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Uvodnik

Spoštovani,

Pred vami je nova številka revije Uprava, ki prinaša članke s področja javne uprave in čezmejnega sodelovanja. Internacionalizacija javne uprave se kaže na različne načine.

Tako je Fakulteta za upravo gostila v mesecu juniju tri pomembne mednarodne dogodke. Prvič je bila v Sloveniji organizirana konferenca ECEG o informatiki v upravi. Sledila je konferenca o razvoju javne uprave v Centralni in Vzhodni Evropi, SSPA s poudarkom na novi vlogi države. Udeleženci iz več kot dvajsetih držav so razpravljali o potrebi po novi opredelitvi vloge vlade in ministrstev ter parlamenta. Rdeča nit prispevkov je bil trajnostni razvoj, ki mora upoštevati tudi možnosti prebivalcev za zaposlitev in kakovostno življenje ter skrb za okolje. Običajno se poudarjajo le ekonomski cilji dolgoročnega gospodarskega razvoja: rast investicij in proizvodnje, izvoza ter dodane vrednosti. Javna uprava se omenja le kot del okolja, ki omogoča dosego teh ciljev. Gospodarska kriza pa je pokazala, kako velik vpliv imajo državne in lokalne institucije javne uprave. Več držav članic Evropske unije se sooča s politično krizo, ker so bila pričakovanja državljanov visoka in jih njihovim vladam ni uspelo izpolniti.

Slovenija še nima tako slabih ekonomskih rezultatov kot Grčija, Irska, Španija, vendar je podpora vladi zelo nizka. Očitno so bile predlagane spremembe upokojevanja, dela na črno in študentskega dela strokovno upravičene, toda slabo usklajene z drugimi socialnimi partnerji, predvsem s sindikati in z opozicijo. Odgovornost za trajnostni razvoj države je skupna, različne so samo pristojnosti posameznih družbenih skupin.

Kako lahko visokošolsko izobraževanje v Sloveniji vpliva na trajnostni razvoj države?

Odgovor se navezuje na tretji dogodek v mesecu juniju. Pred tremi leti je Fakulteta za upravo pridobila evropsko akreditacijo za svoj podiplomski program druge stopnje. Pred letom dni smo zaprosili za začetek postopka akreditacije tudi za oba dodiplomska programa Uprava prve stopnje. Letos, sredi junija nas je obiskala komisija evropskega združenja za javno upravo EAPAA, ki je presojala naše delo, upoštevajoč sedemnajst skupin kriterijev. Med drugim so upoštevali kadrovske vire za

pedagoško delo, raziskovanje, svetovalno dejavnost, povezovanje z delodajalci, mednarodno sodelovanje in razvoj javne uprave kot znanstvene discipline. Primerjava z najboljšimi evropskimi fakultetami za javno upravo je pokazala nizko učinkovitost študija v Sloveniji, saj je prehodnost iz prvega v drugi letnik le med 35 % in 60 %.

Zakaj se v Sloveniji srečujemo s tako nizko motiviranostjo dela študentov za sprotni študij? Razlogov je več. V Sloveniji so široko odprta vrata za vstop na visokošolski študij, selekcija pa poteka v prvem in v drugem letniku. Fakultete nimajo vpliva na vstopne pogoje, ki bi povečale delež za študij motiviranih študentov. Sistem financiranja temelji na številu študentov in diplomantov brez spodbud za kakovost izobraževanja. Temu je prilagojena organizacija pedagoškega dela s prevelikim številom študentov v predavalnicah, ki onemogoča individualno delo s študenti. Zato Slovenija zaostaja za najboljšimi evropskimi in ameriškimi fakultetami, kjer je zaposlenih več učiteljev ob manjšem številu študentov.

Postopek pridobitve evropske akreditacije omogoča mednarodno primerjavo in jasno sliko o prednostih in slabostih visokošolskega sistema izobraževanja v Sloveniji in na posamezni fakulteti. Ko bodo mednarodno primerljive tudi organizacije državne uprave, javne uprave in javnega sektorja v Sloveniji, uvrščene v prvo tretjino najboljših organizacij, lahko pričakujemo tudi večjo učinkovitost in uspešnost trajnostnega razvoja Slovenije.

Odgovorna urednica

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Insolvent Local Government: German Approaches to Prevention*

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ABSTRACT

The global financial crisis is affecting local governments particularly strongly. The threat of insolvency looms large for many local governments, and therefore, it is unfortunately very timely to examine this issue. Can genuine bankruptcy occur, should it be allowed to occur, can it be prevented, and if it cannot be, how can it be managed well? In order to do so, the current essay sets out to investigate, on an empirical basis, how Germany has so far (i.e., before the crash) dealt with the issue of municipal insolvency. This pre-crisis approach also underlines the importance of the topic, because it shows that even in more or less financially solid times, municipalities were already exposed to high financial pressure. Now, the crisis has increased the number of municipalities facing a budget crisis. The results of the present investigation can assist in dealing with the consequences of the crisis. On account of its high and indeed paradigm-setting level of municipal autonomy, the possibility of drawing lessons from Germany should be particularly interesting.

Key words: local government, local finances, financial crisis, municipal insolvency, prevention

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1 Introduction

The current global crisis and/or its aftermath are affecting local governments in most European – and other "Western" – countries through a specific impact, not least of which because of the general and "time-honoured" tendency of national and regional governance bodies to "hand down" financial obligations to the municipal level (Schwartzing, 2008, p. 268; Faber, 2005, p. 945). This problem is exacerbated by two current phenomena: On the one hand, the increase of the importance of the local life-world for citizens in a globalised and, where applicable, European environment (see Stern, 1996, esp. 43; also Isin, 2002 and Drechsler, 1999), which makes more and not less financial resources necessary, and, on the other hand, the recent ideological tendency in public administration (PA), associated with the concept of the New Public Management (NPM), to dismantle local autonomy in the name of efficiency and – simply assumed – economies of scale, in other words a bias in favour of larger and more centralised units and against anything local and municipal (e.g., Seitz, 2008).

Although the latter perspective has more or less vanished on the academic and scholarly level, at least in Europe, with the rise of the concept of the Neo-Weberian State (NWS) as the post-NPM paradigm (see Pollitt et al., 2009), it is still alive and well in policy and particularly on the municipal level (Cf. Reichwein, 2007). It is true that NWS is arguably the logical PA paradigm for getting out of the crisis. In its rhetoric and general assumption, NPM is very much "pre-crash" and is indeed part of the way of thinking that has led to, or at least significantly contributed to, the crash coming about as harshly as it did (see Drechsler, 2009c). One reaction by financially troubled countries has been to force savings, cuts and such NPM measures that "reduce the state" (see Peters et al., 2010) – not without causing particularly harsh effects at the local level.

All of this makes the issue of local governments becoming insolvent a particularly interesting topic. Can this occur, should it be allowed to occur, can it be prevented, and if it cannot be, how can it be managed well? It seems that this is an issue not least of which for Central and Eastern Europe, where Local Self-Government is arguably under particular duress and thus on the defence due to the crisis and partially even before it. To approach this question, it is especially interesting to look at the

Federal Republic of Germany for a variety of reasons. Although several federal investment programmes (see *Zukunftsinvestitionsgesetz*, 2009) seem to have had a positive effect on many municipalities in the sense that the crisis has not hit them as hard as had been feared (OECD, 2010), Germany has been particularly affected by the crisis (BMF, 2009), and there are and will be particularly detrimental effects for the local governments (Käppner 2009; see most recently *Oberhessische Presse*, 2010).

On the one hand, Germany is generally a country with a classically very strong local sector and, certainly in its self-understanding, is the cradle of municipal autonomy (and for municipal autonomy the cradle of democracy; see Drechsler, 2001). Its founding father and "patron saint", Karl vom Stein, recently celebrated his 250th birthday (see Drechsler, 2007; Duchhardt, 2007, esp. 199–203; Ritter, 1981, esp. 196–199) and the first establishment act of Municipal Autonomy, the *Preußische Städteordnung*, celebrated its bicentennial (see Drechsler, 2008; *Ordnung für sämtliche Städte*, 1957). This idea also had a significant impact on the restoration of Local Self-Government in Central and Eastern Europe after 1989 (Drechsler 2008, p. 137).

On the other hand, especially at the local level, NPM – under the name "New Steering Model" – has hit especially hard – often through good intentions – and been promoted with verve by the "think-tank" of the municipalities themselves (the "KGSt"), the Federal Ministry of the Interior, a very powerful foundation (Bertelsmann) and many academics and civil servants. This created an atmosphere in which to diverge from the assumptions of NPM, even to demand calculations, costs or justifications, was regarded as heresy (Drechsler, 2009a, pp. 315–319). Regarding Municipal Autonomy, NPM also united with the "social engineering" approach of the 1970s and its cult of the doable (on the history of the approach, Etzemüller, 2009), and Germany had become one of the countries where it was just assumed that larger municipal units would lead to increased efficiency. The otherwise very important "Rastede" decision of the *Bundesverfassungsgericht*, for instance, proclaimed this very view en passant,¹ never mind that we have no reason whatsoever to believe that

¹ BverfGE 79, 127; »In many respects, however, a centralistically organised administration could work more rationally and cheaply,« 153. Regarding the positive aspects of Rastede, see Schmidt-Aßmann, 1991.

increased municipal unit size automatically increases efficiency, but we do know that there is a tendency for it to weaken democracy and citizen identification with the community (Drechsler, 1999).

In this context, the current essay sets out to investigate, on an empirical basis, how Germany has so far (i.e. *before* the crash) dealt with the issue of municipal insolvency. Specific approaches to resolve the current financial crisis and to prevent future local financial crises are at the centre of these observations. To look at those pre-crash tools may be of particular interest, because they were formulated and tried without the hastiness and confusion that might have accompanied any crisis-based attempts at solutions. Also, there is enough empirical material and analysis for them to already render such an investigation possible.

As the purpose of this essay is to familiarise the non-expert regarding Germany, we have utilised German-language literature (which completely dominates this specific discourse anyway, of course) as much as possible to show how the issue is discussed nationally. The empirical parts, and to a large extent also the argumentation of this essay, are based on Duve, 2008a, Duve, 2008b and Duve, 2009b, which were also part of Duve, 2009a. All were in German.

2 Extreme indebtedness as a danger to local autonomy

The debt situation of the municipalities had already deteriorated significantly in the years before the global financial and economic crisis. This development was expressed in the fact that more and more municipalities could not balance their budget (Henneke, 2008a, p. 232). The rapid increase in *Kassenverstärkungskredite* (cash advances) confirms this trend impressively.

The financial crisis worsened, often greatly, the budget-deficit situation of many municipalities (Bock, Hein and Weinberger, 2010). Due to a substantial decrease of income deriving from the *Gewerbesteuer* (trade or business tax) – their main source of income – and a sharp increase of social expenditures, the municipalities were already carrying a deficit of €7.1 billion in 2009 (Statistisches Bundesamt, 2010a). In addition to that, a number of German municipalities had to carry risks caused by Cross-Border-Leasing contracts. The financial problems and failures of many American banks and insurances (Kirbach, 2009) now

threaten the municipalities involved. Until today, the feared problems were held off, however, or at least did not emerge.

Generally, municipal life is suffering from a high indebtedness, and in its present form, it is not sustainable if too high a percentage of the revenues has to be spent on paying back loans. The municipalities then often lack money for necessary investments, which consequently has detrimental effects on public infrastructure. Also, and maybe even especially so, the decline of voluntary tasks (i.e., measures which local governments may take but are not required by law), which many municipalities can no longer afford, harm the social and cultural life within the municipalities (Henneke, 2008a, p. 232; *Welt*, 2010, p. 10), although it is those things that make life in a specific community especially attractive and satisfying.

This is particularly worrisome if one considers the key role municipalities play within the German state system, which becomes evident when one examines their functions and tasks. Municipalities implement approximately 80 per cent of all state laws and thus form the basis of the state administration (Knemeyer, 1997, p. 204). Via their investments (e.g., in cultural and social institutions as well as in the municipal infrastructure), they also contribute significantly to the prosperity of the population (Raske, 1971, pp. 172–173). Connected to this is the importance of local governments as carriers of general services for the public (Forsthoff, 1958).

In Germany, it is generally the *Länder* (roughly, the states) that deal with the local governments, not the federal level authorities (see Table 1).

Table 1: Arrangement of the administrative levels in Germany

1st State Level	1 Federation
2nd State Level	16 Länder (of it 3 City states)
1st Local Level	323 Counties and 112 independent Cities
2nd Local Level	12,188 dependent Municipalities (within Counties)

Source: Statistisches Bundesamt, Fachserie 14, Reihe 3.3, 2007.

The constitutional tie of the municipalities to the Länder is connected with a right of supervision by the latter (Wagener and Blümel, 1997, p. 114). Federal supervision over the municipalities does not exist in Germany (Gern, 2003, p. 520). This essay therefore deals with

the question of how the Länder attempt to deal with their responsibility for the indebtedness of the municipalities. The focus is in particular on the way the supervising authorities act in handling local budgetary hardships.

A look at the indebtedness of the German state shows that in relation to the total sum, €1.7 trillion in 2009, the indebtedness of the municipalities amounts only to about 7 per cent (Statistisches Bundesamt, 2010b).

This small percentage carried by the local level, however, is no reason for carelessness, since it is not distributed equally among all municipalities. A closer look at local indebtedness shows considerable regional and structural variations (Junkernheinrich and Micosatt, 2008, p. 14). The very high indebtedness is challenging to some Länder and especially to their supervisory authorities, which also bears on their capacity to intervene. Thus, the interventions covered by the supervisory authority varies strongly according to region and financial situation.

The task of the supervisory authority is limited to monitoring the legality of the actions of the local administrations (see Art. 49 §3 2nd stc of the Constitution of Rhineland-Palatinate). For the enforcement of this mission, there are various measures available. Repressive measures are specified comprehensively in the *Gemeindeordnungen* (laws covering affairs of local government) of the Länder and are implemented only according to the principle of appropriateness. They consist of the following actions:

- Right to Instruct
- Right to Object and to Abolish (if there are preceding violations of law)
- Right to Command (when legal obligations are not fulfilled)
- *Ersatzvornahme* (exercising an action by the supervisory authority at the expense and in the name of the municipality)
- Appointment of a commissioner (if the measures listed above are insufficient)

- Dissolution of the local council² and pre-term ending of the Mayor's mandate³ (only possible in some Länder)

The options for interventions of the supervisory authority of the Länder into matters of local autonomy are thus clearly defined. Beyond these measures, no further legal actions exist.

3 Autonomous action and national specifications – which scope do German municipalities have?

According to Art. 28 § 2 GG ("Grundgesetz"), the German Constitution guarantees to the municipalities the right to regulate all affairs of the local community by themselves. However, there are a substantial number of national specifications that limit the extent of autonomy and responsibility. Next to voluntary self-administration tasks, which were mentioned *supra*, there are also many duties assigned by the Länder. The municipal execution of all tasks stands under law proviso (Falk, 2006, p. 117).

Mainly because of the duty to execute state tasks, over the years, the interconnectedness between the municipal level and that of the Länder has increased substantially (Burgi, 2006, p. 88). While voluntary tasks are at the core of the self-government guarantee, in terms of percentage, the assigned government tasks prevail. In the majority of municipalities, voluntary tasks represent less than 10 per cent of expenditures (Schwartz, 2005, p. 142). However, when transferring state duties to the local level, appropriate funding by the Länder plays a central role. In the past, the Länder did not often act accordingly, and in fact, this is one of the reasons for the current financial crisis of many municipalities (Schwartz, 2008, p. 268; Albers, 2005, p. 61; Faber, 2005, p. 945; Frischmuth, 2008, p. 136). How to determine, on an empirical basis, the financial volume required for a municipality remains an unsolved problem (Junkernheinrich, 2007, p. 173).

In order for the municipalities to be in a position to carry out their tasks appropriately – also to ensure equal life conditions as stipulated by Art. 72 § 2 GG – they receive money from the Länder within the scope of

² § 141a GemO Hessen; § 84 Kommunalverfassung Mecklenburg-Vorpommern; § 125 GemO Nordrhein-Westfalen; § 125 GemO Rheinland-Pfalz.; § 122 Abs. 2 GemO Thüringen.

³ § 118 GemO Sachsen.

the municipal revenue-sharing depending on funding requirements. In other words, richer municipalities get less money than poorer ones. The subsidiary character of these allocations has been gone for a long time; in many places, they are now a key source of revenue. In the East German Länder, the share of these allocations relative to the municipalities' total receipts is roughly 50 per cent (Lenk and Rudolph, 2005, p. 57). Thus, municipalities are very dependent on the Länder, especially as the amount of the transfers are not fixed but depend on the economic situation of the respective Länder. Another problem arises as a result of the still increasing financial losses of many Länder, which also has an impact on the funding of the municipalities (Henneke, 2008b, p. 858). Particularly in the current crisis that also burdened the budgets of the Länder, cuts in state allocations have catastrophic effects on the budget situation and thus on the local autonomy of the municipalities (Bock, Hein & Weinberger 2010).

Mainly due to the global financial crisis, the German federal government created a municipal finance commission in 2010 (BMF, 2010). Its task is to sort out municipal finance, and its tasks include finding a substitute for the commercial tax as a source of revenue. It remains to be seen how successful the work of the commission will be, especially as it will not tackle the key topic of restructuring the spending structures. Without a doubt, the essential first step towards a sustainable prevention of municipal insolvency in Germany would be the appropriate matching of municipal spending with the genuine revenue situation.

4 Insolvency proceedings as a sword of Damocles for municipalities?

The financial crisis brought the topic of insolvency to the agenda once again, but mainly related to an international insolvency law for countries (IWD, 2010, p. 6). The current legal situation in Germany does not include the concept of municipal bankruptcy. § 12 (1), no. 2, of the "Insolvenzordnung" (InsO) declares that bankruptcy proceedings against the assets of legal entities under public law are inadmissible unless the law of the Länder states otherwise. None of the German Länder have stated so (Faber, 2005, p. 938).

The German municipalities, like the German state as a whole, are considered to be credit-worthy without restrictions.⁴ Consequently, municipalities receive credits from banks even when they have already reached a very high level of indebtedness. This, in turn, means that municipalities in Germany can never go bankrupt in the sense of bankruptcy as the state in which one cannot receive credit anymore to honour one's obligations. For the Länder, this has the consequence that they never have to stand in for the municipalities' commitments (Engelsing, 1999).

4.1 Arguments for municipal insolvency proceedings

Thus, to at least consider municipal insolvency proceedings seems logical, especially in the current context. The advantage of such proceedings, it has been argued, would be that with the introduction of insolvency proceedings, limits to local indebtedness would no longer be achieved only via legal regulations but also via market mechanisms (incentive effect) (Blankart, Fasten & Klaiber, 2006, p. 571) – although this of course assumes the possibility of market effects in the public sphere. More importantly, it is intended to give municipalities with extremely high debt the chance to start over by using an insolvency proceeding, in other words by declaring bankruptcy (redevelopment effect) (Paulus, 2003, p. 869).

As a direct consequence of the possibility of a municipality's insolvency proceedings, the banks would have to take into account the risk of losing a certain amount of the granted credits, which means that the existing zero-risk for credits could not be maintained – in fact, this is the idea. The potential risk would then be determined by the banks on the basis of ratings (Interview Bergmann, 2008). Depending on the solvency of the municipality, the credit costs could thus increase and the credit conditions for the municipality could worsen.

According to the expectations of the supporters of the possibility of municipal insolvency, politicians would endeavour in the future to reduce indebtedness or at least to keep it low in order to avoid high credit costs or even insolvency proceedings. Thus, cases of insolvency would not actually be expected to occur, but the possibility of it would serve as

⁴ In accordance with the "Solvabilitätsverordnung", local credits have a risk weighting after the credit risk standard of 0 percent.

a means of deterrence (Meyer, 2007). Creditors and debtors alike would therefore do everything to avert bankruptcy (Blankart, 2007).

If a municipality, however, is already trapped in the vicious circle of inescapable debt, a modified insolvency procedure would work as an instrument for reorganisation (Paulus, 2003, p. 872), providing the municipality with the possibility of a fresh start. Moreover, with the help of this procedure, the possibility of reducing personnel faster is seen as an additional benefit aiding in preventing future burdens (Borchert, 2004, p. 3; Frielinghaus, 2008, p. 997).

4.2 Arguments against municipal insolvency proceedings

The described expectations certainly seem to be attractive at first sight. At second glance, however, several problems become apparent.

To achieve the described incentive effect with the help of variable credit conditions, the Länder would in principle have to rule out rescuing municipalities from financial difficulties (a so-called bailout). Otherwise, the banks would not be able to realistically estimate the credit risks. The question, however, is how to distinguish between state grants and a bailout? The grants of the Länder to many municipalities are not negligible. Rather, as has already been mentioned, this allocation is an essential part of the revenues. Without this money, a recovery of the budgetary situation would be impossible for many municipalities. It cannot be denied that these allocations already represent a sort of bailout (Schwarting, 2005, p. 145).

Furthermore, if municipalities are to be sanctioned via insolvency, they must be able to influence their financial situation. The municipalities have this kind of freedom only to a very limited extent, since they have been assigned many tasks and are thus tied to legal requirements to a large extent. Unlike private companies, which can, for example, limit their production, order short-time work, reduce personnel quickly or even relocate their headquarters' location, municipalities do not have these possibilities at their disposal.

On the revenue side, also, the range of possible actions is rather limited. In particular, financially weak municipalities are to a very large extent dependent on regular grants by the Länder. These financially weak municipalities with few options for action are most likely to be affected by insolvency (Interview Wohltmann, 2008). Local authorities can hardly

change this situation, because municipal legislation and municipal financial resources are an area of competence of the Länder (Werner-Jensen, 2006, p. 32) and thus out of the control of the municipalities (Klein, 2005, p. 72).

