black women were “steered” toward lower level jobs, while the white women were even given some higher-level positions than the unadvertised. The

importance of gender-based discrimination at the workplace can be viewed in the argument that the empowerment of women in the economic sector constitutes one of the fundamental objectives of the development efforts of a country (Bilkis, 2010). Gender-based discrimination at workplace includes discrimination of women based on marital status or maternity of the applicants (Grozdanova et al., 2010).

Religion is one of the foundations of a democratic society and important element of the identity of the believers but also of atheists, agnostics, skeptics or uncertain (Grozdanova et al., 2010). Religion is becoming an increasingly polarizing issue in the workplace, forcing managers to balance the respective interests of employees, coworkers and patrons (Adams, 2012). According to Malos (2010), the **discrimination** or harassment against individuals who are perceived to be Muslim, Arab or Afghani has continued to increase raising the employers liability to better understand the legal issues when such cases are taken up on appeal', offering some guidance for managers to reduce that potential liability. The age discrimination can potentially affect any individual in any age group. Although, the older and younger cohorts are the most common victims, the middle age workers are most affected. The employers consider that persons above the age of 40 are unable to work and those individuals are subject to early retirement or simply ignored when it comes to career advance. According to Freiburger (2013), who studied the prevalence of age discrimination in workplaces, the youth can help in eliminating it. They should deal with the prevention while are young and that that the most common misconception that needs to be removed is that the older employees are resistant to change, something that can be true for many young people, also.

The principle of respect for human rights, equality and non-discrimination is one of the basic principles of the democracy and the social order, guaranteed by the Constitution of the Republic of Macedonia. The institutional framework is stipulated in the Law on Prevention and Protection Against Discrimination and in the Labor Law. Gender discrimination is addressed in the Law on Equal Opportunities for Women and Men (Official Gazette 66, 2006). It stipulates that the gender equality should be included in all policies, programs and projects conducted by the State. The age as a separate ground of discrimination is outlined in several laws, including the Labor Law (Official Gazette 62, 2005). Since 2011, it explicitly includes the age as separate discriminatory basis under its amended Article 3. Despite proclamations and legislation, non-governmental organizations and trade unions that monitor the situation report indicate that the frequency of incidents is still high in the area of employment. The major weakness of the law is that it lacks addressing the discrimination of applicants for employment on the grounds of their political affiliation, category considered by many as prevailing form of discrimination in case of state jobs. Other forms of discrimination present in the

practice in the case of Republic of Macedonia involve individuals from the lower social strata and minor ethnic or religion groups such as Roma. There is a conflict between the Constitution and the Law on Civil Servants resulting with employment based solely on ethnicity and not on professionalism or competence (Changova, 2007). Report Discrimination is web platform that aims to measure the extent of the problem. However, it faces lukewarm response with only 17 reports in three years (2012- 2015).

#### 4. RESEARCH RESULTS

The survey was done in twelve companies in Skopje, Bitola and Kumanovo, during the fall 2015. There were 69 structured interviews completed. The gender structure of the respondents was 65.22% men and 34.78% women. Most of the respondents were high school graduates (75.36%), with associate degree were 10.14%, university graduates were 8.7% and 1.4% had elementary school. The first set of main questions was dedicated to the perception of the discrimination. The main concern was possible discrimination based on ethnicity, culture and religion. Almost 80% of the participants answered that the diversity of the people is good for the overall prospects of the company they work, 17% answered somehow good and only 3% think that the diversity is not good for their company. High, 90% of the respondents feel that discrimination on any grounds has negative effect upon the relations between the employees. Most of the participants (78.26%) feel that fair antidiscrimination policy leads to open and honest communication and 84.06% have positive opinion regarding the application of anti-discriminatory policy. However, high 14.5% think that the people from different social and ethnic groups are differently motivated.

The second set of questions was dedicated to assessment of the possible discrimination in organizations. High 80% of the respondents think that they work in an organization that shows sufficient awareness of the needs of people from different cultures, somehow answered 14%, and 6% think that the awareness for the needs of the various cultures in their organization is not at sufficient level. On the question does the diversity create culture related problems in their company 39% answer yes, 27% somehow and 34% think that there are not such problems.