Were an insolvency case in fact to occur, then the central question would emerge regarding which municipal assets could be ordered to be sold by the liquidator, since those assets are directly linked either to voluntary tasks or to state-transferred duties – and a clear distinction between those is often difficult to make (Albers, 2006, p. 756). If the insolvency proceedings restricted voluntary tasks, this could eliminate the field of self-responsible performance of the municipalities and thus liquidate local self-government in the affected municipalities (Faber, 2005, p. 945).

Another problem is that in most cases, an intensive budget-consolidation process would already have taken place, in the course of which the sale of most of the possible assets would have been taken into consideration. Thus, insolvency would not come at a time of large variety of possible actions. On the contrary, the debt level would be extremely high, and most of the assets would have been sold already. There would not be much left for the insolvency proceeding. In addition, in recent years, municipalities have outsourced their assets very much and, through that, partly also their debts. The proportion of this "outsourced debt" in, for example, limited-liability companies amounted to 53.1 per cent at the end of 2007 (Junkernheinrich and Micosatt, 2008, p. 16).

It is interesting to note that in the German discourse, the discussion of the possibility of municipal insolvency proceedings is exclusively an academic one (i.e., it has taken place only among scholars and within academic articles). The responsible Ministries of the Interior of the Länder and the municipal associations decline to even discuss this option. As reasons, the above-mentioned arguments are usually cited, being perceived to much outweigh any advantages.⁵ Whether they are the reason or just the excuse is another matter of course. We may assume an amalgam of both. It is probably fair to say that the possibility of municipal bankruptcy is so alien to the German legal-administrative system and culture that it is indeed not an option, not even after the changes

⁵ Interviews with Wohltmann; Dedy; Frischmuth; Mnich; Kirchmer; Dornig; Puhr; Stöfen; Penzenstadler-Hennig; Würger, Hoerenz; Wagenführer.

in thinking that NPM has actually brought about. Quite apart from whether such an instrument would actually be a good idea – and as, indeed, context-wise, it probably is not, already for this reason – it is certainly an unrealistic one. If all policy-actor sides involved (i.e., specifically the Länder and municipalities and their associations) agree that it would be a bad idea and if there is insufficient pressure to push them (which surely is the case; there are no prominent champions of it in either the media or politics and lobbying, and the topic is not exactly one to excite the general public on its own), then realistically, the idea is doomed.

The general need for problem-solving nevertheless remains. Thus, the question presents itself of how a quasi-insolvent municipality can be reorganised without local insolvency proceedings on the one hand and how the way into the debt trap can generally be avoided on the other.

5 The state takes over local administration: the implementation of a state-appointed commissioner using the example of the city of Bad Münster am Stein-Ebernburg

If budgetary deficits cannot be fixed by comparatively mild actions within the realm of municipal control, or if measures of this sort are not deemed useful, by law, the respective Länder can appoint a commissioner. Such appointments are in fact only made very rarely. This does not mean, however, that cases of budgetary hardship are also that rare – to the contrary! Frequently, however, the budgetary problems are so extensive that the use of state commissioners is prevented either by the Länder themselves – if they do not regard it as an appropriate measure to solve the financial problems of the respective municipalities – or by political obstacles (party affiliations for instance).

As a matter of fact, however, the only concrete case in which a state commissioner was appointed is that of the city of Bad Münster am Stein-Ebernburg (BME).⁶ While this is of course as narrow an empirical basis as there possibly can be, here we do have a real-life, practical example

⁶ The city of Bad Münster am Stein-Ebernburg (3,792 inhabitants) in Rhineland-Palatinate is situated to the south-west of Mainz in the administrative district of Bad Kreuznach and is one of ten municipalities that make up a larger consociation of municipalities, also named Bad Münster am Stein-Ebernburg. For more information on the city, see www.vg-bme.de/ (Accessed on 15 September 2010).

of this institution and looking at it more closely can reveal several problems that may have an impact on its potential success (see Duve, 2008b).

The main reason for BME's deficit was its health-spa business, which was run by the town itself. This business caused immense losses over a long period, which had to be covered by the town. The situation deteriorated more and more since the late 1980s, when the number of customers decreased significantly, and this trend persisted throughout the 1990s, not least of which because of an increase in competition from other spa resorts and as a result of federal health-care reforms (Interview Schoon, 2007).

Already in the 1980s, the supervisory authority realised that trouble was ahead for BME's financial development. Ever since, the council tried to advance the consolidation process by means of the measures at its disposal (Interview Reimann, 2008). However, when the council demanded in the late 1990s that the spa business be privatised or closed down, the city government did not follow suit.

Consequently, the supervisory authority appointed a state commissioner from 17 January 2000 to 31 August 2003, who took over all competencies of the municipal council and also some of the mayor's. Thus, the municipality was "administered from outside" for 3.5 years.

Among the state commissioner's tasks were not only closing down the spa business but also the management of the results thereof, the establishment of a stringent policy of savings and an overall improvement of the budgetary situation (Interview Bartos, 2007).

The privatisation of the spa business, the savings policy and the realisation of revenue potentials, as demanded by the supervisory authority and implemented by the state commissioner, did not suffice to achieve a sustainable consolidation of the town's budget. The town's lack of power to act, as determined by the supervisory authority before the state commissioner was appointed, could not be eliminated.

The employment of the state commissioner also underlined further problems. Processes of budget consolidations – especially in municipalities that are deeply in debt – are usually not short-term issues, and the implementation of far-reaching projects takes several years. As state commissioners can hardly replace municipal bodies for years on end

but are better-suited for temporary interventions, they can only have a limited effect on processes of budget consolidation. Their potential lies in that they do not shy away from unpopular measures that local policy-makers do not dare to implement.

The commissioner's job is particularly difficult if at the time of his or her appointment, the municipal debt is already so high that even "hard" measures of consolidation could not bring about a sustainable improvement of the financial situation. Certainly, even minute improvements are preferable to no improvements at all; still, it seems almost impossible to balance the budget by mere means of a commissioner.

In this context, it should be noted that financial crises frequently develop in the form of "creeping catastrophes" (Böhret, 1993, p. 35). In some cases, the debt builds up very slowly. The scope of action is reduced only stealthily, which limits the pressure on political actors to act and also makes it hard or even impossible for them to estimate when the financial situation might capsize.

All this leads to the following hypothesis: As there are several legal and political obstacles to the appointment of a state commissioner, in combination with a number of other measures that precede it, and as it is hard to detect the "right" moment for his or her appointment, it may be that state commissioners are appointed *systemically* "too late". Thus, there are certain systemic limits to a state commissioner's effectiveness. It can therefore be assumed that in future cases, they will continue to play only a limited role in the genuine restoration of well-ordered budget management (Duve, 2008b).

6 Preventive approaches to avoid budgetary hardships

The problems of "repressive" measures like commissioners make plain the limited suitability of these instruments to cope with serious budgetary hardships. To prevent these to begin with, which seems to be the best solution than if they emerge accidentally rather than in a calculated way (which of course may also be the case), measures would be necessary that could strengthen the municipalities' and the Länder's realisation of and responsibility for problems afoot.

6.1 Systematic early diagnosis of municipal budgetary developments

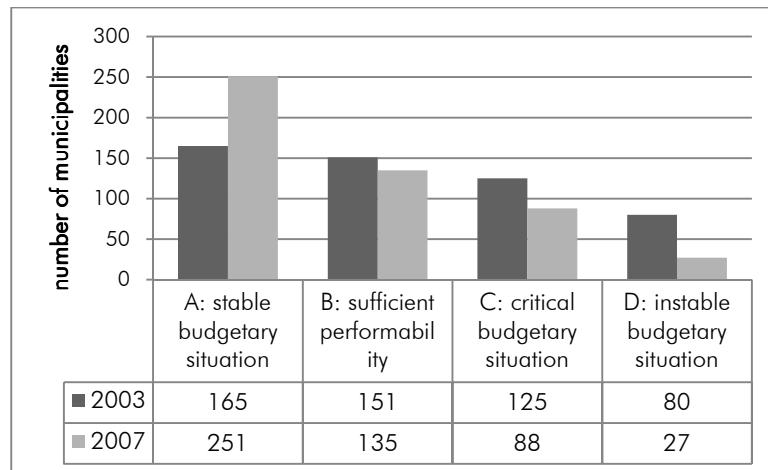
The main way of doing so is "early diagnosis". This is an instrument to make it possible to recognise symptoms of a looming crisis in time, to interpret them correctly and to react with appropriate measures (Uhlenbruck, 1998, p. 21). The municipality's situation becomes problematic especially if the indebtedness has gained so much momentum that it cannot be stopped within the municipality's realm of power. It is not all too easy for politicians to authoritatively identify that point, particularly as the situation of the economy – and also of the budget – can change very fast; a fact that can be witnessed at the moment.

There are only few Länder right now that pursue such a systematic prevention based on key figures, which has led to first – mostly positive – experiences. Saxony is a maverick in this, as a key-figure-based system was established there as early as 2003, providing the Ministry of the Interior with information on the state of municipal budgets, including municipal special-purpose associations and housing corporations (Interview Dornig, 2008). This practice has also been adopted by Mecklenburg-Western Pomerania (Junker, 2007, p. 396); there are by now also similar systems in North Rhine-Westphalia and Thuringia (Interview Mnich, Hoffmann, 2008).

Both in Mecklenburg-Western Pomerania and in Saxony, the Ministry of the Interior's (the highest supervisory authority) sense of missing certain developments in the budgets of municipalities that belong to their administrative districts was an important reason for the establishment of these instruments. The supervisory authority was determined to beat the press to information about the budgetary problems of affected municipalities (Interview Dornig, 2008). This allows for the inference that it was not rare for the communication between various levels of municipal control to have been limited before, resulting in too late detections of budgetary imbalances.

Ever since the early diagnostic system was introduced, the budgetary situation of many municipalities has improved significantly in Saxony (Graph 1), reopening their scope of action. The decisive question is which concrete measures led to this, for the early diagnostic system as such does not yet change anything about the municipalities' financial situations.

Graph 1: Development of the budgetary situation of municipalities in Saxony's early diagnostic system



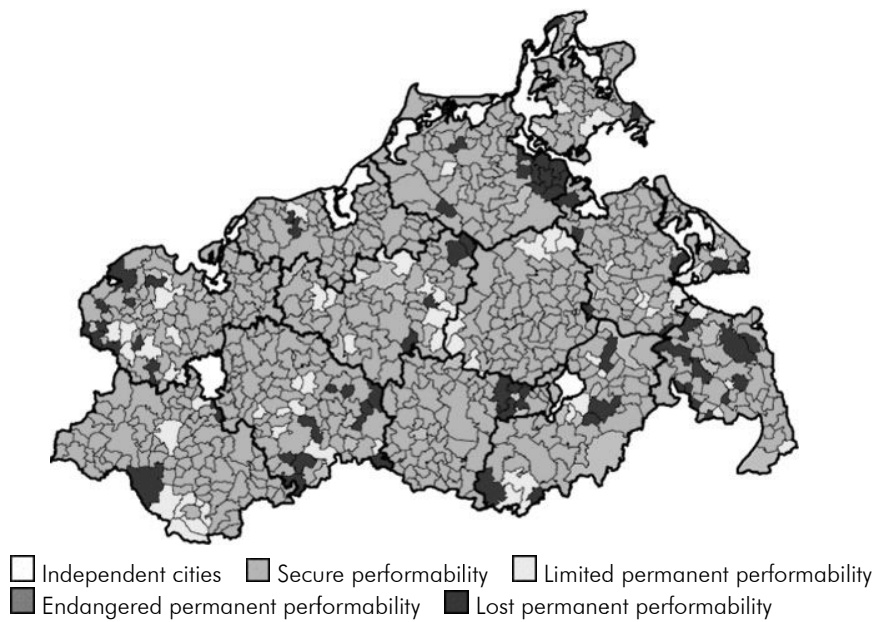
Source: Saxony Ministry of the Interior

Budgetary improvements were first and foremost reached by means of more intensive communication among the controlling levels (Interview Dornig, 2008). As regular budget discussions were implemented, attended by representatives of all levels of legal supervision, problematic cases could not only be identified but a modus operandi could also be determined, and concrete tasks could be assigned; thus, a more effective and more sustainable consolidation could be achieved. What apparently had been missing before was the control of lower levels of supervision by the top supervising body.

Mecklenburg-Western Pomerania published the results of the key-figure system on the website of the Ministry of the Interior, a step that significantly increased the system's transparency. Each municipality can follow where it is classified within the "Rubikon" (as the system is called)⁷ (Figure 1); furthermore, a number of key figures can be scrutinised that form the basis for the evaluation.

⁷ Rubikon stands for "Rechnerunterstütztes Haushaltsbewertungs- und Informationssystem der Kommunen" [Computer-supported system of evaluation and notification of municipal budgets]. It also plays on the Classic allusion to the river that to cross it signifies a non-reversible decision.

Figure 1: Classification of municipalities and cities in the Rubikon in 2008



Source: <http://www.im.mv-regierung.de/rubikon/kreisauswertung/index2007.html>
(Accessed on 15 September 2010)

This transparency resulted in an increasing level of public discussion regarding the financial situation of particular municipalities. This, in turn, also increased the pressure to act and/or succeed both on the municipal and Länder levels. According to the Ministry of the Interior, reactions have been consistently positive. The key figures have not been called into question in public discussion (Interview Hoerenz, 2008).

6.2 Advisers and mentors as substitutes for commissioners

The second less invasive option to prevent municipal insolvency is a modified version of the commissioner, which, as has been shown supra, brings with it a set of serious problems. For this reason, the supervisory authority in North Rhine-Westphalia opted in some cases to introduce a measure that interferes less with self-government, namely the appointment of external advisers, a position that so far has been tried in Waltrop (2006–2008), Marl (2007–2008) and Hagen (2008–2009).⁸ These external advisers, also referred to as "mentors" or "advisory savings

⁸ Regarding the specific cases, see www.sparkommissar-waltrop.de (Accessed on 15 September 2010); more city information under: www.marl.de; www.hagen.de; www.waltrop.de (Accessed on 15 September 2010).

commissioners" by the press, were granted a comprehensive right of information. They did not, however, have the power to command; their task was to advise the municipalities regarding their budget consolidation, providing warnings and recommendations. The intention on the part of the supervisory authority is to give the municipalities the chance »to solve the budgetary problems to a substantial extent on their own.«⁹ The municipalities' readiness to cooperate is regarded here as a necessary condition for the appointment of such an adviser. If they are not willing to do so, the municipal electorate may consider appointing a state commissioner¹⁰ to implement the measures that are required from the Länder's perspective.

The municipality still has the possibility to centrally shape the consolidation process according to its preferences. The external advisers' success is dependent on whether their warnings and recommendations are heeded and implemented. If the municipality fails to implement the measures, however, this might lead to a further delay of the whole process resulting in an ever graver crisis. As the readiness to cooperate is more or less forced upon the municipalities, this measure remains a balancing act between a paternalism of sorts and self-government.

Much depends on the local context, the concrete sources of the debts, the size of the municipality and also the time when the adviser is appointed. If he or she finds that all possible measures for budget consolidation have already been exhausted without sustainable improvements, a state commissioner will not be able to ameliorate the financial situation either. In these cases, the adviser is not a stage before the state commissioner but the final stage. The situation is different if there are still exhaustable measures that are not implemented because the municipality does not properly follow the adviser's recommendations. As external advisers do not have the power to direct, these cases call for the appointment of a state commissioner to implement the necessary measures.

⁹ Justification of Münster's district government regarding the appointment of an external adviser in the city of Waltrop according to § 124 GO NRW analog, from 11 January 2006, 10.

¹⁰ Reply by the Ministry of the Interior from 23 January 2007 to inquiry 1266 from 20 December 2006, Landtag NRW, Drucksache 14/3617.

As regards the three specific cities, in Marl and Waltrop, approvable concepts for budget stability were drawn up, which had been deemed unthinkable by the supervisory authority before the appointment of the advisers. Time will tell if their appointment actually brings about the desired success in the end; this also depends on whether the cities remain consistent in pursuing a sustainable consolidation strategy. In February 2009, a commission was created in Hagen, consisting of the city's political leadership and the supervisory authority, to work out a concept for a balanced budget. The former external adviser's recommendations served as a basis for this (Jakobs, 2009, p. 3).

Still, the "adviser approach" can only be regarded as a preventive measure to a limited degree. His or her appointment is intended to avoid the involvement of a state commissioner, it is true. However, when an adviser is used in a commissioner's stead, the crisis must have reached an advanced stage. Thus, systemically, advisers are appointed in order to rid the municipalities of crises that exist already. On account of the advanced debt dynamic, this can lead to problems similar to those connected to commissioners.

7 Conclusion

In an international context, German approaches to preventing municipal insolvency can be summed up as follows:

1. Normatively, while preventing municipal insolvency is important, it may not serve as an excuse to abrogate local independence, and care must be taken to steer a middle course.
2. This is especially the issue with state-appointed commissioners: If they are sent too early in the process, they violate local independence; if too late, they can no longer be effective.
3. Thus, it is more sensible to focus on prevention, which is best done through the development of (mandatory) indicators that reflect imminent problems of the municipal budget. In cases where the reason for a coming insolvency is less ill will than lack of knowledge, this is indeed the most promising approach.

Is any trans-national lesson-drawing from Germany possible and/or desirable in this case? Of course, the complexities of a possible transfer are as immense as is the general issue of policy-learning and the issue of best practices (Randma-Liiv, 2007). In addition, radical discontinuities in

the nature of the current crisis (though it was by no means impossible to foresee, including the effects on the public sector; see Drechsler, 2009b) make extrapolations from previous experiences difficult. Nonetheless, within the discussion of how to best prevent local insolvency, it should be interesting to note, especially during times of crisis, that the German experience shows that cooperation between the local level and the coordinating and supervising level "above" is much more promising and effective than any hard-handed intervention that may easily lead to the diminishing of municipal autonomy, which in the end would be detrimental to the interests of the state as such and of all of its citizens.

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POVZETEK

NEMŠKI PRISTOP K PREPREČEVANJU PLAČILNE NESPOSODNOSTI LOKALNIH UPRAV

Ključne besede: lokalna samouprava, lokalne finance, finančna kriza, plačilna nesposobnost občine, preventiva

Svetovna finančna kriza še zlasti močno napada lokalne uprave, kar še posebej velja za države Srednje in Vzhodne Evrope. Mnogim lokalnim upravam grozi velika nevarnost plačilne nesposobnosti, zato je žal prav zdaj zares pravi trenutek za to, da si pogledamo to vprašanje. Ali lahko nekdo sploh dejansko bankrotira? Ali bi morali dovoliti, da to tega pride? Ali je bankrot mogoče preprečiti, in če ga ni, kako ga ustrezno obvladati?

S tem esejem želiva empirično raziskati, kako se je Nemčija do tega trenutka, torej pred zlomom, lotevala vprašanja plačilne nesposobnosti občin. Pristop, ki so mu sledili pred krizo, samo še podkrepi dejstvo, za kako pomembno tematiko gre, saj kaže, da so bile občine izpostavljene hudim finančnim pritiskom tudi že v bolj ali manj finančno trdnih obdobjih. Med krizo pa se je število občin, ki se soočajo s proračunsko krizo, še povečalo. Rezultati te raziskave bodo lahko v pomoč pri soočanju s posledicami krize. Zaradi visoke avtonomije občin, ki je dejansko postala paradigma, bi morala biti še zlasti za države Srednje in Vzhodne Evrope zanimiva možnost pridobivanja spoznanj iz Nemčije.

Nemške zvezne države lahko v izogib proračunski krizi in torej hudo kritičnemu stanju življenja občine ravnajo na več načinov. S svojimi ukrepi lahko posegajo v lokalno samoupravo, zato je treba cilje in učinke ukrepov previdno uskladiti med seboj.

Ta esej se osredotoča na troje: na obravnavo pojma "proračunska kriza", na njegovo uporabnost na ravni občin in stopnjo odgovornosti nemških zveznih držav za proračunsko krizo na občinski ravni, na empirično raziskavo rabe državnih nadzornikov v kontekstu konsolidacije proračuna, razpravo o rabi zunanjih svetovalcev pri teh procesih in razpravo o pristopu k bankrotu občin, pa tudi na pregled in oceno sedanjih preventivnih pristopov nemških zveznih držav.

Nemške lekcije za plačilno nesposobne občine lahko okvirno povzamemo na naslednji način (vedno v nemškem kontekstu):

Pomembno je sicer preprečiti plačilno nesposobnost občin, vendar to ne sme biti izgovor za odpravo neodvisnosti lokalnih skupnosti. Treba je ubrati srednjo pot.

To še zlasti velja za vprašanje nadzornikov, ki jih imenuje država: če jih pošlje prezgodaj, kršijo neodvisnost lokalnih skupnosti; če pa prepozno, ne morejo več učinkovito delati.

Zato je pametneje usmeriti pozornost na preventivo, najbolje z oblikovanjem (zavezujočih) kazalnikov, v katerih se zrcalijo skorajšnje težave v občinskem proračunu. Ta pristop zagotovo največ obeta v primerih, ko je plačilna nesposobnost bolj posledica nezadostnega znanja kot pa zlonamernega ravnanja.

Celovito obvladovanje kakovosti pri izvajanju nalog lokalne skupnosti: primer predšolske vzgoje

UDK: 005.336.3:373.2

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IZVLEČEK

V prispevku predstavljamo izziv vzpostavitve trdnega upravljalnega okvira izvajanja nalog lokalne skupnosti. Na osnovi predpostavke, da je vzpostavitev celovitega obvladovanja kakovosti za napredek tega področja ključnega pomena, smo se pri odkrivanju priložnosti za izboljšanje naslonili na skupni ocenjevalni okvir CAF. Raziskava obravnava področje vzgoje in izobraževanja. Osrednje raziskovalno vprašanje je, kako odgovorni v lokalnih skupnostih za predšolsko vzgojo poznajo in razumejo odgovornost občinskih uprav za uspešno izvajanje nalog iz njihovih pristojnosti. Raziskava je v metodološkem smislu pokazala, da je z uporabo ustrezno oblikovanih vprašalnikov upoštevač model CAF v lokalnih skupnostih mogoče odkriti ključne priložnosti za izboljšanje upravljanja z nalogami v pristojnosti občine. Rezultati raziskave na področju predšolske vzgoje kažejo, da občinske uprave dobro obvladujejo finančno področje in se pri načrtovanju osredotočajo predvsem na investicijski (prostorski) vidik. Kot ključna priložnost za izboljšanje se je izkazalo obvladovanje kakovosti. Odkrite priložnosti za izboljšanje izkazujejo potrebo po nadaljnji teoretični obdelavi problema, ki bo osnova za praktične usmeritve v obliki dobrih praks in prenos znanja v prakso.

Ključne besede: lokalna skupnost, upravljanje, izvajanje nalog, predšolska vzgoja, CAF

JEL: D63, D73

Benčina, J. & Devjak, S. (2011). Celovito obvladovanje kakovosti pri izvajanju nalog lokalne skupnosti: primer predšolske vzgoje. *Uprava*, IX(2), 37–57.

1 Uvod

Ključnega pomena za kakovost bivanja občanov v občini je kakovost storitev, ki jih izvaja občina za zadovoljevanje potreb svojih prebivalcev. Z zakonom o lokalni samoupravi (ZLS, 2009, čl. 49)¹ so določene izvirne naloge, za katere so občine neposredno pristojne. Prav tako je s tem zakonom opredeljeno, da občina izvaja tudi tiste naloge, ki jih na občino s posebnimi zakoni prenese država, pri tem pa mora država za te storitve zagotavljati ustrezna dodatna sredstva. Pri tem mora upoštevati predvsem dve določili iz Zakona o lokalni samoupravi: (1) »Občina mora biti sposobna zadovoljevati potrebe in interese svojih prebivalcev in izpolnjevati druge naloge v skladu z zakonom.« (ZLS, 2009, čl. 13) in (2) »Občinska uprava opravlja upravne, strokovne, pospeševalne in razvojne naloge ter naloge v zvezi z zagotavljanjem javnih služb iz občinske pristojnosti.« (ZLS, 2009, čl. 49). Za smotrno² izvajanje izvirmih nalog v smislu obstoječe zakonodaje je v celoti odgovorna lokalna skupnost.

Osrednje vprašanje v zvezi s tem je, kako občine izvajajo izvirne naloge z vidika upravljanja (uspešnosti), menedžmenta (učinkovitosti) in kakovosti storitev. V prispevku obravnavamo problematiko upravljanja, menedžmenta in zagotavljanja kakovosti izvajanja izvirmih nalog občine z dveh osnovnih vidikov: a) splošnega, ki skrbi za zadovoljevanje potreb občanov po določenih vrstah storitev in b) strokovnega, ki pomeni strokovni razvoj storitev in kakovosti storitev.

Najboljše rezultate dosegajo tako profitne kot neprofitne organizacije le z ustreznim pristopom v okviru paradigme celovitega obvladovanja kakovosti (TQM) in upoštevanjem osnovnih načel analize primerjalnega preskušanja. Model odličnosti EFQM³ (Kovač & Kern-Pipan, 2008) je primeren okvir za uveljavljanje celovitega obvladovanja kakovosti (Boullusar et al., 2009). Kot orodje za uveljavljanje modela odličnosti EFQM v javnem sektorju se vse bolj uveljavlja samoocenjevalni pristop CAF – Skupni ocenjevalni okvir (Kovač, 2002). Primeri celovitega pristopa k obvladovanju kakovosti kažejo, da je treba pri uvajanju pristopa upoštevati tako organizacijski vidik kot vidik uveljavljanja uporabe orodij za zagotavljanja kakovosti, kot sta na primer CAF in sistem uravnoteženih

¹ V nadaljevanju bomo za Zakon o lokalni samoupravi uporabljali v besedilu kratico ZLS.

² Smotrno – pojem zajema: gospodarnost, učinkovitost, uspešnost, etiko, kakovost ...

³ EFQM – European Foundation for Quality Management. Model odličnosti EFQM – model, ki je osnova za podeljevanje nagrad evropske fundacije za menedžment kakovosti.

kazalnikov (Gent, 2006). Model EFQM oziroma CAF je zastavljen vzročno posledično, predpostavlja, da izboljševanje stanja dejavnikov izboljšuje rezultate. Preverjanje teoretičnih izhodišč z empiričnim modeliranjem za podatke za poljske lokalne skupnosti kaže, da izhodiščni dejavnik modela – vodenje vpliva na strategijo in načrtovanje, oba skupaj pa na zaposlene, ki prenašajo vpliv na procese, kamor dajejo svoj prispevek tudi viri in partnerstva. Procesni pa nato vplivajo na rezultate za stranke (občane), ki se prelivajo v ključne rezultate delovanja (Bugdol in Jarzebinski, 2010). Pregled virov kaže, da je področje deležno velike pozornosti praktikov in je uveljavljanje celovitega obvladovanja kakovosti v povezavi z modelom CAF v lokalnih skupnostih dokaj razširjena praksa, čemur počasi sledi tudi rast znanstvenoraziskovalnih prispevkov. Manj pa je študij, ki bi obravnavale problematiko delitve vlog pri zagotavljanju kakovosti podobnih storitev v lokalnih skupnostih, zato v rezultatih dosedanjih raziskav ne najdemo konkretnih primernih rešitev za obravnavani problem. Zato bomo v prispevku prikazali, kako lahko primerno prilagojen pristop CAF uporabimo kot orodje za zagotavljanje kakovosti izvajanja tistih nalog lokalnih skupnosti, katerih operativno izvajanje je predano javnim ali zasebnim organizacijam.

Navedeno problematiko predstavljamo na primeru predšolske vzgoje. Občina je zadolžena za predšolsko vzgojo na svojem področju (ZLS, 2009, čl. 32). V splošnem to pomeni, da je pristojna za ustanavljanje vrtcev, ki delujejo po predpisanem programu (kurikulu za vrtce, 1999) ali za podelitev koncesije za izvajanje predpisanih programov ali pa (v splošnem) sofinancira izvajanje predšolske vzgoje po drugih, alternativnih programih. V upravljanje dejavnosti predšolske vzgoje so vključeni: občina (župan, organi občine, strokovni delavci občinske uprave), sveti zavodov, upravljanje vrtca, idr. Do sedaj uveljavljeni pristopi obvladovanja kakovosti s samoocenjevanjem za lokalno skupnost niso povsem primerno uporabljeni, saj mora lokalna skupnost po eni strani delovati v smeri odličnosti, po drugi strani pa mora z nadzorovanjem in ukrepanjem zagotavljati kakovost delovanja vrtcev, ki jih tudi financira in za njih zagotavlja investicijska vlaganja. V praksi se tako pojavi problem, da vloge v sistemu celovitega zagotavljanja kakovosti v predšolski vzgoji niso jasno razmejene. Lokalne skupnosti zato ne prevzamejo vseh nalog in odgovornosti, ki bi jih morale prevzemati. Občine praviloma skrbijo le za materialne pogoje delovanja vrtcev, za druge funkcije razvoja predšolske vzgoje in za smotrnost delovanja predšolske vzgoje pa ne čutijo posebne

odgovornosti. S tem ni izpolnjen osnovni pogoj za uspešno celovito obvladovanje razvoja kakovosti predšolske vzgoje v slovenskih občinah.

V prispevku se bomo zato osredotočili na obravnavo problema celovitega obvladovanja kakovosti na relaciji lokalna skupnost – vrtec: izvajalec predšolske vzgoje v občini. Na osnovi ocenjevalne sheme CAF smo v okviru projekta "Reggio Emilia"⁴ pripravili ustrezen vprašalnik. Z njim smo iskali odgovore tudi na naslednji dve raziskovalni vprašanji, ki sta predmet obravnave tega prispevka:

- kako odgovorni v lokalni skupnosti za področje predšolske vzgoje dojemajo odgovornost in pristojnost za zagotavljanje kakovosti predšolske vzgoje za vsa merila modela CAF in
- kako lokalne skupnosti (odgovorne osebe za predšolsko vzgojo) ocenjujejo dejavnike in rezultate na področju predšolske vzgoje.

2 Obvladovanje kakovosti storitev v lokalni skupnosti

Predšolska vzgoja je proračunsko pomembna naloga v slovenskih lokalni skupnosti, zato ni vseeno, kako se načrtuje in kako se izvaja. Predšolsko vzgojo v Sloveniji izvajajo predvsem v javnih vrtcih, v manjši meri pa tudi v zasebnih vrtcih. V vrtce se vključujejo otroci od enega leta starosti do vstopa v šolo. Predšolska vzgoja ni obvezna. Zagotavljanje predšolske vzgoje je ena izmed temeljnih nalog občine (Vlaj, 2001), vrtce ustanavljajo in financirajo občine.

Predšolsko vzgojo v slovenskih vrtcih urejajo naslednji zakoni: Zakon o organizaciji in financiranju vzgoje in izobraževanja (1996), Zakon o vrtcih (1996) in Zakon o lokalni samoupravi (2009). Zakon o organizaciji in financiranju vzgoje in izobraževanja ureja pogoje za opravljanje ter določa način upravljanja in financiranja na vseh področjih vzgoje in izobraževanja. Zakon o vrtcih pa ureja predšolsko vzgojo, ki poteka v javnih in zasebnih vrtcih (naloge vrtcev, cilji in načela, vrsta možnih programov v vrtcih, financiranje, pogoji za izobrazbo strokovnih delavcev, delovna obveznost vzgojitelja in pomočnika vzgojitelja, zbiranje in varstvo osebnih podatkov v vrtcu ipd.).

⁴ Projekt "Profesionalno usposabljanje strokovnih delavcev za izvajanje elementov posebnih pedagoških načel koncepta Reggio Emilia na področju predšolske vzgoje" (2008–2013) je projekt, ki ga financirata Evropski socialni sklad in Ministrstvo za šolstvo in šport in se izvaja na Pedagoški fakulteti Univerze v Ljubljani.

Ustanavljanje in financiranje predšolske vzgoje je ena od pomembnih nalog občine. Odgovornost pristojnih služb je, da poskrbijo za ustrezno in kakovostno izvajanje te dejavnosti, ki je sicer pravno-formalno in normativno določena (ZLS, 2009; Zakon o vrtcih, 2008), vendar je uresničitev določenih standardov na področju predšolske vzgoje odvisna od različnih dejavnikov, interesov in potreb posameznih podsistemov (starši, politične stranke, strokovni delavci vrtca, strokovni delavci občine itd.). Kakovosti izvajanja neke dejavnosti v občini, v našem primeru predšolske vzgoje, se marsikdaj zaradi različnih dejavnikov posveča premalo načrtne in dosledne pozornosti.

Državna uprava in občine v Sloveniji v zadnjem času v vedno večjem obsegu uvajajo za področje ocenjevanja kakovosti dela evropski model CAF – Skupni ocenjevalni okvir za organizacije v javnem sektorju (CAF – *Common Assessment Framework*). Povzet je po evropskem modelu odličnosti EFQM in pomeni orodje za izboljšanje organizacije oz. javne uprave s pomočjo samoocenitve. Ta model je tudi del dokumenta Politika kakovosti slovenske javne uprave, ki ga je decembra 2003 sprejela vlada Republike Slovenije. Model CAF je okvir, ki je enostaven za uporabo in primeren za samoocenjevanje organizacij v javnem sektorju.

CAF kot model za uvajanje kakovosti in odličnosti je javni upravi najbolj prilagojeni pripomoček za izboljšanje uspešnosti delovanja. Ob sprejetih načelih delovanja, določitvi vizije, poslanstva in vrednot, ki jih uprava želi razvijati in izboljševati, CAF omogoča zasledovanje ciljev, merjenje rezultatov in doseganja ciljev. S tem lahko organizacija realno spremlja in ocenjuje lastni razvoj kakovosti in odličnosti. Bistvo tega modela je predvsem v tem, da temelji na vključevanju vseh zaposlenih, uporabnikov storitev in partnerjev. Odpira nove možnosti v razumevanju in reševanju problemov kakovosti ter ustvarja večjo angažiranost in dinamiko znotraj kolektiva, kar je seveda ključno pri uvajanju in dvigu ravni dela v organizacijah javnega sektorja, predvsem v njenem odnosu do uporabnikov njenih storitev.

Model CAF (CAF, 2009) temelji na merjenju dejavnikov kakovosti in rezultatov kakovosti. Merjenje dejavnikov kakovosti je po skupinah razvrščeno v pet skupin: (1) voditeljstvo; (2) strategija in načrtovanje; (3) ravnanje z ljudmi pri delu, (4) partnerstva in viri in (5) upravljanje procesov in obvladovanje sprememb. Merjenje rezultatov kakovosti je po skupinah razvrščeno v štiri skupine: (1) rezultati za odjemalce, (2) rezultati

za zaposlene, (3) rezultati za družbo in (4) ključni rezultati uspešnosti delovanja.

Model CAF je ponujen kot orodje za pomoč organizacijam javnega sektorja po vsej Evropi pri uporabi tehnik upravljanja kakovosti za izboljšanje uspešnosti delovanja. Štirje glavni nameni modela CAF so:

1. Zajeti vse posebnosti različnih organizacij v javnem sektorju.
2. Služiti kot orodje uslužbencem v javnem sektorju, ki želijo izboljšati uspešnost delovanja svoje organizacije.
3. Delovati kot "most" med različnimi modeli upravljanja kakovosti.
4. Omogočati lažjo primerjavo z drugimi organizacijami (angl. *benchmarking*) v javnem sektorju.

Omenjeni model je mogoče uporabljati v vseh delih javnega sektorja, ki jih sestavljajo javne organizacije na nacionalni, regionalni ali lokalni ravni. Prav tako se lahko uporablja v najrazličnejših okoliščinah, npr. kot del sistematičnega programa prenove ali kot osnova za postavljanje ciljev pri prizadevanjih za izboljšanje javnih storitvenih organizacij. CAF omogoča in zagotavlja:

- ocenjevanje, ki temelji na dokazih,
- doseganje skladnosti usmeritve in soglasja glede tega, kaj je treba storiti za izboljšanje organizacije,
- ocenjevanje po postavljenih merilih, ki so širše sprejeta v Evropi,
- periodično samoocenjevanje za preverjanje napredka,
- povezavo med cilji in podpornimi strategijami ter procesi,
- osredotočenost dejavnosti izboljševanja na tista področja, kjer je najbolj potrebno,
- napredovanje in izmenjavo dobre prakse med različnimi področji organizacije ter z drugimi organizacijami,
- ustvarjanje navdušenja med zaposlenimi z njihovim vključevanjem v proces izboljševanja,
- priložnosti za prepoznavanje napredka in izjemnih dosežkov,
- vgrajevanje raznih pobud kakovosti v tekoče poslovanje.

Različni avtorji (Calvo-Mora et al., 2005; Castresana & Fernández-Ortiz, 2005) dokazujejo, da so modeli odličnosti, med njimi najbolj

razširjena MBNQA⁵ in EFQM⁶, zelo uporaben okvir za uveljavljanje celovitega obvladovanja kakovosti ((Bou-Llusar et al., 2009)). Model CAF je v primerjavi z njima "preprost" model, ki je primeren zlasti za spoznavanje delovanja organizacije. Pričakuje se, da bo organizacija, ki namerava napredovati, izbrala enega od podrobnejših modelov (kot npr. modela Speyer ali EFQM). Prednost modela CAF je v tem, da je z omenjenima modeloma združljiv in je tako lahko prvi korak za organizacijo, ki želi nadaljevati z upravljanjem lastne kakovosti.

3 Metodologija

Kot smo že omenili, standardni pristop CAF za obravnavo specifičnih okoliščin v lokalni skupnosti ni povsem primeren, saj mora lokalna skupnost upravljati predšolsko vzgojo v razmerju z izvajalci te naloge. Zato smo vprašalnik za ocenjevanje kakovosti delovanja predšolske vzgoje na osnovi modela CAF razširili tako, da anketiranci poleg dejavnikov in rezultatov za izvajalce predšolske vzgoje (posredno samoocenjevanje) ocenjujejo tudi lastno delovanje (neposredno samoocenjevanje). Vprašanj za neposredno samoocenjevanje nismo dodali le pri treh merilih odličnosti (dejavnik zaposleni in rezultati za zaposlene in družbo).

Izhajajoč iz raziskovalnih vprašanj smo tako postavili naslednji hipotezi:

- odgovorni za predšolsko vzgojo v lokalnih skupnostih ne delujejo v smeri celovitega obvladovanja kakovosti,
- odgovorni za predšolsko vzgojo v lokalnih skupnostih ocenjujejo lastno delovanje bolje ali enako kot delovanje izvajalcev predšolske vzgoje.

Pri prvi hipotezi, da odgovorni za razvoj in delovanje predšolske vzgoje ne delujejo v smeri celovitega obvladovanja kakovosti, smo pri preverjanju izhajali iz predpostavke, da bi morale lokalne skupnosti obvladovati ključna vzročna dejavnika zagotavljanja kakovosti (voditeljstvo, politiko in strategijo (Bugdol & Jarzebinski, 2010)). Hipotezo smo preverili z obravnavo odstopanj v rezultatih ankete in sicer z:

⁵ Malcolm Baldrige National Quality Award

⁶ European Foundation for Quality Management

- analizo ranžirne vrste aritmetičnih sredin rezultatov ankete; spremenljivke, katerih rezultati se uvrščajo v drugi decil, prinašajo sliko o priložnostih za izboljšanje (najslabše ocenjenih elementih meril odličnosti) in
- analizo manjkajočih vrednosti pri vprašanih o rezultatih za odjemalce in zaposlene; odstopanja pri manjkajočih vrednostih, ki se nanašajo na ocenjevanje rezultatov zelo verjetno pomenijo, da respondenti ali ne vedo, da se ti rezultati merijo, ali pa teh rezultatov ne poznajo.

Drugo hipotezo, odgovorni za razvoj in delovanje predšolske vzgoje v lokalnih skupnostih ocenjujejo lastno delovanje boljše ali enako kot delovanje izvajalcev predšolske vzgoje, smo postavili z namenom, da bi predstavili pogled lokalnih skupnosti na delovanje izvajalcev predšolske vzgoje in njihovo lastno vlogo pri tem. Preverili smo jo s primerjavo ocen neposrednega samoocenjevanja z ocenami posrednega samoocenjevanja.

Vprašalnik obsega 84 vprašanj v 13 sklopih (položaj vrtcev v lokalni skupnosti (8), 9 meril CAF (58), poznavanje pedagoškega koncepta vrtcev Reggio Emilia (1), ocena prioritet meril CAF (9) in splošni podatki (8)), pri večini med njimi smo uporabili 5-mestno Likertovo ocenjevalno lestvico.

Tabela 1: Porazdelitev vprašanj na neposredno in posredno ocenjevanje meril CAF

Merila odličnosti	Število vprašanj za samoocenjevanje		
	neposredno	posredno	skupaj
Voditeljstvo	1	3	4
Politika in strategija	4	2	6
Zaposleni	0	5	5
Partnerstva in viri	2	7	9
Procesi	3	8	11
Rezultati – zaposleni	0	5	5
Rezultati – odjemalci	3	4	7
Rezultati – družba	0	8	8
Ključni rezultati delovanja	1	2	3

Vir: Raziskava občine, 2010

Porazdelitev vprašanj neposrednega (14) in posrednega samo-ocenjevanja (44) je podana v tabeli 1. Kot smo že omenili, vprašanj za neposredno oceno nismo namenili dejavniku zaposleni in rezultatom za zaposlene in družbo.

Vprašalnik je bil razposlan vsem slovenskim občinam v oktobru 2009 po pošti. Na izpolnjene vprašalnike smo počakali 3 mesece.

4 Rezultati

Raziskava obravnava slovenske občine z vidika upravljanja predšolske vzgoje. Občine so glede tega različno organizirane, število izvajalcev predšolske vzgoje je tudi različno. V raziskavi teh razlik ne upoštevamo. Populacija so odgovorne osebe za predšolsko vzgojo v slovenskih občinah. Odzivnost je bila nizka: 20,5 % (43 vrnjenih vprašalnikov od 210 razdeljenih). Očitno bi bilo treba vložiti nekaj dodatnega truda v motiviranje občinskih strokovnih služb, da bi bile bolj zainteresirane za sodelovanje v takih raziskavah.

Morebitno pristranskost vzorca smo preverili s primerjavo frekvenčnih porazdelitev glede na število prebivalcev v občinah za populacijo in vzorec (tabela 2).

Tabela 2: Primerjava frekvenčnih porazdelitev populacije in vzorca

Število prebivalcev		Populacija		Vzorec	
nad	do	f _j	f _j ^o	f _j	f _j ^o
	3000	57	27,1 %	7	16 %
3000	5000	53	25,2 %	8	19 %
5000	10000	47	22,4 %	12	28 %
10000	20000	36	17,1 %	9	21 %
20000	40000	12	5,7 %	5	12 %
40000	300000	5	2,4 %	2	5 %

Vir: Raziskava občine, 2010

Primerjava med relativnimi frekvencami kaže, da je v vzorcu delež večjih občin nekoliko večji kot v osnovni populaciji. Problematika upravljanja predšolske vzgoje je v večjih občinah prav gotovo bolj kompleksna, zato je vzorec za obravnavo pojava prav gotovo primeren, s tem da bi bilo treba v nadaljnjih raziskavah preveriti morebitne razlike med manjšimi in večjimi občinami.

Pregled respondentov po statističnih regijah kaže, da je regionalna zastopanost občin nekoliko neuravnotežena, največ občin, ki so izpolnile ankete, je iz goriške in osrednjeslovenske regije.

Pri obravnavi hipotez smo upoštevali prva dva sklopa vprašanj (položaj vrtcev v lokalni skupnosti (8), 9 meril CAF (58)).