The answers on the question are the minorities equal with the prevailing ethnic community in hiring yes answered 92.75%. Somehow responded 5.8% and 1.45% think that minorities face discrimination when hiring. The participants who think that the members of the small ethnic groups have equal chances for promotion on the job is also high 88%, with 4.64% answering somehow and 4.36% who think

opposite. On the question are they feel being treated equally with other colleagues, 78.26% answered yes, 18.84% answered somehow and 2.9% think that they are not. In order to assess the job priorities of the respondents as factor that ultimately shapes their level of tolerance of discrimination we got that the earning related and job security factors are of highest priority (79%), followed by corporate culture and friendly management with 16%. This means that only 5% of the respondents link their priorities with the job attractiveness and the opportunity for personal growth.

## 5. CONCLUSION

A diverse workforce is a reflection of a changing world and marketplace. Diverse work teams bring high value to organizations. Respecting individual differences will benefit the workplace by creating a competitive edge and increasing work productivity. Discrimination in the workplace can be detrimental to any organization. The goal of any modern business should be to eliminate all forms of discrimination within their workplace and create an environment that embraces diversity. This study was focused on the existence of discrimination in the workplace and discrimination against specific groups in the companies of Macedonia. The research has confirmed the standing points of the non-governmental organizations that monitor the job related discrimination in the country. Respondents answer that they understand the threats of the discrimination and that in their organizations there is no discrimination on the basis of ethnicity, culture or religion. However, some of them think that members of various social groups and ethnicities are differently motivated, indicating prejudices and stereotyping, since there is no common ground between internal drive such as motivation and the cultural and ethnic background of the people. Finally, the job related priorities in which earning and job security are of the major importance indicate possible reluctance to talk and unconscious or conscious whitewashing of the reality. Based upon the conclusions of this study, it is recommended that management should commit to diversity programs and implement them in companies experiencing discrimination problems. Training should also be incorporated in educational institutions that will give future managers the necessary training needed to meet the future challenges of their employees.

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**DEPRIVATION OF THE PARENTAL RIGHTS  
ACCORDING TO THE MACEDONIAN  
LEGISLATION**

Abstract

One of the fundamental rights of the child is the right to live with their parents, providing that the parents will care for their children, fulfilling all their legal obligations. This right is guaranteed by many international and national documents. Hence any kind of physical and psychological ill-treatment of children, as well as any kind of neglect and abuse towards them is forbidden, thus parents have the right to protect their children from third persons. In situations where this kind of abuse derives from the parents themselves, the state is obliged to guard the interest of the child from his parents by taking them away from the source of abuse. Promoting the best interest of the child gives the state legal ground to intervene in the parental relations, when there are indices that the rights of the children are neglected or violated. This article analyses the legal institute of deprivation parental rights as the most severe measure against the parents who abuse their status as a parent, violating the rights and obligations towards their children with special emphasis in the national legislation of RM. The article will especially analyze the domestic violence as the most brutal form of abuse of children by their parents.

**Keywords:** abuse of parental right, deprivation of the parental right, domestic violence towards children

## INTRODUCTION

The family is one of the most important pillars of any society. Every child has the right to be cared about and to grow up in a functional and healthy family, to develop their emotional and intellectual potential and to grow into a healthy and respected individual. The rights and obligations of a family derive from this right of the child, hence, from the right of the child to live with their parents and the obligation of the parent to ensure a decent and healthy family life for their child through responsible exercise of their parental right.

Parental care includes the responsibilities, obligations and rights of the parents to protect the personal and material interests of their children. Despite the fact whether they live together or separated, the parents are equally obliged to jointly protect their children and care for them.

The respect towards the interest of the child by their parents, as guaranteed in the international documents, plays an important role in family law. The respect towards the interest of the child is certainly a primary and very important principle for the functioning of a family. But a generally important question remains: in reality, how well are these rights and interests of the child guarded by the parents?