Prvo hipotezo, ki se glasi:

- odgovorni za predšolsko vzgojo v lokalnih skupnostih ne delujejo v smeri celovitega obvladovanja kakovosti,

smo preverili z analizo ranžirne vrste aritmetičnih sredin rezultatov ankete. Pri nekaterih vprašanjih, ki tvorijo pomemben del obvladovanja kakovosti, je bil delež manjkajočih odgovorov precej velik, zato smo v okviru razmisleka o hipotezi pripravili še analizo manjkajočih vrednosti.

Iz ranžirne vrste aritmetičnih sredin vseh obravnavanih spremenljivk smo izbrali tiste, katerih aritmetične sredine so manjše ali enake 2. decilu (3,41). Pri tem smo upoštevali tudi vse spremenljivke, pri katerih enovzorčni t-test na vrednost 2. decila pokaže, da jih ne moremo razlikovati od vrednosti 2. decila. Na ta način smo opredelili skupino 12 najnižje ocenjenih spremenljivk (tabela 3).

Prvi dve vprašanji prihajata iz sklopa ocenjevanja sodelovanja lokalne skupnosti z izvajalci predšolske vzgoje. Izračunani vrednosti sta med osmimi vprašanji s tega področja daleč najnižji. Respondenti ocenjujejo druge elemente sodelovanja na področju financiranja in splošno stanje predšolske vzgoje z bistveno višjimi ocenami od ocene lastne angažiranosti pri nadzoru kakovosti in učinkovitosti izvajanja predšolske vzgoje.

Med vrednostmi ocen za politiko in strategijo odstopa ocena uresničevanja strategije. Respondenti bistveno bolj ocenjujejo stanje glede opredelitve poslanstva, vizije in strategije, kar pomeni, da se zavedajo težavnega uresničevanja politike in strategije. Med nižje ocene se je pri merilu politika in strategija uvrstila še ocena načrtovanja in merjenja uspešnosti in učinkovitosti v vrtcih.

Med najnižje ocenjene spremenljivke se je od devetih spremenljivk merila partnerstva uvrstilo kar šest. Pri rezultatih za družbo je najslabše ocenjeno vprašanje, ki preverja enega od elementov koncepta predšolske vzgoje Reggio Emilia, in sicer odgovornost izvajalcev za obveščanje in za prenos znanja v širšo javnost.

Tabela 3: Pregled spremenljivk z aritmetično sredino manjšo ali enako 2. decilu (3,41)

Vprašanje	Aritmetična sredina	Merilo CAF
Pogostost spremljanja kakovosti dela v vrtcu	3,38	voditeljstvo
Spremljanje učinkovitost dela v vrtcu	3,28	voditeljstvo
Vodstva vrtcev si prizadevajo za uvajanje modelov in standardov kakovosti kot npr. CAF, ISO.	3,44	voditeljstvo
Občina ima zapisano razvojno strategijo o predšolski vzgoji, ki jo organi občine tudi uresničujejo.	2,98	politika in strategija
V vrtcih redno oblikujejo cilje za merjenje uspešnosti in učinkovitosti izvajanja predšolske vzgoje in redno analizirajo njihovo doseganje.	3,49	politika in strategija
Ocena skupnosti o kakovosti pretoka informacij, spoznanj med raziskovalnimi institucijami, ki se ukvarjajo s predšolsko vzgojo – npr. s fakulteto in vrtci.	3,18	partnerstva in viri
Mnenje lokalne skupnosti o kakovosti pretoka informacij, spoznanj med Zavodom za šolstvo in vrtcem.	3,36	partnerstva in viri
Mnenje lokalne skupnosti o kakovosti pretoka informacij, spoznanj med Centrom za socialno delo, vrtcem in lokalno skupnostjo.	3,33	partnerstva in viri
Vrtci spodbujajo starše in druge krajanje (posameznike) k sodelovanju pri izvajanju predšolske vzgoje in drugih aktivnosti, pomembnih za dvig kakovosti v vrtcih (mnenjske raziskave, krožki kakovosti, ankete, ipd.).	3,67	partnerstva in viri
Vrtci javnost redno obveščajo o pogojih in rezultatih predšolske vzgoje primerjalno na sorodne organizacije.	3,38	partnerstva in viri
Vrtci skrbijo za fizično dostopnost do stavb in prostorov (parkirišča, invalidi, javna prevozna sredstva, ipd.).	3,64	partnerstva in viri
Vrtec aktivno seznanja širšo javnost v lokalni skupnosti z novjšimi spoznanji vzgoje predšolskih otrok.	3,14	rezultati – družba

Vir: Raziskava občine, 2010

Analiza spremenljivk z najnižjimi vrednostmi kaže, da so priložnosti za izboljšanje predvsem v treh dejavnikih, v voditeljstvu, politiki in strategiji in partnerstvih. Upošteva je izsledke modeliranja vzročno posledičnih povezav v modelu CAF (Bugdol & Jarzebinski, 2010), ki izpostavlja kot ključna dejavnika prav voditeljstvo in politiko in strategijo, lahko predpostavimo,

da bi lahko z izboljšanjem obeh vzročnih dejavnikov bistveno vplivali na izboljšanje rezultatov dejavnosti predšolske vzgoje.

Z analizo manjkajočih vrednosti smo preverili še spremenljivke, pri katerih smo zaznali več ko 20 % delež manjkajočih odgovorov (tabela 4).

Tabela 4: Pregled spremenljivk z odstopajočim deležem manjkajočih vrednosti

Vprašanje	Manjkajoči odgovori		Aritmetična sredina	Merilo CAF
	število	delež		
Vrtci imajo razdelane svoje razvojne strategije.	22	51,2 %	3,62	politika in strategija
V vrtcih redno izvajajo ankete o zadovoljstvu zaposlenih.	12	27,9 %	3,00	zaposleni
V vrtcih redno izvajajo ankete o zadovoljstvu staršev s predšolsko vzgojo.	9	20,9 %	2,35	rezultati – odjemalci
Doseženi rezultati anket o zadovoljstvu staršev so skladni s pričakovanji staršev.	20	46,5 %	3,70	rezultati – odjemalci
Doseženi rezultati anket o zadovoljstvu staršev so skladni s politiko in strategijo predšolske vzgoje	20	46,5 %	3,78	rezultati – odjemalci
Doseženi rezultati anket o zadovoljstvu staršev kažejo, da se napake in nesreče v vrtcih pojavljajo izjemoma.	21	48,8 %	4,23	rezultati – odjemalci
Doseženi rezultati anket o zadovoljstvu staršev, ki jih izvaja občina, so skladni s pričakovanji staršev.	31	72,1 %	3,33	rezultati – odjemalci
Doseženi rezultati anket o zadovoljstvu staršev, ki jih izvaja občina so skladni politiko in strategijo predšolske vzgoje v občini.	31	72,1 %	3,58	rezultati – odjemalci
Rezultati ankete o zadovoljstvu zaposlenih so nadpovprečni.	21	48,8 %	3,14	rezultati – zaposleni

Vir: Raziskava občine, 2010

Pri prvem vprašanju med navedenimi je šlo za napako v vprašalniku, saj so v tabeli za ocenjevanje manjkale vrednosti za obkroževanje, zato so mnogi respondenti ta odgovor spregledali.

Vse druge spremenljivke v tabeli 4, razen ene, ki se nanaša na rezultate za zaposlene, se nanašajo na rezultate za odjemalce. Pri pripravi vprašalnika nismo bili pozorni na možnost, da bi lahko bil osip odgovorov

tako velik, zato ni bil povsem prilagojen preverjanju dejanskega razloga za neodgovor. Kljub temu pa lahko sklepamo, da je vzrok za številne manjkajoče vrednosti neizvajanje meritev ali nepoznavanje rezultatov meritev za rezultate za odjemalce. Iz danih dejstev lahko sklepamo, da odgovorni v občinskih upravah za predšolsko vzgojo rezultatov za odjemalce ne obvladujejo.

Vsebinski razmislek torej kaže, da so največje priložnosti za izboljšanje povezane s ključnima dejavnikoma modela CAF, voditeljstvom in politiko in strategijo, ki sta tudi ključna vzroda za doseganje dobrih rezultatov. Manjkajoči odgovori med vprašanji o izvajanju in rezultatih preverjanja zadovoljstva odjemalcev kažejo, da odgovorni za predšolsko vzgojo v občinah ne obvladujejo rezultatov delovanja vrtcev. Zbrana dejstva odkrivajo bistvene priložnosti za izboljšanje na področju upravljanje z dejavnostjo predšolske vzgoje pri dejavnih voditeljstvo, politika in strategija, partnerstva in viri ter pri rezultatih za odjemalce.

Drugo hipotezo, ki se glasi

- odgovorni za predšolsko vzgojo v lokalnih skupnostih ocenjujejo lastno delovanje (neposredna ocena delovanja) bolje ali enako kot delovanje izvajalcev predšolske vzgoje (posredna ocena delovanja),

smo preverili s primerjavo ocen neposrednega samoocenjevanja z ocenami posrednega samoocenjevanja. Hipoteza bo potrjena, če bo pri vseh primerjavah po elementih modela CAF (dejavnih in rezultatih) med pari spremenljivk obeh kategorij veljalo, da so aritmetične sredine vrednosti spremenljivk, ki predstavljajo neposredno ocenjevanje, večje ali enake aritmetični sredini spremenljivk, ki predstavljajo posredno ocenjevanje.

Svoje delovanje so respondenti ocenili z odgovori na sklop vprašanj o sodelovanju lokalne skupnosti z vrtci in na izbrana vprašanja v sklopih vprašanj za merila CAF. Vprašanja iz sklopa o sodelovanju lokalne skupnosti z vrtci, ki so samoocena delovanja lokalne skupnosti v zvezi s finančno in strokovno podporo, z upoštevanjem predlogov staršev in izvajalcev predšolske vzgoje, ter z zagotavljanjem kakovosti in učinkovitosti delovanja, smo smiselno razvrstili v ustrezna merila CAF. V tabeli 5 so prikazane vrednosti aritmetičnih sredin za neposredne in posredne samoocene po posameznih merilih CAF. Preverjanje hipoteze smo izvedli s preverjanjem statistične značilnosti razlik med aritmetičnimi

sredinami posameznih spremenljivk iz obeh razredov (neposredna samoocena in posredna samoocena) po elementih modela CAF.

Tabela 5: Pregled rezultatov neposrednega in posrednega samoocenjevanja

Merilo CAF	Neposredna samoocena		Posredna samoocena	
	število spremenljivk	aritmetična sredina	število spremenljivk	aritmetična sredina
<i>Voditeljstvo</i>	2	4,36	3	4,17
<i>Politika in strategija</i>	4	3,67	2	3,49
<i>Zaposleni</i>	0		5	3,87
<i>Partnerstva</i>	4	3,88	4	3,47
<i>Viri</i>	2	4,41	3	3,88
<i>Procesi a (da/ne)</i>	3	1,36	2	1,40
<i>Procesi b (1–5)</i>	2	3,33	6	4,04
<i>Rezultati – zaposleni</i>	0		5	3,49
<i>Rezultati – odjemalci (izvajanje anket)</i>	1	3,30	1	2,36
<i>Rezultati – odjemalci (dosežki)</i>	2	3,46	2	3,71
<i>Rezultati – družba</i>	0		8	4,03
<i>Ključni rezultati delovanja</i>	2	4,24	2	4,12

Vir: Raziskava občine, 2010

Med merili, kjer so respondenti podali neposredno in posredno oceno (v tabeli 5 so zapisani v poševnem slogu), je točkovna ocena aritmetične sredine neposredne ocene (ocene lastnega dela) pri štirih merilih (voditeljstvo, politika in strategija, partnerstva in viri in ključni rezultati delovanja) večja od posredne ocene (ocene izvajalcev predšolske vzgoje), pri dveh merilih (procesih in rezultatih odjemalci (dosežki) pa enaka. To izhodišče pomeni, da lahko pričakujemo, da postavljene hipoteze, da bodo vse primerjave spremenljivk neposrednega in posrednega ocenjevanja v okviru elementov modela CAF pokazale, da so neposredne ocene povsod večje ali enak posrednim, ne bo potrjena. Rezultate primerjanj predstavljamo po elementih CAF, pri vsakem se tudi opredelimo do veljavnosti hipoteze.

Pri dejavniku voditeljstvo so vse točkovne ocene neposrednega ocenjevanja višje od točkovnih ocen posrednega ocenjevanja, pri čemer med šestimi pari samo pri enem razlika, preverjena s parnim t-testom, ni statistično značilna. Tako lahko hipotezo, da so ocene neposrednega

ocenjevanja višje ali enake ocenam posrednega ocenjevanja za dejavnik voditeljstvo potrdimo.

Pri spremenljivkah, ki se nanašajo na politiko in strategijo, smo zaradi visokega deleža manjkajočih vrednosti iz obravnave izločili spremenljivko "Vrtci imajo razdelane svoje razvojne strategije", tako da nam je za primerjavo ostala le ena spremenljivka, ki se nanaša na delovanje vrtcev. Vzorčna ocena za aritmetično sredino neposredne samoocene je nižja od posredne le pri enem paru (nizka ocena trditve "Občina ima zapisano razvojno strategijo o predšolski vzgoji, ki jo organi občine tudi uresničujejo"), vendar ta razlika ni statistično značilna (rezultat parnega t-testa $p = 0,080$). Hipotezo za dejavnik partnerstvo in viri lahko tako potrdimo (pri preostalih treh parih je neposredna ocena višja, pri enem tudi statistično značilna), s pripombo, da se odgovorni za predšolsko vzgojo v občinah problematike uveljavljanja strategij ogibajo in so dokaj kritični do rezultatov svojega truda na tem področju.

Primerjavo v okviru spremenljivke partnerstva in viri smo razdelili na partnerstva in vire posebej. Partnerstvo obsega po štiri spremenljivke neposrednega in posrednega ocenjevanja. Med šestnajst primerjanimi pari je pri dveh parih točkovna ocena neposredne ocene manjša od posredne, vendar razlika ni statistično značilna. Med preostalimi pari z večjo vzorčno vrednostjo neposredne ocene je razlika kar pri desetih parih statistično značilna, pri štirih pa ne. Hipotezo za partnerstva v dejavniku partnerstva in viri zato lahko potrdimo. Pri virih analiza obsega 6 parov spremenljivk. Vzorčne vrednosti neposrednega ocenjevanja so pri vseh parih višje od vzorčnih ocen posrednega ocenjevanja. Preverjanje s pomočjo parnega t-testa razlik ne potrdi le pri enem paru. Torej lahko hipotezo potrdimo nad celotnim dejavnikom partnerstvo in viri s pripombo, da so razlike znatne, saj so pri večini parnih preverjanj razlike potrjene kot statistično značilne.

Pri ocenjevanju procesov sta bila uporabljena dva sklopa spremenljivk, 5 spremenljivk z binomialno ocenjevalno lestvico in 8 spremenljivk s petmestno ocenjevalno lestvico. Pri sklopu spremenljivk z binomialno lestvico sta aritmetični sredini neposrednih in posrednih ocen skoraj enaki, vendar se kar pri dveh parih pojavijo statistično značilne razlike med aritmetičnimi sredinami v prid posrednim ocenam. S tem je hipoteza nad dejavnikom procesi zavrnjena že pri prvem delu obravnavanih spremenljivk. Primerjava aritmetičnih sredin preostalih ocen

dejavnika procesi kaže, da so tudi tu vzorčne vrednosti neposrednih ocen dejavnosti nižje od posrednih ocen. Trditve obvelja tudi po preverjanju s parnim t-testom, saj so višje posredne ocene pri vseh parih tudi statistično značilne. Nad dejavnikom procesi hipotezo zavrnilo, praktično lahko nad tem dejavnikom trdimo, da so vse neposredne ocene manjše od (ali enake) od posrednih ocen.

Ocenjevanje rezultatov za odjemalce smo obravnavali z dvema sklopoma spremenljivk. Prvi primerjalni par je bila ocena, kako redno izvajajo ankete o zadovoljstvu staršev občine in vrtci posebej. Rezultat s statistično značilnostjo ($p = 0,000$) kaže, da odgovorni v občinskih upravah menijo, da občine bolj redno izvajajo meritve zadovoljstva strank kot vrtci. Primerjave ocen rezultatov kažejo, da so ocene anket občin slabše od ocen anket vrtcev, vendar zaradi velikega deleža manjkajočih vrednosti tega rezultata ne moremo uporabiti. Tako je smiselno, da zaradi premajhnega vzorca ($n = 11$) rezultate za odjemalce iz naše hipoteze izključimo.

Pri ključnih rezultatih delovanja smo primerjali po dve spremenljivki neposrednega in posrednega ocenjevanja. Pri dveh parih spremenljivk je točkovna ocena aritmetične sredine neposredne ocene večja od posredne, pri dveh pa je ravno obratno. Razlike so statistično značilne le pri razlikah v korist neposredne ocene, zato lahko za ključne rezultate delovanje postavljeno hipotezo potrdimo.

Očitno je, da ničelne hipoteze, da lokalne skupnosti ocenjujejo lastno dejavnost slabše kot dejavnost izvajalcev predšolske vzgoje, pri vsaj eni spremenljivki ne moremo zavrniti. Pregled rezultatov preverjanja hipoteze po posameznih elementih modela CAF pa kaže, da lahko ničelno hipotezo, da lokalne skupnosti ocenjujejo lastno dejavnost slabše kot dejavnost izvajalcev predšolske vzgoje, zavrnilo pri dejavnikih voditeljstvo, politika in strategija, partnerstvo in viri in ključni rezultati delovanja. S tem smo za navedene dejavnike in ključne rezultate delovanja potrdili alternativno hipotezo, da so aritmetične sredine neposrednih ocen pri vseh primerjanih parih spremenljivk večje ali enake aritmetičnim sredinam posrednih ocen. Pri dejavniku procesi in rezultatih za odjemalce pa ničelne hipoteze ne moremo zavrniti, saj se pri obeh pojavi vsaj en par spremenljivk, kjer je aritmetična sredina neposredne ocene statistično značilno manjša od primerjane posredne ocene.

5 Razprava

Odgovore na zastavljeni raziskovalni vprašanji:

- kako odgovorni v lokalni skupnosti za področje predšolske vzgoje dojemajo odgovornost in pristojnost za zagotavljanje kakovosti predšolske vzgoje za vsa merila modela CAF in
- kako lokalne skupnosti (odgovorne osebe za predšolsko vzgojo) ocenjujejo dejavnike in rezultate na področju predšolske vzgoje, smo iskali s pomočjo dveh hipotez:
 - odgovorni za predšolsko vzgojo v lokalnih skupnostih ne delujejo v smeri celovitega obvladovanja kakovosti in
 - odgovorni za predšolsko vzgojo v lokalnih skupnostih ocenjujejo lastno delovanje boljše ali enako kot delovanje izvajalcev predšolske vzgoje.

Majhen vzorec in velik delež manjkajočih odgovorov pri nekaterih vprašanjih nas pri posploševanju rezultatov nekoliko omejujeta. Ker pa je bila raziskava usmerjena v spoznavanje problemskega področja, lahko sprejmemo rezultate kot dobro izhodišče za načrtovane prihodnjih raziskav.

Iz rezultatov raziskave lahko ugotovimo, da imajo v lokalnih skupnostih pri upravljanju pri izvajanju nalog številne priložnosti za izboljšanje:

- odgovorni v lokalnih skupnostih se ne zavedajo svoje ključne vloge pri uveljavljanju celovitega obvladovanja kakovosti pri izvajanju nalog iz njihove pristojnosti,
- s svojim prispevkom in stanjem na področju izvajanja nalog v njihovi pristojnosti so relativno zadovoljni,
- pri ocenjevanju dejavnosti in rezultatov so nekoliko pristranski, lastni prispevek ocenjujejo boljše kot prispevek izvajalcev dejavnosti.

Prej navedena dejstva, za katera predvidevamo, da niso omejena samo na področje, ki smo ga obravnavali, smo ilustrirali na primeru predšolske vzgoje, kjer lahko iz rezultatov raziskave ugotovimo, da občinske uprave le delno spremljajo delovanje izvajalcev predšolske vzgoje in da nimajo izhodišč in koncepta, ki bi jih približali k celovitemu obvladovanju kakovosti. Ključne priložnosti za izboljšanje so:

- nadzor kakovosti in učinkovitosti,
- uveljavljanje strategije,
- partnerstvo in viri in
- rezultati za odjemalce.

Manjkajoči odgovori pri vprašanih, ki so se nanašala na rezultate za odjemalce, nakazujejo, da bi bilo treba v prvem koraku preveriti in izboljšati nadzor nad rezultati s ciljem uveljavitve trdnega kontrolinga. Pri nadaljnem raziskovanju in iskanju rešitev bo treba upoštevati tudi problematiko partnerstva, pri katerih rezultati raziskave izzvenijo v pasivni drži prepoznavanja problema in nerazumevanja lastne vloge in odgovornosti lokalne skupnosti za razvoj področja.

Obravnava druge hipoteze je ugotovitve o ne-prepoznavanju problema še podkrepila. Nekoliko višja ocena lastnega delovanja od ocene delovanja izvajalcev kaže na to, da občinske uprave zelo verjetno prepoznavajo svoje delovanje kot manj problematično in ključne odgovornosti za kakovostno delovanje nalog pripisujejo izvajalcem.

6 Zaključek

V prispevku smo predstavili problem upravljanja dejavnosti izvajanja nalog lokalne skupnosti. Izhajajoč iz predpostavke, da je celovito obvladovanje kakovosti ključno izhodišče za napredek tega področja, smo s pomočjo uporabe modela CAF razkrili priložnosti za izboljšanje. Kot temeljna težava celovitega obvladovanja kakovosti v izvajanju nalog lokalne skupnosti se je izkazala nejasna razporeditev odgovornosti glede izvajanja teh nalog.

Potrdili smo predpostavko, da je treba pri ocenjevanju oziroma samoocenjevanju upoštevati vloge samoocenjevalcev (lokalna skupnost ↔ izvajalec naloge) in v modelu upoštevati neposredno samoocenjevanje (ocenjevanje lastne dejavnosti) in posredno samoocenjevanje (ocenjevanje dejavnosti drugega). Navzkrižno ocenjevanje omogoča razkrivanje razumevanja odgovornosti in vlog pri akterjih (lokalni skupnosti, izvajalcih nalog), kar omogoča obravnavo posameznega primera v luči modelov dobrih praks.

Zakonski okvir in splošna pravila delovanja lokalnih skupnosti zahtevajo od odgovornih, da vzpostavijo trden upravljavski okvir, podprt z ustreznim celovitim pristopom k celovitem obvladovanju kakovosti.

Področje ni dovolj raziskano, teoretična izhodišča so preveč ohlapna, da bi jih lahko brez večjega truda vpeljali v prakso. Problem je zato velik izziv tako za raziskovalce kot za praktike. Razviti je treba teoretičen okvir, pripraviti priporočila dobre prakse, zagotoviti prenos znanja in ponuditi strokovno podporo pri uveljavitvi le teh.

Dr. Jože Benčina je docent na Fakulteti za upravo za področje ekonomike javnega sektorja. Je diplomant matematike, magistriral in doktoriral pa je na Ekonomski fakulteti Univerze v Ljubljani iz informacijsko upravljaljskih ved. Več kot deset let je delal kot samostojni inovator na področju informatike in zatem približno enako časa kot vodja Centra za podporo uporabnikom na Centru vlade za informatiko. Na Univerzi v Ljubljani je redno zaposlen od leta 2006. Njegovo raziskovanje obsega metode za merjenje rezultatov delovanja javnega sektorja in metode za optimizacijo odločanja v javnem sektorju z uporabo mehke logike. Rezultati njegovega raziskovalnega dela so aplikacije modelov, kot je model odločanja za lokalno samoupravo, model uravnoveženih kazalnikov z mehкими ocenjevalnimi drevesi in model kazalnikov učinkovitosti v zdravstvu. Rezultate svojega dela redno predstavlja na tujih univerzah in objavlja v mednarodnih publikacijah.

Dr. Srečko Devjak je na Fakulteti za upravo redni profesor za področje kvantitativnih analiz za podporo upravljanju. Zaključil je dodiplomski študij matematike, magistrski študij operacijskih raziskav in leta 1987 na Ekonomski fakulteti Univerze v Ljubljani doktoriral iz informacijsko upravljaljskih znanosti. V obdobju 1975–1992 je bil zaposlen kot svetovalec za področje razvoja ekonomike in organizacije poslovanja, v vodilnih slovenskih svetovalnih inštitutih. Od leta 1992 je redno zaposlen na Univerzi v Ljubljani. Na Fakulteti za upravo je bil v obdobju 1998–2005 prodekan za študentske in študijske zadeve in dekan od 2005 do 2009. Raziskuje metode in modele za optimiranje delovanja organizacijskih sistemov. V okviru raziskav je razvil posebne modele in jih apliciral, kot so npr. lesna bilanca Slovenije, proračunski kazalniki občin, kazalniki učinkovitosti investicij v zdravstvu. Rezultate raziskav redno predstavlja v okviru predavanj na tujih univerzah in objav v mednarodnih publikacijah.

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Total Quality Management in the Implementation of Tasks of The Local Community: The Case of Pre-School Education

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ABSTRACT

The paper presents the challenge of establishing a substantial governance framework of local government provision of tasks and services. The assumption that this end is highly dependent on the implementation of total quality management paradigm has led us to base our work on the Common Assessment Framework model. The research discusses the case of pre-school education. The main research question is how the representatives of the municipality, responsible for pre-school education, understand their role and accountability in the process of the provision of local government genuine services and tasks. As the main methodological result of the research is approved that the questionnaire based on the CAF model can help to discover the main opportunities for improvement of governance of genuine local government tasks. The results of the survey on pre-school education show that local governments are in control of financial matters and that their strategic focus is limited to the investment aspect. The accountability for quality management was approved as a key opportunity for improvement of local government governance.

Key words: local community, administration, provision of tasks, pre-school education, CAF

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1 Introduction

The quality of services implemented by the municipality for satisfying the needs of its inhabitants is crucial for ensuring the quality of life in the municipality. The Local Self-Government Act (ZLS, 2009, Article 49)¹ defines the original tasks that fall within the competence of the municipality. Furthermore, the act determines that the municipality implements the tasks transferred to the municipality by the state with special acts, whereas the state must ensure relevant additional resources for these services, taking into account especially two provisions from the Local Self-Government Act: »A municipality must be capable of satisfying the needs and interests of its inhabitants and fulfilling other tasks in accordance with the law.« (ZLS, 2009, Article 13) and (2) »Municipal administration carries out administrative, professional, promotional and development tasks and tasks concerning the provision of public services within the municipality competence.« (ZLS, 2009, Article 49). The local community is fully responsible for the expedient² implementation of original tasks within the meaning of existing legislation.

In this respect, the central question is the implementation of original tasks in the light of administration (effectiveness), management (efficiency) and quality of services by the municipality. The paper deals with the problem of administration, management and provision of quality implementation of original tasks of the municipality from two basic aspects: a) general, which provides for the satisfaction of the needs of inhabitants according to certain types of services and b) professional, which indicates the professional development and quality of services.

Both profit and non-profit organisations achieve the best results only by applying the relevant approach within the framework of Total Quality Management (TQM) and observing the basic principles of benchmarking analysis. The EFQM excellence model³ (Kovač & Kern-Pipan, 2008) is a suitable framework for implementing the total quality management (Bou-Llusar et al., 2009). The self-assessment approach CAF – Common Assessment Framework is becoming more and more established in

¹ Hereinafter, the Local Self-Government Act will be referred as ZLS.

² Expedient – the concept includes: economy, efficiency, performance, ethics, quality etc.

³ EFQM – European Foundation for Quality Management.

The EFQM excellence model – model that forms the basis for the awards of the European Foundation for Quality Management.

the public sector as a tool for the implementation of the EFQM excellence model (Kovač, 2002). Examples of integrated approaches to quality management show that both the organisational aspect and the aspect of implementing the use of tools for quality assurance, such as the CAF or the system of balanced indicators, must be taken into account in the introduction of the approach (Gent, 2006). The EFQM model or the CAF is designed causally and is based on the assumption that the improvement of the state of factors leads to better results. By checking the theoretical grounds with the empirical modelling for data on Polish local communities, it can be determined that the basic factor of the model – management has an effect on strategy and planning, which have an effect on employees, who transfer the effect on processes, where the contribution of resources and partnership is seen as well. The processes then have an effect on the results for customers (members of municipalities), forming the key performance results (Bugdol & Jarzebinski, 2010). On the basis of reviewed bibliography we can conclude that this field has drawn a lot of attention by practitioners and that the implementation of the total quality management in connection with the CAF model in local communities is a rather widespread practice, gradually followed also by increased volume of scientific research papers. However, studies dealing with the problem of assigning roles in quality assurance and similar services in local communities are less frequent; therefore, the results of previous research offer no concrete suitable solutions for the problem in question. For this purpose, this paper will present the manner of using the duly adjusted CAF approach as a tool for assuring the quality of implementation of the local communities' tasks, whose operational implementation has been handed over to the public or private organisations.

The abovementioned issue is presented on the case of pre-school education. The municipality is responsible pre-school education within its area (ZLS, 2009, Article 32). In general, this means that it is responsible for the establishment of kindergartens that operate according to the prescribed programme (The Kindergarten Curriculum, 1999) or for the awarding of a concession for the implementation of prescribed programmes or (generally) co-finances the implementation of pre-school education according to other (alternative) programmes. The administration and management of pre-school education activity includes: The municipality (mayor, municipality bodies and professional staff

of municipal administration), institute councils, kindergarten management etc. The approaches of quality control with self-assessment established thus far have not been properly applied to the local community, as it must on the one hand work towards excellence, while on the other hand it must monitor and take measures for quality operation of kindergartens and is in charge of their financing and providing investments. Therefore, a problem arises in practise, as the roles in the system of total quality assurance in pre-school education are not clearly differentiated. Thus, local communities do not undertake all tasks and responsibilities required. As a rule, municipalities provide for the material conditions of kindergarten operation, while they assume no specific responsibility for other functions (quality) of pre-school education development and for the efficient operation of pre-school education (Devjak & Berčnik, 2009). In this manner, the prerequisite for a successful total quality management of pre-school education in Slovene municipalities is not fulfilled.

The paper will therefore focus on the issue of total quality management in the relation between the local community – kindergarten and pre-school education provider in the municipality. On the basis of CAF assessment scheme we have drawn up a relevant questionnaire within the "Reggio Emilia" project⁴. The questionnaire was used to answer the following two research questions which are the subject-matter of this paper:

- how the representatives of the local community, responsible for pre-school education, understand their accountability and competence in the process of the provision of quality pre-school education on the basis of all criteria of the CAF model and
- how the local communities (representatives responsible for pre-school education) evaluate the factors and results in the field of pre-school education.

⁴ The project entitled "*Professional training of education professionals to implement the elements of special pedagogical principles of the Reggio Emilia concept in the area of pre-school education*" (2008–2013) is a project financed by the European Social Fund and the Ministry of Education and Sport and is implemented at the Faculty of Education of the University of Ljubljana, project coordinator prof. dr. Tatjana Devjak.

2 Service quality management in the local community

Pre-school education is an important task in Slovene local communities in terms of budget; therefore, its planning and implementation is important. Pre-school education in Slovenia is provided in particular by public kindergartens, and, to a lesser extent, also by private kindergartens. Children of ages from one to the age of entering primary school are enrolled in kindergartens. Pre-school education is not compulsory. The provision of pre-school education is one of the basic tasks of the municipality (Vlaj, 2001), as it is in charge of establishing and financing kindergartens.

Pre-school education in Slovene kindergartens is regulated by the following acts: Organization and Financing of Education Act (1996), Kindergarten Act (1996) and Local Self-Government Act (2009). The Organisation and Financing of Education Act regulates the conditions for performing education and defines the manner of administration and financing in all education fields. The Kindergarten Act regulates pre-school education that takes place in public and private kindergartens (kindergarten tasks, objectives and principles, possible programme types in kindergarten, financing, conditions for the education of professional staff, workload of childcare workers and assistant childcare workers, collection and protection of personal data in kindergarten etc.)

The establishment and financing of pre-school education is one of the important tasks of the municipality. The competent departments are responsible for arranging the suitable and quality implementation of this activity, otherwise legally and normatively defined (ZLS, 2009 and Kindergarten Act, 2008), however, the attainment of certain standards in the field of pre-school education depends on various factors, interests and needs of individual subsystems (parents, political parties, kindergarten professional staff, municipality professional staff etc.). The quality of implementation of a certain activity in the municipality, in our example pre-school education, often receives insufficient planned and consistent attention due to various factors.

The public administration and municipalities in Slovenia have recently increasingly implemented the European model CAF – Common Assessment Framework for the field of work quality assessment of organisations in the public sector. The model is derived from the EFQM excellence model and represents a tool for the improvement of the

organisation or public administration by means of self-assessment. This model is also a part of the document entitled Quality Policy of Slovenian Public Administration, adopted by the Government of the Republic of Slovenia on December 2003. The CAF model is a simple framework, appropriate for self-assessment of organisations in the public sector.

The CAF as a model for the implementation of quality and excellence represents the most adapted tool to the public administration, designed for the improvement of its performance. Having accepted the principles of operation, determined the vision, mission and values the administration wants to develop and improve, the CAF model enables the pursuit of objectives, the measurement of results and the achievement of objectives. In this manner, the organisation can monitor and evaluate its actual development of quality and excellence. The essence of this model is especially in that it is based on the inclusion of all employees, users of services and partners. It opens up new possibilities in the understanding and solving of problems with quality and increases the engagement and dynamics within the working collective, which is crucial in the implementation and improvement of the work level in public sector organisations, especially in their relationship with the users of their services.

The CAF model (CAF, 2009) is based on the measurement of quality factors and quality results. The measurement of quality factors is classified into five groups: (1) leadership; (2) strategy and planning; (3) managing people at work; (4) partnerships and resources; (5) administering processes and controlling changes. The measurement of quality results is classified into four groups: (1) customer-oriented results; (2) employee-oriented results; (3) society results and (4) key performance results.

The CAF model can be used by public sector organisations throughout Europe as a tool to facilitate the use of quality management techniques in order to improve their performance. The four main functions of the CAF model are:

1. To include all the specific feature of various organisations in the public sector.
2. To serve as a tool to public sector employees who would like to improve the performance of their organisation.
3. To act as a "bridge" between various models of quality management.

4. To enable easier benchmarking with other organisations in the public sector.

The described model can be used in all public sector areas, composed of public organisations on the national, regional or local level. In addition, it can be used in various circumstances, e.g. as a part of the systematic renewal programme or as a basis for determining objectives in the efforts for the improvement of public service organisations. The CAF enables and ensures:

- assessment which is based on evidence,
- the achievement of policy consistency and consensus on the steps necessary for the improvement of the organisation,
- assessment on the basis of defined criteria, widely adopted in Europe,
- periodic self-assessment in order to check the progress,
- a link between the objectives and support strategies and processes,
- the focus of the improvement activity on the most necessary areas,
- the promotion and exchange of good practice among various fields of the organisation and with other organisations,
- the creation enthusiasm among employees by including them into the improvement process,
- opportunities for the recognition of progress and outstanding achievements,
- the inclusion of various quality initiatives for the normal operation.

Various authors (Calvo-Mora et. al 2005; Castresana & Fernández-Ortiz, 2005) prove that the excellence models (the most widely used being the MBNQA⁵ and the EFQM⁶ models) are a very useful framework for the establishment of total quality management (Bou-Llusar et al., 2009). Compared to the MBNQA and EFQM models, the CAF is a "simple" model, suitable especially for familiarisation with the organisation operation. It is expected that the organisation working towards progress will select one of the more detailed models (such as the Speyer or EFQM model). The advantage of the CAF model is in that it is compatible with

⁵ Malcolm Baldrige National Quality Award

⁶ The European Foundation for Quality Management

the abovementioned models and can thus be used as a first step for the organisation which aims at continuing to manage its own quality.

3 Methodology

As mentioned, the standard CAF approach is not completely suitable for addressing specific circumstances in the local community, as the local community must manage pre-school education in relation to the providers of the task. For this purpose, we expanded the questionnaire for the assessment of quality of pre-school education operation on the basis of the CAF model by adding the assessment of respondents' own operation (direct self-assessment) besides the assessment of factors and results for pre-school education providers (indirect self-assessment). The questions for direct self-assessment were not added only in three criteria of excellence (employees and results for employees and society).

On the basis of research questions we formulated the following hypotheses:

- representatives of local communities, responsible for pre-school education, do not work towards total quality management,
- representatives of local communities, responsible for pre-school education, assess their own performance as better or equal as the performance of pre-school education providers.

In testing the first hypothesis, stating that the representatives responsible for the development and operation of pre-school education do not work towards total quality management, we started from the assumption that the local communities should manage the key causal factors of quality assurance (leadership and policy and strategy (Bugdol & Jarzebinski, 2010)). We tested the hypothesis by looking into the deviations in the questionnaire results, namely by applying:

- the analysis of the range order of arithmetic means of questionnaire results; variables with the results in the second decile show the opportunities for improvement (the elements of excellence criteria with the lowest assessments) and
- the analysis of missing values in questions on the results for customers and employees; deviations in missing values, which apply to the assessment of results, most likely mean that the respondents do not know that these results are being measured or are not familiar with these results.

The second hypothesis, stating that the representatives of local communities, responsible for the development and operation of pre-school education, assess their performance as better or equal as the performance of pre-school education providers, was formulated with the aim of presenting the view of local communities on the operation of pre-school education providers and their own contribution. We tested the hypothesis by comparing the assessments of direct self-assessment with the assessments of indirect self-assessment.

The questionnaire comprises 84 questions in 13 sets (the position of kindergartens in the local community (8), 9 CAF criteria (58), understanding of Reggio Emilia pedagogical concept in kindergartens (1), assessment of CAF criteria priorities (9) and general data (8)), most of which include the 5-point Likert assessment scale.

The distribution of questions of the direct (14) and indirect self-assessment (44) is listed in Table 1. As already mentioned, the questions for direct assessment were not assigned to the "employee" and "results for employees and society" factors.

Table 1: The distribution of questions for direct and indirect assessment of CAF criteria

Criteria of excellence	Number of questions for self-assessment		
	direct	indirect	total
Leadership	1	3	4
Policy and strategy	4	2	6
Employees	0	5	5
Partnerships and resources	2	7	9
Processes	3	8	11
Results – employees	0	5	5
Results – customers	3	4	7
Results – society	0	8	8
Key performance results	1	2	3

Source: Municipality research, 2010

The questionnaire was sent to all Slovene municipalities by post in October 2009. The population therefore represents representatives of Slovene municipalities, responsible for pre-school education. We allowed 3 months for the completion of questionnaires.

4 Results

The research deals with Slovene municipalities in the light of administration of pre-school education. In this respect, the municipalities are organised differently, and the number of pre-school education providers varies as well. The research does not observe these differences. The population represents representatives of Slovene municipalities, responsible for pre-school education. The response rate was low, only 20.5% (43 returned questionnaires from 210 distributed). Clearly, additional effort should be taken to motivate the municipal professional services and make them more interested in participating in these types of research.

Possible sample bias was checked by comparing the frequency distributions in relation to the number of inhabitants of the municipality for the population and sample (Table 2).

Table 2: Comparison of frequency distributions between the population and sample

Number of inhabitants		Population		Sample	
over	up to	f_j	f_j°	f_j	f_j°
	3000	57	27.1%	7	16%
3000	5000	53	25.2%	8	19%
5000	10000	47	22.4%	12	28%
10000	20000	36	17.1%	9	21%
20000	40000	12	5.7%	5	12%
40000	300000	5	2.4%	2	5%

Source: Municipality research, 2010

The comparison between the relative frequencies shows that the proportion of larger municipalities is slightly higher in the sample than in the basic population. The issue of managing pre-school education is certainly more complex in larger municipalities; therefore, the sample is surely suitable for addressing this phenomenon, whereas possible differences between smaller and larger municipalities should be checked in further research.

The review of respondent according to statistical regions shows that the regional representation of municipalities is slightly unbalanced; the

majority of municipalities that completed the questionnaire come from the Gorizia and Central Slovenia region.

In testing the hypotheses, we took into account the first two sets of questions (the position of kindergartens in the local community (8), 9 CAF criteria (58)).

The first hypothesis stating:

- representatives of local communities, responsible for pre-school education, do not work towards total quality management,

was checked by analysing the range order of arithmetic means of questionnaire results. In some questions, which form an important part of quality management, the proportion of missing answers was rather high; therefore, within the reflection on the hypothesis, an analysis of missing values was drawn up as well.

From the range order of arithmetic means of all variables concerned the variables with arithmetic means smaller or equal to the 2nd decile (3.41) were selected. All variables, where one-sample t-test on the value from the 2nd decile shows that the variables cannot be differentiated from the values of the 2nd decile, were also taken into account. In this manner, a group of 12 variables with the lowest assessments was determined (Table 3).

The first two questions are from the set of assessing the cooperation of local community with pre-school education providers. The calculated values are far the lowest among the eight questions in this field. Other elements of cooperation in the field of financing and general state of pre-school education are significantly higher assessed by respondents than personal engagement in the control of quality and efficiency of pre-school education implementation.

Among the assessment values for policy and strategy the assessment of strategy realisation deviates the most. Respondents assess the situation regarding the definition of mission, vision and strategy significantly better, which means that they are aware of the difficult realisation of policy and strategy. Lower assessments within the policy and strategy criteria include the assessment of planning and measurement of performance and effectiveness in kindergartens.

Table 3: Review of variables with the arithmetic mean lower or equal to the 2nd decile (3.41)

Question	Arithmetic mean	CAF criteria
The frequency of monitoring the quality of work in kindergarten	3,38	leadership
Monitoring work efficiency in kindergarten	3,28	leadership
Kindergarten managements endeavour to implement the models and standards of quality, such as CAF, ISO.	3,44	leadership
The municipality has drawn up a development strategy for pre-school education, which is observed by the bodies of the municipality.	2,98	policy and strategy
The objectives for measuring the performance and effectiveness of implementation of pre-school education are formulated regularly in kindergartens and the attainment of these objectives is analysed regularly.	3,49	policy and strategy
The community's assessment of the quality of the flow of information and knowledge between research institutions concerned with pre-school education, e.g. the faculty and kindergartens.	3,18	partnerships and resources
The local community's opinion on the quality of the flow of information and knowledge between the National Education Institute and kindergarten.	3,36	partnerships and resources
The local community's opinion on the quality of the flow of information and knowledge between the Social Work Centre, kindergarten and local community.	3,33	partnerships and resources
Kindergartens encourage parents and other citizens (individuals) to participate in the implementation of pre-school education and other activities, which are important for improving the quality in kindergartens (opinion polls, quality circles, surveys etc.).	3,67	partnerships and resources
Kindergartens regularly inform the public on the conditions and results of pre-school education in comparison with similar organisations.	3,38	partnerships and resources
Kindergartens ensure a physical accessibility to buildings and facilities (parking lots, access for disabled people, public transportation etc.).	3,64	partnerships and resources
Kindergarten actively informs the general public in the local community on the latest findings in the field of pre-school education.	3,14	results – society

Source: Municipality research, 2010

As many as six from nine variable of the partnership criteria were ranked among the variables with lowest assessments. In society results the lowest assessment was recorded for the question checking one of the elements of the Reggio Emilia pre-school education concept, namely the responsibility of providers to inform and transfer the knowledge into the general public.

The analysis of variables with the lowest values shows that the opportunities from improvement are especially in three factors, i.e. leadership, policy and strategy and partnerships. Taking into account the results of modelling causal connections in the CAF model (Bugdol & Jarzebinski, 2010), which highlights leadership and policy and strategy as key factors, it can be assumed that the improvement of both causal factors could have a significant effect on the improvement of results of pre-school education activities.