It should be emphasized that the respect of the best interest of the child is promoted in the most important and fundamental international document for the right of the child - The UN Convention on the rights of the child. The most important demand of this convention is the protection of the best interest of the child where it is promoted as an obligation of the parents of the child. According to article 3 of this convention: in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Moreover, in the second paragraph of this article the obligation of the parent to take care for the best interest of the child is clearly stated since the Convention obliges the states parties to undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. The best interest of the child should also be guarded by the institutions and services responsible for caring and protection of children (Art. 3 of the UNCRC).

This Convention introduces new family law principles such as: respect for the best interest of the child, priority of family forms of sheltering of children, joint responsibility of parents towards their children as well as respect for the child's opinion.

In the European perspective, taking into consideration the importance of the best interest of the children and their stable physical and mental development in



their family and from their parents, there are many international documents that explicitly regulate the right of the child and parents responsibility:

- The Convention on the Rights of the Child (1989),
- The European Convention on Human Rights (1950),
- The European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980),
- *The Hague Convention on the Civil Aspects of International Child Abduction (1980)*,
- The European Convention on the Exercise of the Children's Rights (1996),
- The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996),
- The Charter of Fundamental Rights of the EU (2000) (see article 24 - Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests),
- The Convention on Contact concerning Children (2003),
- Brussels II a Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (2003).

The family law of the European Union slowly but surely becomes a part of the legal order of all European countries in which the national courts are obliged to implement the European mechanisms in regard to respect the best interest of the child in parent – child relationships.

In our society (in the families where the traditional model of discipline still functions) the children are still treated as property of their parents, and they are under full protection and responsibility of their parents until they become adults. This behavior towards the children is a result of the mentality still powerful in our society which indicates that: "No one has the right to interfere in the privacy of a family". In developed states, the children use their right to appeal for inappropriate behavior of their parents and the competent institutions are obliged to take legal action in case of violation of the rights of the children by their parents. In regard

to this attitude, many parents are not well informed about their legal rights and obligations, therefore, they may not be aware that they actually violate these rights, whereas the competent institutions may not be informed about it. In modern times, there are still traditional families where the rights of children are neglected, and they live under the “parenting power or patronage”.

#### THE ROLE OF THE CENTER FOR SOCIAL WORK IN SUPERVISING THE EXERCISING OF PARENTAL RIGHTS

The Center for social works plays a very important role in controlling of the exercise of the parental rights. When appropriate, the Center warns the parents for shortcomings in the education and development of the child and assists them in the process of developing and educating the child, thus it can suggest that either parents themselves or together with their child should visit an institute that provides counseling or another medical, social or educational institution that can be of assistance. If it is perceived in the child interest, the Center for social work can decide for permanent supervision of the exercise of the parental right in regard to all the children in that family, or just one of them (consult articles 85 and 86 of the Law on Family).

The Law on Family regulates the right of the Center for social work to supervise the exercise of the parental right.

The Law defines the measures that the Center can take against the parents who neglect their parenting obligations:

- The Centre for Social Work, with a decision may take the child away from one and to entrust it for care and education to the other parent, to some other person or appropriate institution, when the parents that is the parent with whom the child lives, neglect the child, as regards his care and education, or when there is a serious threats upon his regular development and upbringing.
- When there is information of less important issues in regard to child care, the Center for social work can order that parents attend counseling (for more information consult article 87 of LF).

The Center for social work can initiate a court procedure for deprivation of the parental right of the parent who neglects the exercise of this right. This court procedure can also be initiated by the other parent or by the public prosecutor.

The supervision of the exercise of the parental right represents a legally regulated relation that controls the exercise of parental rights and responsibilities and includes the possibility that, when certain information is available, adequate measures can be taken to protect the personality of the child, as well as their rights

and interests. In fact, it is an legal instrument of realization the rights of the child in regard to their parents, regulated as a potential intervention which, as it will be discussed further in this article, may include imperative measures (taking away of the child, proposing the deprivation of parental right, etc. (Чавдар и Сиљаноска – Костадиновска, 2013: 230).