With the analysis of missing values variables with a detected proportion of missing answers higher than 20% were checked as well (Table 4).

The first question from the table contained an error in the questionnaire, as the assessment table did not contain values for selection, therefore many respondents overlooked this answer.

All other variables in Table 4 apply to customer-oriented results, except one which applies to employee-oriented results. In the preparation of the questionnaire we did not take into account the possibility of such large amount of unanswered questions; therefore it was not completely adapted to checking the actual reason for non-response. Nevertheless, it may be concluded that the reason for several missing values is the failure to perform measurements or familiarise with the results of measurements for customer-oriented results. On the basis of given facts it may be concluded that the representatives of municipal administrations, responsible for pre-school education, do not manage customer-oriented results.

It is evident from the reflection of the content that the biggest opportunities for improvement are connected with two main factors of the CAF model, i.e. leadership and policy and strategy, which are also the key levers for the achievement of good results. The missing answers among questions on the implementation and results of checking customer satisfaction show that the representatives of municipalities, responsible for

pre-school education, do not manage results of kindergarten operation. Collected facts reveal essential opportunities for improvement in the field of administration of pre-school education activity regarding the factors: leadership, policy and strategy and partnerships and resources, as well as customer-oriented results.

Table 4: Review of variables with the proportion of deviation of missing values

Question	Missing answers		Arithmetic mean	CAF criteria
	number	proportion		
Kindergartens have elaborated their development strategies.	22	51,2%	3,62	policy and strategy
Employee satisfaction surveys are performed regularly in kindergartens.	12	27,9%	3,00	employees
Surveys on parent satisfaction with pre-school education are performed regularly in kindergartens.	9	20,9%	2,35	customer-oriented results
Obtained results of parent satisfaction surveys are in accordance with the expectations of parents.	20	46,5%	3,70	customer-oriented results
Obtained results of parent satisfaction surveys are in accordance with the policy and strategy of pre-school education.	20	46,5%	3,78	customer-oriented results
Obtained results of parent satisfaction surveys show that errors and accidents occur rarely in kindergartens.	21	48,8%	4,23	customer-oriented results
Obtained results of parent satisfaction surveys, performed by the municipality, are in accordance with the expectations of parents.	31	72,1%	3,33	customer-oriented results
Obtained results of parent satisfaction surveys, performed by the municipality, are in accordance with the policy and strategy of pre-school education in the municipality.	31	72,1%	3,58	customer-oriented results
Results of employee satisfaction survey are above average.	21	48,8%	3,14	employee-oriented results

Source: Municipality research, 2010

The second hypothesis stating:

- representatives of local communities, responsible for pre-school education, assess their own operation (direct assessment of operation) as better or the equal to the operation of pre-school education providers (indirect assessment of operation).

was tested by comparing the assessments of direct self-assessment with the assessments of indirect self-assessment. The hypothesis will be confirmed if all comparisons according to elements of the CAF model (factors and results) between the pairs of variable of both categories will show that the arithmetic means of variable values representing indirect assessment are larger or equal to the arithmetic mean of variables representing direct assessment.

Respondents assessed their operation by answering a set of questions on cooperation of local community with kindergartens and selected questions in sets for CAF criteria. Questions from the set on the cooperation of local community with kindergartens, which serve as the self-assessment of local community operation in respect of the financial and professional support, the observance of suggestions of parents and pre-school education providers and the provision of quality and efficiency of operation, were meaningfully classified into relevant CAF criteria. Table 5 shows the values of arithmetic means for direct and indirect self-assessments according to individual CAF criteria. The hypothesis was tested by checking the statistical characteristics of differences between arithmetic means of individual variables from both classes (direct and indirect self-assessment) on the basis of elements of the CAF model.

Among six criteria, where the respondents provided direct and indirect assessments (written in italics), the point estimate of arithmetic mean of direct assessment (assessment of own work) in four criteria (leadership, policy and strategy, partnerships and resources and key performance results) was larger than the indirect assessment (assessments of pre-school education providers), while in two criteria (processes and customer-oriented results (achievements)) it was the same. On the basis of this starting point it may be expected that the formulated hypotheses, which state that all comparisons of variables of direct and indirect assessment within the framework of elements of the CAF model will show that direct assessments are always larger or equal to indirect, will not be confirmed.

The results of comparisons are presented by each CAF element and our views on the validity of the hypothesis are explained with each element.

Table 5: Review of variables with the proportion of deviation of missing values

CAF criteria	Direct self-assessment		Indirect self-assessment	
	number of variables	arithmetic mean	number of variables	arithmetic mean
<i>Leadership</i>	2	4.36	3	4.17
<i>Policy and strategy</i>	4	3.67	2	3.49
Employees	0		5	3.87
<i>Partnerships</i>	4	3.88	4	3.47
<i>Resources</i>	2	4.41	3	3.88
<i>Processes a (yes/no)</i>	3	1.36	2	1.40
<i>Processes b (1–5)</i>	2	3.33	6	4.04
Results – employees	0		5	3.49
<i>Results – customers (conducting surveys)</i>	1	3.30	1	2.36
<i>Results – customers (achievements)</i>	2	3.46	2	3.71
Results – society	0		8	4.03
<i>Key performance results</i>	2	4.24	2	4.12

Source: Municipality research, 2010

All point estimates of direct assessment in the leadership factor are higher than point estimates of indirect assessment, whereas only in one of the six pairs the difference, tested by means of pair t-test, is not statistically significant. Thus, the hypothesis that the estimates of direct assessment are higher or equal to estimates of indirect assessment for the leadership factor can be confirmed.

In variables applying to the policy and strategy factor the variable "Kindergartens have elaborated their development strategies" was eliminated from the study due to high proportion of missing values, reducing the variables for comparison to a single one applying to the operation of kindergartens. The sample estimate for the arithmetic mean of direct self-assessment is lower than indirect self-assessment only in one pair (low estimate of the statement "The municipality has drawn up a

development strategy for pre-school education, which is observed by the bodies of the municipality"); however, this difference is not statistically significant (the result of pair t-test $p = 0.080$). The hypothesis for the partnership and resources factor can also be confirmed (the remaining three pairs have higher direct assessments, one of which is also statistically significant), with a remark that the representatives of municipalities, responsible for pre-school education, start implementing the strategies and are critical of the results of their effort in this area.

The comparison within the framework of the partnerships and resources variable was divided to partnerships and resources separately. The partnership variable comprises four variables of direct and indirect assessment. Among sixteen compared pairs, the point estimate of direct assessment was smaller than indirect in two pairs, however, the difference is not statistically significant. In the remaining pairs with larger sample value of direct assessment the difference was statistically significant in as many as ten pairs of fourteen pairs. The partnership hypothesis in the partnerships and resources factor can therefore be confirmed. The analysis of the resources factor comprises 6 variables. Sample values of direct assessment in all pairs are higher than sample estimates of indirect assessment. Testing with the pair t-test does not confirm differences only in one pair. Therefore, the hypothesis can be confirmed on the complete partnership and resources factor with the remark that the differences are considerable, as they are confirmed as statistically significant in most of pair testing.

In the assessment of processes two sets of variable were used, 5 variables with binomial assessment scale and 8 variables with five-level assessment scale. In the set of variables with binomial scale the arithmetic means of direct and indirect assessments are almost equal; however, statistically significant differences between arithmetic means in favour of indirect assessments occur in as many as two pairs. Thus, the hypothesis on the processes factor is rejected already in the first part of variables concerned. The comparison of arithmetic means of the remaining assessments of the processes factor again shows that the sample values of direct assessments of activities are lower than indirect assessment. The statement is valid also after the performed testing with the pair t-test, as the higher indirect assessments in all pair are also statistically significant. The hypothesis on the processes factor is rejected, in practice, it can be

concluded that all direct assessments are lower than (or equal to) the indirect assessments with this factor.

The assessment of customer-oriented results was performed with two sets of variables. The first comparable pair was the assessment of frequency of implementation of parent satisfaction surveys by municipalities and kindergartens separately. The result with the statistical characteristic ($p = 0.000$) shows that the representatives of municipal administrations believe that the municipalities perform measurements of customer satisfaction on a more regular basis than kindergartens. The comparisons of result assessments show that the assessments of surveys performed by municipalities are lower than the assessments of assessments performed by kindergartens; however, this result cannot be used due to a large proportion of missing values. Thus, it is reasonable to exclude customer-oriented results from our hypothesis due to a small sample ($n = 11$).

In key performance results two variables of both direct and indirect assessment were compared. In two pairs of variables the point estimate of arithmetic mean of direct assessment is higher than indirect, and vice versa in other two pairs. The differences are statistically significant only in differences in favour of the direct assessment; therefore, the formulated hypothesis for key performance results can be confirmed.

Clearly, the null hypothesis stating that the local communities' assessment of their own activities is lower than the activities of pre-school education providers in at least one variable cannot be rejected. The review of results of testing the hypothesis according to individual elements of the CAF model shows that the null hypothesis stating that the local communities' assessment of their own activities is lower than the activities of pre-school education providers is rejected in factors: leadership, policy and strategy, partnerships and resources and key performance results. Thus, the alternative hypothesis that the arithmetic means of direct assessments in all compared pairs of variables are higher or equal to arithmetic means of indirect assessments is confirmed for the abovementioned factors and key performance results. The null hypothesis in the processes and customer-oriented results factors cannot be rejected, as at least one pair of variables occurs in both factors, where the statistical significance of arithmetic mean of direct assessment is lower than that of compared indirect assessment.

5 Discussion

We tried to answer the two research questions:

- how the representatives of the local community, responsible for pre-school education, understand their accountability and competence in the process of the provision of quality pre-school education on the basis of all criteria of the CAF model and
- how the local communities (representatives responsible for pre-school education) evaluate the factors and results in the field of pre-school education.

by applying two hypotheses:

- representatives of local communities, responsible for pre-school education, do not work towards total quality management and
- representatives of local communities, responsible for pre-school education, assess their own operation as better or equal to the operation of pre-school education providers.

A small sample and a large proportion of missing answers in certain questions slightly limit the generalisation of results. However, since the research was targeted at familiarisation with the problem area, we can accept these results as a good starting point for planned further research.

On the basis of results of the research we can conclude that the management and implementation of tasks in local communities offer several opportunities for improvement:

- representatives of local communities are not aware of their key role in the establishment of total quality management in the implementation of tasks within their competence,
- they are relatively satisfied with their contribution and the condition in the field of implementation of tasks within their competence,
- they are slightly biased in the assessment of activities and results, they assess their own contribution as better than the contribution of activity providers.

The abovementioned facts, for which it can be assumed that they are not limited only to the field concerned, were illustrated on the case of pre-school education, where we can conclude on the basis of results that municipal administrations only partially monitor the operation of pre-school education providers and that they have not developed the grounds

and concept for working towards the total quality management. Final opportunities for improvement include:

- the control of quality and efficiency,
- the implementation of strategy,
- partnership and resources and
- customer-oriented results.

Missing answers in questions applying to customer-oriented results imply that the control of results should be checked and improved in the first step in order to establish a stable controlling. In further research and search for solutions the issue of partnership should be taken into account, where results of the research indicate the passive approach of problem identification and failure to understand the local community's own role and responsibility for the development of the field.

The treatment of the second hypothesis only supported the findings regarding the failure to identify the problem. A slightly higher assessment of own operation than the assessment of providers' operation indicates that municipal administrations are likely to recognise their operation as less problematic and that key responsibilities for quality operation of tasks are assigned to providers.

6 Conclusion

The paper presents the problem of managing the activities of implementation of tasks in local communities. On the basis of the premise that total quality management is a key starting point for the development of this field, we disclosed the opportunities for improvement by applying the CAF model. The basic problem of total quality management in the implementation of local community tasks proved to be the unclear distribution of responsibilities regarding the implementation of these tasks.

We confirmed the premise that the role of self-assessors (local community \leftrightarrow provider of the task) must be taken into account in assessment or self-assessment and that the model must include direct self-assessment (the assessment of own activity) and indirect self-assessment (the assessment of activities performed by others). The cross-assessment discloses the understanding of responsibilities and roles of bodies (local community, providers of tasks), which enables a study of individual examples in the light of models of good practice.

Regulatory framework and general rules of local community operation bind the representatives to establish a firm management framework, supported by relevant comprehensive approach to total quality management. The area requires more research, as the theoretical grounds are too vague to be put into practice effortlessly. The problem therefore represents a major challenge both for researchers and practitioners. A theoretical framework is to be developed, recommendations of good practise are to be drawn up, the transfer of knowledge is to be ensured and professional support in the implementation of the abovementioned is to be offered.

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Thin Capitalization Rules in EU Member States

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ABSTRACT

Thin capitalization rules fit in the group of the specific anti-avoidance rules (SAAR) which are legalised by domestic tax laws. Anti-avoidance measures attempt to strike down unacceptable tax avoidance practices that have taken place with the increasing importance of multinational firms. In contrast to local firms, multinational corporations can shift profits to lower taxed foreign locations, leading to substantial losses in tax revenue. The article presents a systematic review of thin capitalization rules in EU 27, summing up four most common approaches of thin capitalization regulation. The analysis revealed that the majority of countries (15) legalised the fixed ratio approach, one quarter (7) the subjective approach and only a few (3) legalised the hidden profit distribution. Two of them have improved thin-cap rules to so called earning-stripping rule.

Key words: thin capitalization, tax revenue, anti-avoidance rules, EU, tax authority

JEL: H25

1 Introduction

In the last few years the tax policy of the most developed countries in the world can be described by trend of decreasing tax rates and broadening of tax base for corporate income taxes. This trend has been explained as the reaction of national tax policies on the cross border capital mobility and expanding importance of multinational corporations (Kaserer, 2008).

It is a well established result, both theoretically and empirically; those taxes play an important role in determining the capital structure of

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the companies (Desai et al., 2004). Consequently, a multinational company would choose its capital structure according to differences in international taxation. Unlike purely national firms, multinationals are not restricted to external lending; they can also lend to or borrow from affiliated companies and are therefore able to optimize their capital structure over all affiliates in order to minimize the tax burden of the whole company group. Especially, they can transform equity into intra-company loans in order to shift profits (Buettner et al., 2006). These kinds of operations are called tax planning activities. Tax planning is the procedure of restructuring business with the intention to decrease tax expenses or increase of tax income with the exact intention to maximize net present value of each business and consequently of the whole company (Jones, 2003).

The tax implications of multinational corporations are the business decisions that decrease tax burden. Those tax planning decisions encourage tax authorities to defend tax revenue by initiating anti-avoidance rules. The so called arm's length principle has been adopted in the taxation of multinational companies. The principle is set out in Article 9 of OECD Model Tax Convention and governs the prices at which transfers within a multinational company are set for the purposes of tax. The policymakers and legislators of each country intensively work on different kind of measures and tax systems in order to defend tax revenues and prevent from long-term effects that can be seen as tax competition (Devereux and Keuschnigg, 2009).

The tax theory explains that the appropriate tax system should have two most important criteria: economic efficiency and tax neutrality (Kranjec, 2003). The national tax systems of corporate income taxation should be neutral to business decisions (Stanovnik, 1998). In global economy tax system neutrality is possible only at national level while countries are subject of the tax competition at the international level (Tičar, 2002). There are several reasons why the existence of multinational firms is thought to have an impact on national corporate tax systems.¹

2 Thin capitalization rules as anti-avoidance rule

Corporate income tax (additionally CIT) taxes the net income (profit) of corporation that is computed when all the allowable tax expenses are

¹ For a survey on the taxation of multinationals firms see (Gresik, 2001).

deducted from allowable tax revenues. The literature defines profit as surplus beyond average return on capital that consists of interests, dividends and retained earnings. Profit would present return on capital from the economic point of view under the assumption that all forms of return on capital are treated the same way. Unfortunately, return on debt financing (interests) is treated different way the return on equity financing (dividends) are.

Existing corporate tax systems permit the deduction of interest payments from the corporate tax base, whereas the equity returns to investors are not tax-deductible². This asymmetric treatment of alternative means of financing investment offers firms a fundamental incentive to increase their reliance on debt finance (Haufler and Runkel, 2008). Debt financing has one important advantage under the corporate income tax. The interests that the company pays are tax-deductible expenses while dividends and retained earnings are not. Thus the return to bondholders escapes taxation at the corporate level.

The amount of savings on income tax due to the interest is called interest tax shield. This means that company for every euro paid in the form of interest rather than in the form of dividends, saves the amount of interest multiplied by the corporate income tax rate.

$$\text{Interest tax shield} = r^d \times (M) \times (t)$$

r = interest rate on debt financing

M = amount of debt

t = income tax rate

d = interest period

As we can see from the Table 1, if a company pays out or charges interests (debt) it reduces the tax base (profits) and consequently the income tax liability. In doing so, the company generates gains, which can be seen as lower costs or tax liability. For example, in-depth analysis below presents an enterprise operating in the country with 35% income tax rate evaluating two financial plans. The company A is financed entirely by equity, while company B has a \$ 1000.00 debt, whose cost is 8%.

² The financial theory explains two way of financing:
a) equity financing (stocks, shares etc.)
b) debt financing (loans, bonds etc.)

Table 1: The tax deductibility of interests increases the total income that can be paid out to bondholders and stockholders

Statements	Income statements of Company A	Income statements of Company B
Earnings before interest and taxes (EBIT)	1.000	1.000
Interests paid to bondholders	0	80
Pre-tax income	1.000	920
Corporate income tax (35%)	350	322
Net income to stockholders	650	598
Total income to both (bondholders and stockholders)	0+650=650	80+598=678
Interest tax shield (35% X interest)	0	28

Source: Brealy & Myers, 2003, p. 490

Analysis of this case highlights two main issues in particular, namely shareholders and bondholders in company B reach a larger scale of cash flow and in the case of increasing the proportion of debt financing compared to equity financing the corporate income tax liability reduces. The difference in the tax burden derives from the fact that interest is tax deductible expense, while dividends and retained or non-distributed profits are not recognized as such.

Because of these positive tax effects of interests, companies prefer debt financing method, which generates tax shield, as we have seen. While on the other hand, too excessive debt financing may possibly lead to financial difficulties and ultimately result in bankruptcy, generating the so-called effect of bankruptcy costs. Companies, which are financed mainly by foreign capital, are faced with more uncertainty compared to companies financed predominantly by equity capital. In the absence of thin capitalization institute the owners of capital are encouraged to preferably lend resources (a loan) as opposed to investing in capital. In this case, owners will be paid interests taxed by the personal tax, while in the first case owners would be subjected to double taxation.

The preferred debt financing is the tax planning activity with clear purpose of tax avoidance. Tax avoidance is any lawful behaviour designed to avoid tax (McLeod, 2000). Tax avoidance transactions tend to have at least one of a number of features that make them identifiable.

Formal legality, the abuse of statutory loopholes, artificiality, and minimal economic purpose (other than the reduction of tax) are the recurring features of schemes that are seen as instances of tax avoidance (Orow, 2000).

Anti-avoidance measures attempt to strike down unacceptable tax avoidance practices. Tax avoidance, or tax shelters, is a pervasive problem in most of systems. Taxpayers have strong incentives to structure transactions to take advantage of inconsistencies or gaps in the tax rules to reduce their tax liabilities. Virtually all methods of taxation face this problem – inevitably the rules defining the tax base have holes or inconsistencies that can be exploited (Weisbach, 2002). Anti-avoidance measure can be divided into:

- measures based on general principles in the law which are not codified in the legislation but are included in philosophies and approaches in law ("substance over form", "abuse of law"),
- general anti avoidance rules which have the same meaning as "anti avoidance rules based on general principles in law" except that it is codified and included in the legislation
- specific anti avoidance rules which apply to the specific situations; like (CFC – Controlled Foreign Companies, FPI's – Foreign Portfolio Investments, Thin capitalization rules – TCR, Anti-tax haven rules, Transfer pricing).

Typically, high taxing countries try to restrict inter-company loans by imposing the so-called thin capitalization rules or earning stripping rules in order to limit adverse revenue consequences (Overesch & Wamser, 2006). While debt financing of the parent companies is the preferred way of financing subsidiary companies because of the tax shield, policymakers invented different regulations to prevent tax avoidance in different tax systems³. Those regulations are called thin capitalization rules and

3 The European Court of Justice (ECJ) published its decision in the Lankhorst-Hohorst case on 12 December 2002. The case concerned a German taxpayer, Lankhorst-Hohorst GmbH, that incurred interest expenses to a Dutch related party (grandparent) on debt in excess of the German safe haven debt-to-equity ratios. Following the disallowance of the expenses by the tax authorities, the case was referred to the ECJ to determine whether the German thin capitalisation provision discriminated against foreign (EU)-owned companies in violation of the EC Treaty. The ECJ confirmed the taxpayer's decision, concluding that the German thin capitalisation provision indeed infringed on the EU parent entities' freedom of establishment, as it was mainly targeted at foreign-owned companies.

represent the name given to a particular type of international tax planning. Companies that need to fund parent or subsidiary companies in the other jurisdictions often find it more tax-efficient to fund those subsidiaries with shareholder debt, rather than with equity. The interest on loans from shareholders is deductible in the hands of the borrowing company, while normal dividends are not. There is therefore a tax advantage for a borrowing company that pays high rates of interest on shareholder loans instead of large dividends. Thin capitalization rules are regulations which limit the corporation issue shares as well as debt, referring to a situation in a firm or company where the higher proportion of funds is from loans and borrowings and not from equity and capital. There is no agreement on what constitutes thin capitalization. Two obvious measures are the debt/equity ratio and the ratio of interest to profits before tax (Maßbaum & Sureth, 2009).