## DEPRIVATION OF THE EXERCISE OF THE PARENTAL RIGHT

The most severe sanction that the law provides for uncaring parents is the deprivation of parental rights. This is a repressive measure that deprive

the right of the parent to live with and educate the child in order to protect the personal interest of the child. This measure is implemented once the legally described presumptions are met which result in negative effects towards the child, therefore the damage that may be caused to the child may be stopped by separating him/her from the parent. The fundamental and final purpose of this measure is to protect the personal rights of the child (Спировиќ-Трпеновска 2008 :166).

However, in the family law doctrine, the following question emerges: Does this measure mean the complete deprivation of the parental right or the deprivation of the exercise of the parental right? It is very important to determinate what exactly is deprived in the parental right by this measure. The legal parenting relation remains perpetual, since it is a constant, obligatory and kin (biological) relation between the child and the parent. Thus, this kind of relationship can never be deprived. It represents a mandatory mortgage established by the legal system (Mladenović 1981: 233).

The Law on family uses the term “deprivation of the exercise of the parental right”. According to professor Marko Mladenovic, by deprivation of the parental right, the parent only loses the possibility to exercise his/her rights, however, this does not apply to the parenting obligations. (Mladenović 1981:234). Therefore, this does not mean termination of the parental right. The parental right terminate in a different legal way. The parental right may, with a court decision, be returned to the parent when the reason owing to which he has been deprived of that right shall cease to exist. However, when the parental right terminated, that cannot be returned. The deprivation of the parental right does not end the right of the parent to provide suitable conditions for the development of their child. Parents either voluntarily or forcibly need to fulfil their legal obligation of supporting their children.

Therefore, the following question emerges: what are the reasons that result in a court decision on deprivation of the exercise of the parental right?

The Law on Family precisely determines the actions of the parent that are considered as abuse and neglect of the parental rights and responsibilities:

- Physical or emotional violence against the child;
- Sexual abuse of the child;
- Forced labor that is not suitable to the age of the child;
- Permission to use alcohol narcotics or other psychotropic substances;
- Forcing the child to bagging or abusing the child for bagging;
- Forcing the child to socially unaccepted behavior;
- Abandoning the child and not caring for the child for longer than three months and
- Any other severe violation of the rights of the child (Article 90, paragraph 2, Law on Family)

According to the judicial practice of the Court of first instance – Skopje 2, there are very few cases on deprivation of the exercise of the parental right. Thus, in 2015 seven cases were registered. The most common reasons for this kind of deprivation include neglect, lack of care and lack of interest for the child by the parent (Карановиќ 2016).

Neglecting of children is also forbidden by the fundamental international document – UNCRC, that guarantees that in order to protect the child’s best interest, they will be separated from their parents if they are neglected or mistreated (Art. 9 of UNCRC):

“States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents”.

## DOMESTIC VIOLENCE – THE MOST BRUTAL WAY OF ABUSING A CHILD

Children are the most sensitive part of a society, therefore the domestic violence against them is considered a serious violation of their personal rights and their higher interests.

Domestic violence is not a new phenomenon in our society; it has existed for ages and remains an unsolved problem for many families in which educational forms that cause harmful socio-psychological consequences prevail. Violence

against children in general and domestic violence in particular, is a multidimensional problem, which requires a more serious approach by the state, NGOs, citizens and domestic members themselves, who subdue directly or indirectly to the violent actions (Selmani-Bakiu 2015:166).

In our country, there have been very few studies related to domestic violence against children; a greater empirical approach has been devoted to violence against women and their protection, including children as indirect victims to this kind of violence, which is not to be neglected; however, we should not ignore the fact that violence is exercised against children as direct victims. The violence against children could be physical, psychological and sexual, manifested in different forms. Noticing and recognizing the signs of violence exercised against children, is often difficult, especially when it comes to psychological violence. It should be pointed out that the number of cases of violence against children is much bigger than the data being revealed (Selmani-Bakiu 2015: 167).

Children can be victimized directly or indirectly. The following are considered as forms of domestic violence: physical and sexual violence, psychological abuse and pressure, negligence in caretaking, exploitation, forcing children to beg, insults, underestimation, threats, cause of the feeling of fear, limitation of the freedom of movement, as well as other actions that impinge the child's dignity and personality.

Children who are victims of domestic violence in their childhood often show violent behavior in their adult years. Children who have witnessed violence among their parents often become violent towards their partners or their own children. Apart from that, exposure to domestic violence has a major negative impact into the development of a gender based identity, where boys are usually identified with the role of the tormenter whereas girls are usually identified with the role of the victim. Exposure of the mother to domestic violence develops different attitudes that violence is inherited from generation to generation (ESE 2015: 20). Except empirical studies, scientific circles also claim that children who grow up in a violent surrounding risk to repeat the same behavior either as perpetrators or as victims of violence once they grow up. In addition, children that are raise in a tense family environment are prone to repeating that violence either as its authors or victims. It is considered that these children are not sensible towards domestic violence (Øverlien 2010: 84).

From the legal-procedural perspective, courts play a very important role, since they enunciate temporary protective measures such as they forbid violators to threat with committing domestic violence; they forbid violators to maltreat, upset, or contact the children by any means; they forbid the violator to get near the child's place of residence, school or other places the child usually visits; they decide on moving the victim from the household, regardless of the ownership, until the

final decision is brought by the competent court; they prohibit them from owning weapons or if they do – it is confiscated; they force them to return everyday life items that are necessary for the fulfillment of family's daily needs; they oblige the violator for the maintenance of the child; they make the defendant visit adequate counseling offices; they force him/her to mandatory curing if they are suffering from addictive or other illnesses; they oblige them to compensate medical and other expenses caused by the practice of domestic violence as well as any other measure that the court would consider to be necessary for the security and well-being of the child (Article 94-e, Law on Family).

In this way, the parent who abuses the exercising of the parental right or severely violates the exercising of parental obligations either by physical, psychical or sexual abuse can be subject to on deprivation of the exercise of the parental right. As it was emphasized, this measure is the most severe way of interfering with the status of the parent and their parental rights.

#### THE PROCEDURE OF DEPRIVATION OF THE EXERCISE OF THE PARENTAL RIGHT ACCORDING TO THE LAW ON FAMILY AND THE LAW ON NON-LITIGATION PROCEDURE

The Law on family provides in the article 84, paragraph 2 that every citizen, state institution or legal entity has the obligation to report to the Center for social work any knowledge that a parent is not fulfilling his parental rights properly, or that other causes may determine the need for appropriate protection of the personality, the rights and the interests of the child. As it was emphasized above, the procedure for deprivation of the parental right can be initiated by the Center for social work, the other parent or the public prosecutor.

In this phase of the procedure, the Center for social work is competent to initiate the procedure for deprivation of the exercise of the parental rights upon any information that certain causes for doing so exist, as explained in the earlier subtitles, in cases of abuse or negligence of parental rights. Prevention measures that can be taken by the Center include:

- Informs the parent on the lacks and shortcoming in exercising the parental right,
- Decides on continuous supervision over the exercising of the parental right,
- Implements professional counseling work with the parents and the children (article 91, par. 3 of LF)

If the parent of the abused or neglected child does not follow the advice and requirements of the Center for Social work and repeats the abuse of parental right

or severely neglects the exercise of the obligations of parenting, the Center for social work is obliged to immediately take away the child temporarily and to initiate the procedure before the eligible court for deprivation of the parental right, to ensure appropriate shelter for the child and to take measures to protect the rights and the interest of the child until the adoption of a final court decision in regard to the deprivation of the parental right (art. 91, par. 4, LF).

However, if the parent with his/her actions has abused the child or severely neglected him/her and has brought to danger the life of the child, the Center for social work is obliged to immediately take away the child and to initiate the procedure for deprivation of the parental right in front of the eligible court, to ensure appropriate shelter and to take measures for protecting the rights and the interests of the child until the adoption of a final and executive court decision on deprivation of the parental right (art. 91, par. 5, LF).