Despite the fluidity of the thin capitalization concept OECD Model Tax Convention on Income and on Capital from 2008 sets up some ground rules and standards in Article 9 – Associated Enterprises considering thin capitalization and its relations to national legislation as well as international tax treaties. As discussed in the Committee on Fiscal Affairs' Report on Thin Capitalization,⁴ there is interplay between tax treaties and domestic rules on thin capitalization relevant to the scope of the Article 9. The Committee considers that:

- a) the Article 9 does not prevent the application of national rules on thin capitalization insofar as their effect is to assimilate the profits of the borrowers to an amount corresponding to the profits which would have accrued in an arm's length situation;
- b) the Article 9 is relevant not only in determining whether the rate of interest provided for in a loan contract is an arm's length rate, but also whether a prima facie loan can be regarded as a loan or should be regarded as some other kind of payment, in particular a contribution to equity capital;
- c) the application of rules designed to deal with thin capitalization should normally not have the effect of increasing the taxable profits of the relevant domestic enterprise to more than the arm's

⁴ Adopted by the Council of the OECD on 26 November 1986 and reproduced in Volume II of the loose-leaf version of the OECD Model Tax Convention at page R(4)-1.

length profit, and that this principle should be followed in applying existing tax treaties.

Categorization and classification of thin capitalization rules are conducted rather arbitrary and without regard to supranational tax legislation, while its implementation in practice is subsequently limited to few main approaches (Kaserer, 2008):

- The subjective approach: under this approach the prevailing circumstances are evaluated to determine the terms and nature of the contribution to decide whether debt has been disguised as equity. The test of substance over form may be applied in this case.
- The fixed ratio approach: under this approach the part of interest paid on loans in excess of D/E ratio may either be disallowed as it is or the same may be treated as dividend liable to dividend distribution tax. It may be noted that the disallowance of interest may not reduce the interest income of the creditor and he may have to pay tax on it by including it in his taxable income as interest income.
- The hidden profit distributions: under this approach, the excess interest is treated as dividend and taxed accordingly. The general principles of transfer pricing rules (arm's length principle) may also play a role in this respect.

Besides thin capitalization rules interest deduction is regulated with additional approach:

- The earning-stripping rule: under this approach tax deducted interest expenses are limited not only for related but also unrelated parties.

3 Thin capitalization rules in EU 27

The data analysis for the 27 EU members reveals that thin capitalization rules vary considerably among different countries. Anyway, our research outlined few models which are most common in the majority of EU member states. The complexity of the systems in EU 27 does not allow strict distinction of principles mentioned above while the majority of EU member states combine different approaches facilitating the implementation of anti-avoidance rules. Member states rather apply

the inherent mixture or combination of those principles according to the structure of their tax revenue system and tax authority tradition.

3.1 The subjective approach

The Table 2 offers the list of countries that have no specific thin capitalization rules. Generally used principle in this respect is the arm's length principle.

Table 2: The subjective approach

State
Cyprus
Estonia
Finland
Malta
Slovak Republic
Sweden
United Kingdom

Source: IBFD Tax Research Platform, 2011.

The reason those countries do not regulate specific thin capitalization rules is difficult to reveal. The majority⁵ of them are unattractive for foreign direct investors which may be the reason why policymakers have not had any need for protection national tax revenues. While the figuring out the reasons for the lack of thin capitalization regulation is not the objective of the article, it may be interesting for some further research.

3.2 The fixed ratio approach

The fixed ratio approach is the most common way of arranging the deduction of interests as tax expense. In the majority of countries the ratio presents the proportion between debt and equity. In case the debt exceeds a debt/equity ratio, interests calculated of the amount of loans that exceed maximum amount of debt are not tax-deductible expenses as far as corporate income tax is concerned.

⁵ Average % of FDI in BDP in Estonia is 80.3 (2004–2009) according to UnctadStat, 2010.

Table 3: The fixed ratio approach

State	Ratio	Regulation
Belgium	1:1	Applies to loans granted by individual directors, shareholders and non-resident corporate directors to their company. Interest relating to debt in excess of this ratio is recharacterized as a non-deductible dividend. Also, the interest rate must not exceed the market rate.
	7:1	Applies to debt if the creditor (resident or non-resident) is exempt or taxed at a reduced rate in respect of the interest paid on the debt.
Bulgaria	3:1	If the interest paid on loans taken from shareholders and third parties deduction of interest paid on loans taken from shareholders or third parties is limited to the total amount of interest income received by the company plus 75% of its positive financial result (computed without taking into account interest income and expenses).
Czech Republic	4:1	The ratio for banks and insurance companies is 6:1.
Denmark	4:1	A company can avoid the limitation on the deductibility of its interest expenses to the extent it substantiates that a similar loan relationship could exist between unrelated persons. The deductibility of net financing expenses is limited to a capital computed by applying a standard rate of 4.5% (for 2011) on the tax value of the company's business assets as listed in the law. Expenses below approximately 2,8 million EUR (for 2011) are always deductible under this rule. The second limitation is based on annual profits: the net financing expenses may not exceed 80% of the annual taxable profits.
France	1,5:1	The deductibility of interest is limited by the application of a cumulative three-step test: <ul style="list-style-type: none"> • This ratio is determined by comparing the loans from associated companies with the equity capital of the borrower; • The total amount of interest paid to associated companies exceeds 25% of its income (before taxation); • And the amount of interest paid to associated companies exceeds the amount of interest received from such associated companies.

Continues on the next page

State	Ratio	Regulation
Greece	3:1	–
Hungary	3:1	This rule does not apply to indebtedness to financial institutions.
Latvia	4:1	The thin capitalization rule does not apply to interest paid: <ul style="list-style-type: none"> • on loans or borrowings from credit institutions resident in Latvia or elsewhere in the EEA or in a country with which Latvia has a tax treaty in force, from the World Bank Group, the Latvian state treasury, the Nordic Investment Bank, the European Bank for Reconstruction and Development, the European Investment Bank or the Council of Europe Development Bank; • by credit institutions or insurance companies • on loans from financial institutions that (i) are resident in Latvia, another EEA country or a country having a tax treaty in force with Latvia, (ii) provide borrowing or financial leasing services, and (iii) are under the supervision of the regulatory authorities of their state of residence.
Lithuania	4:1	This rule is not applicable if a taxpayer proves that the same loan could exist between unrelated parties. Financial institutions providing leasing services are not affected by this rule.
Netherlands	3:1	Excessively financed company exceeds average annual debt a 3:1 debt/equity ratio for tax purposes and the excess is greater than EUR 500,000.
Poland	3:1	–
Romania	3:1	Deductible interest is limited to the reference interest rate of the National Bank of Romania for loans denominated in Romanian lei and to the prescribed annual interest rate for loans denominated in a foreign currency (6% for 2010). Interest expenses that exceed these limits are not deductible.
Portugal	2:1	Thin capitalization rules do not apply to EU resident entities. Interest on excessive debt may be deducted, except where the borrower is a resident of a listed tax haven, if the taxpayer can prove that the loan conditions are comparable to those agreed by non-related parties in comparable transactions under the same circumstances.
Slovenia	5:1	4:1 from 2012. However, if the taxpayer proves that the excess loan could be granted also by a non-related entity, the thin capitalization rules do not apply.
Spain	3:1	–

Source: IBFD Tax Research Platform, 2011.

3.3 The hidden profit distributions

The hidden profit distribution approach treats the excess interest as dividend and conducts taxation accordingly. Generally used principle in this respect is arm's length principle.

Table 4: The hidden profit distribution

State	Exceptions
Austria	The Administrative Court has certain broad and rather liberal guidelines, which are used to determine whether the equity for commercial purposes is adequate for the purpose of taxation. If the equity is inadequate, a portion of the indebtedness to shareholders may be regarded as the equivalent of shareholders' equity. In addition, interest paid on loans that are regarded as "disguised capital" will be treated as hidden profit distribution. Such interest may not be deducted from the taxable income.
Ireland	Interest paid to a 75% non-resident parent or co-subsiary is disallowed and deemed to be a dividend in certain cases. This does not apply to payments made to company's resident in EU Member States, to companies resident in tax treaty countries, or to companies resident in a non-treaty country, provided that the payment was made in the ordinary course of the trade of the paying company and the company elects for the payment not to be treated as a dividend. In addition, subject to conditions, the deemed-dividend provision does not apply to payments of interest by banks to non-resident parent companies.
Luxemburg	Interest payments may be regarded as hidden profit distributions if the lending company is a shareholder of the borrowing company. In practice, the tax administration applies a debt to equity ratio of 85:15 for the holding of participations.

Source: IBFD Tax Research Platform, 2011.

3.4 Earning-stripping rule

The interest stripping rule is not confined to related-party debt. Interest deductibility beyond a critical threshold is restricted, regardless of whether these interest payments are due to related or unrelated parties.

Table 5: Earning-stripping rule

State	Regulation
Germany	Interest expenses may only be deducted up to 30% of earnings before interest, taxes depreciation and amortization (EBITDA). If the interest expenses do not exceed the interest income derived by the paying company, they remain deductible. Generally, an additional safe haven of EUR 3 million is granted for excess interest expenses before the 30% barrier applies. Non-deductible interest expenses may be carried forward indefinitely. With effect from 1 January 2010, unused EBITDA must be carried forward for a maximum period of 5 years.
Italy	Interests are fully deductible up to an amount equal to interest income accrued in the same tax period. Any excess over that amount is deductible to the extent of 30% of "gross operating income" (earnings before interest, taxes, depreciation and amortization, EBITDA). The relevant items are those resulting from the profit and loss account of the company. For companies drafting their financial statements pursuant to IAS, the corresponding items of the profit and loss account are taken into account.

Source: IBFD Tax Research Platform, 2011.

4 Discussion

The brief summary of important trends in European corporate taxation shows that many EU countries experienced a sharp decline in statutory tax rate which is known as the tax competition. The ability of multinational corporations to shift profits without shifting the real investments encouraged the tax authorities to restrict the deductibility of interest payments which are the preferred way of financing corporations because of the tax shield. To avoid higher proportion of debt relative to equity and mainly to protect national tax revenue, thin capitalization rules were tightened in many EU countries.

Recently, the thin capitalization rules have gained new political attention. Despite thin capitalization rules already being in place, a new debate has started on how to prevent multinational firms from shifting a part of their local tax base from high tax to low tax states by setting up appropriate intra-group financial contracts. As a short term consequence, some states started to redesign their thin capitalization rules. The trend of changes referring to interest deduction or thin capitalization rules has been mainly in restricting the fixed ratio approach, limiting deduction up to a certain threshold or changing thin-capitalization rule into earning-stripping rule.

The most radical legislation changes have been made in Denmark, Germany and Italy. In 2007 Denmark extended its thin capitalization rules by introducing an interest stripping rule where interest payments are only deductible up to 80% of EBIT, regardless whether the underlying debt is granted by a related party. In 2008 Germany restricted the tax deductibility of interest payments even if the debt holder is an unrelated party while net interest payments are recognized as an expense in the tax computation up to an amount of 30 percent of EBITDA. However, this restriction does not apply to companies with net interest payments up to 1.000.000 euro or companies that are not affiliated. In 2008 also Italy replaced its thin capitalization rule by a rule stating that interest expenses are tax deductible up to an amount of 30 percent of EBITDA regardless of whether the debt is granted by a related or unrelated party.

The analysis of the data and all the information for some EU countries provides us the conclusion that countries are challenged by regulating thin capitalization rules. They are supposed to balance their short-term tax revenue goals against the need to create an attractive FDI environment. Denmark, Germany and Italy have modified their regulations in recent years as they seek to achieve both objectives. Very similar attentions can be observed in France, the United Kingdom and Denmark.

In the majority of above mentioned countries the development of thin capitalization regulations has gone through the phase of limiting the debt-to-equity ratio of foreign controlled corporations operating within their borders. It turned out to be in contrast with the foreign neutrality tax doctrine within EU at least what has been the reason for several changes and improvements within the last few years. Countries have found it appropriate to extend the initial debt-to-equity ratio rule on all parties; related and unrelated, to put the limit of interest expenses that are deductible without limitation or to change the rule into earning-stripping rule. The reason for this change is possibility of avoiding thin capitalization rule by substituting related debt by unrelated debt. This is not possible under an interest stripping rule, where the only way to prevent any restriction on interest deductibility is to substitute with equity.

Discussing thin capitalization rules and anti-avoidance rules in general we cannot avoid Council Resolution of 8 June 2010 on coordination of the Controlled Foreign Corporation (CFC) and thin capitalization rules within the European Union. The resolution stresses

the fact that administrative cooperation can be of key importance in ensuring the effectiveness of anti-abuse measures and underlines the importance of member states' assistance to each other for the purpose of detecting and combating abusive schemes.

We cannot avoid pointing out the concept of CCCTB (Common Consolidated Corporate Tax Base) as the present and future project of EU Commission lasting from 2004. After the veto of Ireland in 2008, the concept has not been realized as Directive, but the European Commission has not stopped its work. Even more, in August 2010 they have published the working paper (TaxudD1/CCCTB/RD\004\doc\en), prepared to facilitate discussion on possible rules to be included in a possible proposal for a CCCTB Directive.

5 Conclusion

The global economy has put a big pressure on national tax systems. With the mobility of business enterprises and capital investment taxation opportunities rise. The transfer pricing as a method for tax avoidance has been under scrutiny. This trend has been recognized with the increase in the adoption of specific thin capitalization rules, particularly amongst EU member states.

The analyses of the specific anti-avoidance measures, thin capitalization rules among 27 EU member states bring us to conclusion that tax authorities have restricted anti-avoidance rules to defend tax revenues in the last couple of years. The countries choose different way to prevent income shifting from high to low tax countries. As discussed in the article, specific anti-avoidance rules are a matter of national legislation. Those rules are mentioned only in Commentary to Article 9 of OECD Model Tax Convention as far as secondary tax jurisdiction is concerned.

The national freedom to regulate deduction of interests encouraged us to analyse the approaches of thin capitalization 27 EU member states have chosen. The data of IBFD Database analysis of 27 EU member states revealed that 15 member states legalized the fixed ratio approach, 3 the hidden profit distribution, 7 the subjective approach and 2 earning-stripping rule. The important difference between thin capitalization rules and interest stripping rules rests on the fact that the latter is not confined to related-party debt. Interest deductibility beyond a critical threshold is

restricted, regardless of whether these interest payments are due to related or unrelated parties.

The comparison of thin capitalization regulations among above mentioned countries presents the trend of tightening thin capitalization rules. Even more, trend in EU 27 is restricting the interest deduction not only for related but also on unrelated countries. This trend means movement from thin capitalization rule to earning-stripping rule.

Although thin capitalization rules and earning stripping rules are theoretically suitable to get higher tax revenues, it is unclear whether governments can effectively limit inter-company debt shifting. Nevertheless, restricting those rules may create new obstacles to the free movement of capital in the EU.

It would be very interesting to research the connection between thin capitalization restriction and CIT tax rate in the future.

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POVZETEK

INSTITUT TANKE KAPITALIZACIJE V DRŽAVAH EVROPSKE UNIJE

V večini razvitih držav bi davčno politiko v zadnjih nekaj letih lahko opisali kot trend zmanjševanja davčnih stopenj ter širjenja davčnih osnov. Takšen trend se opisuje kot reakcija nacionalnih davčnih politik na mednarodno mobilnost kapitala ter naraščajoči pomen mednarodnih podjetij, ki ga imenujemo tudi davčna konkurenca.

Teoretična in praktična dognanja kažejo, da igrajo davki pomembno vlogo v določanju kapitalske strukture podjetij. Obstoječi davčni sistemi omogočajo zmanjševanje davčne osnove za obdavčitev davka od dohodkov pravnih oseb z obračunanimi obrestmi, medtem ko donosi od kapitala niso davčno odbitna postavka. Takšna asimetrična obravnava različnih možnosti financiranja spodbuja podjetja k dolžniškemu načinu financiranja. Dolžniško financiranje ima namreč pomembno prednost glede na lastniško, saj so obresti, ki jih podjetje plačuje za izposojanje finančnih sredstev davčno odbitna postavka pri obdavčitvi dohodkov (dobičkov) podjetij, medtem ko dividende in nerazdeljeni dobički niso. Prihranek pri plačilu davka od dohodkov pravnih oseb, ki ga podjetja dosegajo z izbiro zadolževanja imenujemo obrestni davčni ščit. To pomeni, da podjetje za vsak evro, izplačan za obresti, raje kot za dividende, prihrani znesek obresti pomnožen s stopnjo davka od dohodkov pravnih oseb.

Navkljub dejstvu, da dolžniški način financiranja prinaša pozitivne davčne učinke, pa lahko na drugi strani prinese tudi številne druge težave. Preveč poseganja po dolžniškem financiranju lahko zapelje podjetje v finančne težave ter se konča celo z bankrotom, ki zopet generira stroške.

Mednarodna podjetja izbirajo kapitalsko strukturo glede na razlike v mednarodnem obdavčevanju. Za razliko od domačih podjetij imajo mednarodna podjetja večje možnosti zunanjega zadolževanja (tudi zunaj meja), tako da lahko posojajo ali si izposojajo od podružnic in s tem optimizirajo svojo kapitalsko strukturo znotraj skupine, da bi tako minimizirali davčno breme celotne skupine (podjetij). Posebej ugodno deluje na poslovanje mednarodnih podjetij dejstvo, da namesto kapitala uporabljajo posojila med podjetji v skupini z namenom prenašanja dobičkov iz držav z visoko v države z nizko obdavčitvijo. Podjetja, še zlasti

pa mednarodna, imajo torej možnost, da premikajo dobičke ne da bi selila proizvodnjo, kar imenujemo davčno načrtovanje.

Davčno načrtovanje so najrazličnejše oblike dejanj in postopkov poslovnih prilagajanj s ciljem zmanjševanja davčnih obremenitev ali povečanja davčnih prihodkov z natančnim namenom minimiziranja neto sedanje vrednosti posameznega posla in posledično celotnega podjetja. Tovrstni postopki davčnega načrtovanja spodbujajo davčne uprave, da branijo davčne prihodke z iznajdbo pravil proti davčnemu izogibanju.

Pred leti so evropske države začele pravila tanke kapitalizacije, ki sodijo v skupino posebnih pravil proti davčnemu izogibanju, zaostrovati. Kot izogibanje višjemu razmerju dolga relativno glede na kapital, še zlasti pa z namenom ščitenja nacionalnih davčnih prihodkov, je bilo na ravni EU za obdavčevanje mednarodnih podjetij postavljeno tako imenovano tržno načelo. Načelo je regulirano v 9. členu Vzornega davčnega sporazuma OECD ter pokriva področje cen, po katerih se vršijo transakcije med mednarodnimi podjetji za namene obdavčevanja. Posledično pripravljajo politike ter zakonodajne službe posameznih držav najrazličnejše mere in davčne sisteme, s ciljem da se ubrani davčne prihodke in doseže dolgoročne učinke.

V zadnjem času so pravila tanke kapitalizacije zasedla posebno mesto zanimanja politike. Poleg že obstoječih pravil se je začela debata o tem, kako preprečiti mednarodnim podjetjem, da bi prenašala dele lokalnih davčnih osnov iz držav z visokimi v države z nizkimi davčnimi stopnjami z ustvarjanjem primernih finančnih pogodb znotraj podjetij v skupini. Kratkoročne posledice slednjega so preoblikovanja nacionalnih pravil tanke kapitalizacije v nekaterih državah. Trend teh sprememb se nanaša zlasti na odbitke obresti ali pravila tanke kapitalizacije, ki se spreminjajo bodisi v zaostrovanja razmerja med dolgom in kapitalom, omejevanja odbitka obresti do določene meje ali spremembe pravila tanke kapitalizacije v t.i. "earning-stripping rule".

Analiza pravil tanke kapitalizacije med 27 državami EU pripelje do sklepa, da so davčne uprave zaostrole pravila tanke kapitalizacije zaradi zaščite davčnih prihodkov v zadnjih nekaj letih. Vsaka država po svoje se je borila proti premikanju dobičkov iz držav z visoko v države z nizko stopnjo obdavčitve, pri čemer vlada nacionalna svoboda, da vsaka država sama uredi možnosti odbitka obresti kot davčno priznanega odhodka. IBFD-jeva baza podatkov je pokazala, da med 27 državami

članicami EU, 15 držav regulira fiksno razmerje med dolgom in kapitalom (Belgija, Bolgarija, Češka, Danska, Francija, Grčija, Madžarska, Latvija, Litva, Nizozemska, Poljska, Romunija, Slovenija, Španija in Portugalska), 3 uporabljajo koncept distribucije skritih dobičkov (Avstrija, Irska in Luksemburg), 7 ima subjektivni pristop (Ciper, Estonija, Finska, Malta, Slovaška, Anglija ter Švedska), medtem ko 2 državi uporabljata t.i. "earning-stripping rule" (Nemčija in Italija). Razlika med tanko kapitalizacijo in t.i. pravilom "earning stripping" je v tem, da slednje ni omejeno zgolj na povezane osebe, temveč velja za vse. To pomeni, da so obresti kot davčno odbitna postavka limitirane ne glede na to ali so te obresti posledica izposojanja od povezane ali nepovezane osebe.

Primerjava pravil tanke kapitalizacije v državah EU 27 izkazuje trend zaostrovanja pravil proti davčnemu izogibanju. Celo več, trend kaže omejevanje odhodka iz naslova obresti ne le za povezane, temveč celo za nepovezane osebe.

Največje spremembe so se zgodile na Danskem, v Nemčiji in Italiji. V letu 2007 je Danska zaostрила svoja pravila tanke kapitalizacije tako, da je uzakonila "earning-stripping rule", s čimer je omejila zgornjo mejo davčno priznanega odhodka iz naslova obresti na največ 80% dobičkov pred obrestmi in davki (EBIT), ne glede na dejstvo ali za osnovni dolg jamči povezana oseba. Leta 2008 je Nemčija zaostрила pravila davčnega odbitka obresti tudi v primerih, ko gre za dolg od nepovezane osebe, pri čemer so odhodki iz naslova obresti priznani do največ 1.000.000 evrov. Podobno je pravila tanke kapitalizacije zaostрила Italija, kjer so odhodki iz naslova obresti davčno odbitna postavka do zneska 30 % dobičkov pred obrestmi, davki in amortizacijo (EBITDA), ne glede na dejstvo, da za dolg jamči povezana ali nepovezana oseba.