#### THE NON-LITIGATION PROCEDURE OF DEPRIVATION OF THE EXERCISE OF PARENTAL RIGHT

Subjects that are eligible to initiate a court procedure for the deprivation of parental rights are: the other parent, the Center for social work and the public prosecutor. The other parent is the legal representative of the child and protects his/her rights or interests before the court.

In this procedure, the court verifies the existence of the reasons for the deprivation of the exercise of the parental right or the deprivation of his custodial status (art. 106 of the Law on non-litigation procedure).

In the court procedure for the deprivation of the parental right the court will hear the subject that proposes this measure, the parent against whom the measure is proposed if that is possible, the other parent – if he/she is not the proposer, as well as other persons that can give any needed information (art. 109, par.1 of the LNLP).

An appeal against the decision reached in this procedure can be initiated by the parent whose parental right is deprived, by the other parent, by the Center for social work, if the procedure is initiated by them (art. 110 of the LNLP).

The final decision on the deprivation of the exercise of the parental right will be presented by the court to the eligible registration officer in order for it to be written in the registration book of the born persons (art. 111 of the LNLP).

The parental right may, with a court decision, be returned to the parent when the reason owing to which he has been deprived of that right shall cease to exist. The parent or the Center for social work can initiate that procedure (art. 92 of LF).



## CONCLUSION

The parental responsibility should be exercised according to three core principles: equality between parents, joined responsibility in caring for, protecting, educating and developing the child, as well as prohibition of any abuse of the parental right. The exercise of the parental right should be in accordance with the legal provisions that provide for respect towards the interest, the integrity and the life of the child. In the opposite, the neglect or abuse of this responsibility results in the deprivation of the exercise of the parental right as a sanction to uncaring parents, as it was described in this article.

It is crucial that parents ensure a decent life for their children. In this way, the parents ensure a healthy family for their children which functions through mutual respect of the rights and obligations in the parent-child relationship.

In this aspect, a very important role is played by the state institutions that provide mechanisms for the implementation of the legal provisions that guarantee the respect within the family. The second important role of these institutions includes the supervision of the exercise of the parental rights and responsibilities as well as the initiation of appropriate legal measures in situations where parents violate the rights of the child by abusing their parental status. Thus, the following subjects have a direct impact in the encouragement of a healthy family: the society, the parents, the state and the children.

In order to involve a larger number of state institutions that aim to protect the rights and interests of the child, an effective communication between the below mentioned institutions is crucial in order to prevent any eventual neglect of children.

The successful prevention of child maltreatment relies on community referrals. Competency in establishing adequate referral systems can be judged by the following:

Does the trainer (social worker) have community contacts...?

Within the court system?

Within the educational system?

With the Public Health Department?

With the Department of Family and Children Services?

With other local mental health centers?

With hospitals in the area?

With family planning clinics?

With local drug and alcohol programs?

With day care centers in the area?



If the answer to any of these questions is no, then the social worker (trainer) must establish such contacts. It becomes evident then that a considerable amount of groundwork must be done before the implementation of any training (S. Wodarski at al., 2015: 219-220)

In the process of protecting the rights and interests of the child, the Center for social work implements measures of assistance and protection provided by the institute of supervision over the exercising of the parental right. The active role that the Center plays in the supervision of the exercise of the parental right encourages the analysis and research of the situation in which these Centers operate. It is also important that many reforms are needed to ensure the efficiency of this process as well as to ensure the raise of awareness for the social services that control and supervise the parental relation.

Introducing the Parental counseling plays a crucial role in the overcoming of many difficulties by families that encounter problems in the parent-child relationship. This program ensures education for the parents in regard to competent and caring exercise of the parental right.

It should be emphasized that introducing the principle of child's best interest in the in the Law on family is an important step for the reforms of family law legislation of our country. These reforms should aim at the harmonization of the provisions of the Law on family with the UN Convention on the Rights of the Child in order to achieve the highest standards for the protection of the rights and interests of the child.

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