Rezultati analize so pokazali, da gredo izzivi na področju davčne politike oz. javnih sredstev za države EU 27 v smeri regulacije pravil tanke kapitalizacije. Treba bo namreč uskladiti cilje kratkoročnih davčnih prihodkov na eni ter potrebe po ustvarjanju okolja za privabljanje neposrednih tujih investicij na drugi strani. Spremembe na področju urejanja pravil proti izogibanju davkom so izkoristile Italija, Nemčija in Danska, ki so sistem preprečevanja izogibanju davkom zaradi dolžniškega financiranja spreminjale s ciljem doseganja obeh zastavljenih ciljev. Podobno se dogaja v Franciji, Veliki Britaniji in na Danskem.

V kontekstu primerjave regulacij pravil tanke kapitalizacije med državami EU je treba omeniti Resolucijo Sveta z dne 8. 6. 2010 o koordinaciji kontroliranih tujih podjetij ter pravil tanke kapitalizacije znotraj EU. Resolucija poudarja, da je lahko sodelovanje ključnega pomena pri zagotavljanju učinkovitosti pravil proti davčnemu izogibanju ter poudarja pomembnost medsebojne pomoči držav članic pri ugotavljanju in boju proti zlorabam.

Prav tako je v kontekstu pravil proti davčnemu izogibanju treba omeniti tudi koncept konsolidirane davčne osnove za podjetja, ki je pretekli, vendar tudi prihodnji projekt evropske komisije. Navkljub vetu Irske k predlogu Direktive o konsolidirani davčni osnovi podjetij (CCCTB Directive) v letu 2008 se projekt ni zaključil. Celo več, avgusta 2010 je evropska komisija objavila delovno gradivo (TaxudD1/CCCTB/RD\004\doc\en), da bi olajšala razpravo o pravilih, ki naj se vključijo v predlog CCCTB Direktive.

In končno. Navkljub dejstvu, da so pravila tanke kapitalizacije ter t.i. "earning-stripping rule" teoretično primerna za pobiranje višjih davčnih prihodkov, ostaja odprto vprašanje ali lahko vlade oz. zakonodajalci učinkovito omejujejo premikanje dobičkov med podjetji oz. med državami. Odprto ostaja namreč vprašanje, ali ne pomeni zaostrovanje pravil proti davčnemu izogibanju oviro za prost pretok kapitala v EU.

Zaposlovanje vrhunskih športnikov v javni upravi na preizkušnji

UDK: 331.5:796.071.2:35

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IZVLEČEK

Med vsebine ter strokovne in razvojne naloge, ki predstavljajo obstoječo podporo države športnikom sodi tudi zaposlovanje vrhunskih športnikov v državni upravi. Zaposlovanje je urejeno s Sporazumom o zaposlovanju vrhunskih športnikov in trenerjev v Ministrstvu za obrambo – Slovenski vojski, Ministrstvu za notranje zadeve – Policiji in Ministrstvu za finance – Carinski upravi, ki so ga ministri resorjev, ki zaposlujejo športnike in trenerje, minister za šolstvo in šport ter predsednik Olimpijskega komiteja podpisali maja leta 1996, ga novelirali leta 2007 in z aneksom dopolnili leta 2009. Na tak način je v letu 2011 v slovenski državni upravi zaposlenih 116 športnikov in trenerjev. Glede na trenutne gospodarske razmere v državi, ko se kot eden od ukrepov za stabiliziranje razmer zahteva zmanjšanje števila zaposlenih v javni upravi, je tudi navedeni sporazum na veliki preizkušnji. Članek ob pomenu vrhunškega športa za državo predstavlja pravne dileme in težave pri dosednji realizaciji sporazuma in skozi proučevanje zaposlovanja vrhunskih športnikov v državni upravi nakaže potrebne rešitve, ki bi nedvomno dobremu ukrepu podpore države vrhunskemu športu dal stabilno in trajno sistemsko rešitev, ki ne bi bila odvisna od volje aktualne vlade ali ekonomskih razmer v državi. To je korektna opredelitev materije v Zakon o javnih uslužbencih in posledično opredelitev števila delovnih mest v Kadrovskega načrtu Vlade Republike Slovenije.

Ključne besede: šport, vrhunski športniki, zaposlovanje vrhunskih športnikov v javni upravi

JEL: M59

1 Uvod

Šport lahko razumemo kot družbeni, ekonomski in medijski fenomen. Šport posega v vse pore družbenega življenja in vključuje posameznike,

Repansek, D. (2011). Zaposlovanje vrhunskih športnikov v javni upravi na preizkušnji. *Uprava*, IX(2), 105–129.

ožje in širše družbene skupine ter različne sloje prebivalstva. Če povzamemo opredelitev športa, kot je zapisana v Nacionalnem programu športa¹ (2000): »Šport je pomembna dejavnost družbe, njene dinamike in del splošne kulture, ki bogati kakovost življenja«, je šport sestavljen družbeni pojav. Njegovo mesto in vloga v družbi sta najbolj neposredno odvisna od stopnje razvitosti družbene zavesti, od potencialnih vrednot športne aktivnosti in realnih družbenih odnosov do teh vrednot. Pomen športa danes je v nekaterih pogledih skorajda nedoumljiv. Njegova ekonomska vrednost je neizračunljiva, njegova vrednost za človekovo fizično in duševno zdravje nepredstavljiva.

Iz sklepne ugotovitve analize, ki je bila narejena z namenom ugotavljanja učinkov NPŠ za desetletno obdobje od njegove uveljavitve² (Kolar et al., 2010, str. 339) izhaja, da kazalniki rasti in razvoja slovenskega športa kažejo, da je šport v Sloveniji v zadnjem desetletju napredoval tako z vidika obsega športne dejavnosti in športno dejavnih, kakor tudi z vidika kakovosti doseženih športnih rezultatov v mednarodnem prostoru. Stalno je naraščalo število vrhunskih športnikov. Vrhunski lahko postanejo le, če dosegajo oziroma so dosegli vrhunske, svetovno primerljive športne rezultate. Analiza kaže, da so se izboljšali pogoji za delo v vrhunskem športu (materialna baza, športna infrastruktura, strokovni kadri, znanstveno raziskovalna dejavnost). Ugotovljene so bile pozitivne povezave med organiziranostjo športa oziroma izvajalci športa, sprejemanjem in izvajanjem sistemskih ukrepov, ki temeljijo na zagotavljanju finančnih virov (sofinanciranje športa) in razvojem vrhunškega športa ter njegovimi učinki na vrhunske športne dosežke.

Zelo pomembno področje športa za družbo, nacijo in posameznika je vrhunski šport. Je dejavnost, ki je predvsem zasebna dobrina, vendar je zaradi pozitivnih eksternalij na celotno družbo tudi javna dobrina, zato se financira iz javnih financ (Kolar, 2005, str. 43). Država in lokalne skupnosti izvajajo sistemske ukrepe na podlagi temeljnega pravnega akta za šport, Zakona o športu³ in temeljnega strateškega dokumenta v športu, NPŠ. Z NPŠ je opredeljeno uresničevanje javnega interesa na področju

¹ Nacionalni program športa v Republiki Sloveniji, Uradni list RS, št. 24/2000, 31/2000 (v nadaljevanju: NPŠ 2000)

² Za obdobje od leta 2000, ko je bil NPŠ v Državnem zboru Republike Slovenije sprejet, do izteka njegove veljavnosti leta 2010.

³ Zakon o športu, Uradni list RS, št. 22/98, 61/2006 (v nadaljevanju: Zspo)

športa, z njim država soustvarja pogoje za razvoj športa. Med drugim z vsebinami ter s strokovnimi in razvojnimi nalogami določa način podpore tako uveljavljenim, vrhunskim športnikom, kot tudi mladim talentom. Država ima z ZSpo in NPŠ sprejete številne sistemske ukrepe za podporo slovenskim športnikom. Pa naj si gre za čas njihove aktivne športne poti, kot za čas po njihovi končani športni karieri. Vprašanje, ali je ta podpora zadostna, se vedno znova pojavlja, ko ti dosežejo odmevne mednarodne športne rezultate.

Namen prispevka je predstaviti pomen enega izmed podpornih ukrepov, ki jih je država sprejela za podporo slovenskemu vrhunskemu športu. Gre za zaposlovanje vrhunskih športnikov v slovenski državni upravi. Kriza oziroma slabšanje gospodarskih razmer, vse bolj narekuje poseg v zmanjševanje pravic zaposlenih v državni upravi, v dosledno izvajanje že pred leti sprejetega varčevalnega ukrepa vlade "minus 1 %". Ker so tudi zaposleni vrhunski športniki v državni upravi javni uslužbenci, vse kaže, da se bo ukrep dotaknil tudi njih. Članek predstavlja pojmovanje vrhunškega športa in njegovo vrednotenje, pomen in namen zaposlovanja vrhunskih športnikov v državni upravi, predstavlja pravne dileme v zvezi z dosedanja prakso izvajanja sporazumov oziroma nemotenim izpolnjevanjem veljavnega sporazumoma, ter s konkretnimi predlogi nakaže pot za izboljšanje stanja.

2 Vrhunstvo v športu

Vrhunski šport je posebna oblika športne dejavnosti, s katero vrhunski športniki dosegajo športne rezultate, ki višajo meje zmožnega, dokazujejo zgornje meje človeških psihofizičnih sposobnosti. Pomeni eno najvišjih oblik človekove ustvarjalnosti na področju športa. Je najvišja stopnja tekmovalnega športa, za katerega je značilna težnja po doseganju najboljših športnih rezultatov v posameznih panogah. Kolar in sodelavci (2007, str. 51) opredeljujejo vrhunski šport kot multiplikator in generator množičnih oblik športnega udejstvovanja (pasivnega in aktivnega), sredstvo za potrditev narodne identifikacije (prek vrhunškega športa narod dokaže, kaj zmore), promotor vseh oblik množičnega športa, sredstvo oglaševanja za industrijo in storitve, promotor države in sredstvo dokazovanja športnikov in vseh, ki z njimi delajo. Če smo v preteklosti za vrhunski šport trdili, da je v bistvu igra, se zdaj zavedamo, da gre za trdo ustvarjalno delo, v katerem se prepletajo osebni, narodni, gospodarski, politični in drugi interesi (Bednarik et al. v: Jurak, 2007, str. 39). Vrhunski

šport je tudi področje, na katerem se lahko prek dosežkov na mednarodni ravni uresničujejo koristi države (npr. prepoznavnost). Z njim se potrjujejo družbeni sistemi in države ter posamezniki.

Vrhunski šport je v Sloveniji dogovorno opredeljen v 2. členu ZSpo (1998, str. 7–8; NPŠ, 2000, str. 42) kot »priprava in tekmovanje športnikov, ki imajo po merilih Olimpijskega komiteja Slovenije (v nadaljevanju: OKS) za kategorizacijo športnikov v Republiki Sloveniji status mednarodnega, svetovnega in perspektivnega razreda«.

»Če osvetlimo dogajanje z lučjo ekonomskih teorij, ugotovimo, da športni trening, kot produkcija, začne proces, v športnem tekmovanju se vrši distribucija športnega rezultata in z gledanjem športnega dogodka se izvrši njegova poraba« (Dvoržak et al., 2001, str. 3). Športni dosežek torej ni cilj samo športnika. Po Globočniku (2008, str. 11) vrhunski športnik v športni karieri podredi treningom in seveda posledično končnemu cilju – tekmovanjem za doseg vrhunskih športnih rezultatov, večji del svojega časa. V življenju vrhunskega športnika ni prostora (ali ge je zelo malo) za kakršnokoli drugo dejavnost, v neenakem položaju so tudi pri razvoju poklicne kariere. Športniki preživijo večino leta na pripravah in v tekmovalni sezoni na tekmovanjih. Za tekmovalca v zimskem športu, denimo biatlonu, to pomeni povprečno letno odsotnost okoli 200 dni. Preostalih 165 dni pa poteka trening doma.

3 Vrednotenje tekmovalne uspešnosti v slovenskem športu

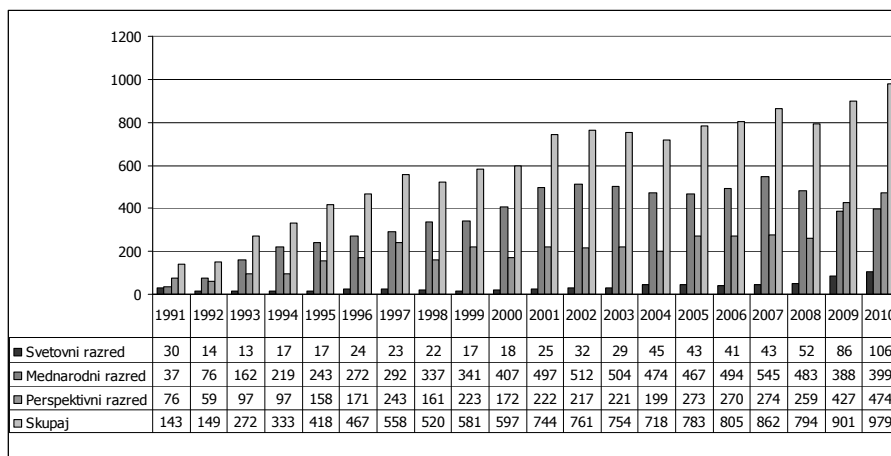
Vrednotenje tekmovalne uspešnosti v posameznih športnih panogah v Sloveniji poteka na podlagi Kriterijev za kategorizacijo športnikov v Republiki Sloveniji (Kolar et al., 2007a, 2007b). Odbor za vrhunski šport (OVŠ) pri Olimpijskem komiteju Slovenije – Združenju športnih zvez (OKS – ZŠZ) dvakrat letno objavi seznam vrhunskih športnikov, ki so si na podlagi doseženih rezultatov in v skladu z veljavnimi kriteriji pridobili status kategoriziranega športnika Republike Slovenije svetovnega, mednarodnega ali perspektivnega razreda⁴.

⁴ Pogoji, pravila in kriteriji za registriranje in kategoriziranje športnikov v Republiki Sloveniji (OKS – ZŠZ, zadnji tovrstni dokument št. 30303-2-14/9 z dne 11. 6. 2010; pogoji, pravila in kriteriji so bili od leta 1993 nekajkrat spremenjeni, vendar ne v tolikšni meri, da bi spremembe opazno vplivale na dinamiko večanja števila vrhunskih športnikov, kot je razvidna iz grafikona 1).

Naziv "športnik perspektivnega razreda" pridobi športnik mladinec ali kadet (pod enakimi pogoji tudi mlajši član ali član) na osnovi uvrstitve na svetovnih in evropskih mladinskih prvenstvih, svetovnih ter evropskih rang lestvicah in doseženega svetovnega ali evropskega mladinskega rekorda⁵.

"Športnik mednarodnega razreda" je naziv, ki ga dobi športnik na osnovi uvrstitve na olimpijskih igrah (OI), svetovnih ali evropskih prvenstvih (SP, EP), svetovnih igrah, sredozemskih igrah, svetovnih pokalih, tekmovanjih za veliko nagrado, doseženega svetovnega ali evropskega rekorda v neolimpijskih⁶ disciplinah, svetovnih in evropskih rang lestvicah, svetovnih in evropskih klubskih prvenstvih. Ta naziv dobi tudi športnik invalid na osnovi uvrstitve na paraolimpijskih igrah, olimpijskih igrah gluhih, svetovnih, evropskih prvenstvih ali za drug dosežek, opredeljen v kriterijih.

Grafikon 1: Kategorizirani vrhunski športniki v obdobju 1991–2010



Vir: MŠŠ, OKS – ZŠZ (1999–2011)

Naziv "športnik svetovnega razreda" pridobi športnik na osnovi uvrstitve na OI, SP, za osvojeno medaljo na EP, svetovnih igrah, za končno uvrstitev v svetovnem pokalu ali nekaterih drugih primerljivih tekmovanjih ter za dosežen svetovni ali evropski rekord. Ta naziv dobi tudi športnik invalid za osvojeno medaljo na paraolimpijskih igrah in

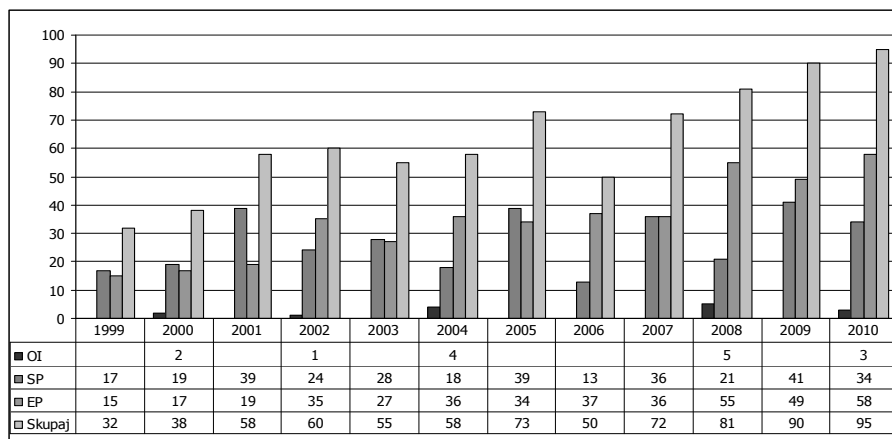
⁵ Ali drug dosežek, če je to v kriterijih za posamezno športno panogo ali disciplino posebej opredeljeno.

⁶ Skladno s Pravili Olimpijskega komiteja Slovenije (OKS) delimo športne panoge in športne discipline v "olimpijske" in "neolimpijske". Olimpijske so tiste, ki so na rednem programu zimskih in letnih olimpijskih iger (OI).

olimpijskih igrah gluhih. Status športnika svetovnega razreda traja štiri leta.

Število vrhunskih športnikov svetovnega, mednarodnega in perspektivnega razreda je, kot je razvidno iz grafikona 1, med leti 1991 in 2010 v Sloveniji neprestano in konstantno naraščalo. Njihovo število se je skoraj početrilo. Iz 143 je naraslo na 979, kar pomeni, da je bilo tolikšno število športnikov udeležencev velikih mednarodnih športnih prireditev⁷ kjer so dosegli vrhunski športni dosežek. To pomeni, da so naši vrhunski športniki v vse večjem številu dosegali mednarodno primerljive rezultate (le tako so lahko bili razvrščeni, kategorizirani), ki so predstavljeni v grafikonu 2. Prikazana je rast števila osvojenih medalj slovenskih športnikov na OI, SP in EP.

Grafikon 2: Osvojene medalje slovenskih vrhunskih športnikov v obdobju 1991–2010



Vir: MŠŠ, OKS – ZŠZ (1999–2011)

Grafikon 2 kaže vzpon kakovosti slovenskega športa, k čemur so nedvomno prispevali tudi sistemski ukrepi, ki izhajajo iz SZpo in NPŠ, med njimi tudi zaposlovanje vrhunskih športnikov v organih državne uprave.

⁷ Pred podrobnejšim opisom navedenih kategorizacij po razredih je vredno predstaviti tudi velike mednarodne športne prireditve, na katerih se vrhunski rezultati lahko dosegajo in so merilo za vrednotenje in posledično kategorizacijo. Velike mednarodne športne prireditve po ZSpO (1998) so: OI, sredozemske igre, univerziade, svetovna in evropska prvenstva (tudi mladinska), svetovni pokali in *grand prix* mitingi in turnirji.

4 Sistemski ukrepi podpore države vrhunskemu športu

Z ZSpo (1998), z vsebinami ter strokovnimi in razvojnimi nalogami NPŠ (2000) in drugimi predpisi je država za podporo športnikom, predvsem perspektivnim in vrhunskim športnikom, sprejela oziroma predpisala številne neposredne ali posredne ukrepe, namenjene tako uveljavljenim, vrhunskim športnikom, kot tudi mladim talentom. Aktualne pravice vrhunskih športnikov so (MŠŠ, 2009b):

- plačilo prispevkov za obvezno zdravstveno zavarovanje;
- plačilo prispevkov za nezgodno zavarovanje;
- plačilo prispevkov za starševsko varstvo;
- plačilo prispevkov za pokojninsko in invalidsko zavarovanje;
- sofinanciranje nadstandardnega zdravstvenega zavarovanja vrhunskih športnikov – tudi za vrhunske športnike mednarodnega in perspektivnega razreda;
- plačilo prehodnih in obdobjnih zdravstvenih pregledov športnikom, ki nastopajo na uradnih tekmovanjih nacionalnih panožnih športnih zvez;
- sofinanciranje priprav in nastopov mlajših, mladinskih in članskih reprezentanc na EP, SP, OI in sredozemskih igrah, mladinskih športnih igrah Alpe Jadran, evropskem olimpijskem festivalu mladih in mladinskih igrah treh dežel;
- sofinanciranje štipendij nadarjenih športnikov dijakov in študentov;
- zagotavljanje zdravstvenega varstva športnikov:
- zagotavlja se posebna organizacijska oblika izobraževanja mladih športnikov; usmerjenih v doseganje vrhunskih rezultatov, s čimer jim je omogočeno ob športnih uspehih tudi uspešno izobraževanje (športni oddelki v gimnazijah);
- prilagajanje šolskih obveznosti športnikov učencev, dijakov in študentov;
- sofinanciranje plač trenerjev v panožnih športnih šolah (država zagotavlja trenutno 126 trenerjem 80 % plače);
- sofinanciranje meritev ugotavljanja in spremljanja ravni pripravljenosti športnikov na Inštitutu za šport Fakultete za šport;

- celotna športna kariera se lahko športniku tudi šteje kot delovna doba;
- sofinanciranje športne infrastrukture;
- zagotavljanje izjemne pokojnine osebam, ki imajo posebne zasluge na področju športa (osvojena medalja na OI, SP ali EP, ali dosežen svetovni rekord v članski konkurenci, ob izpolnitvi pogojev za starostno pokojnino);
- zaposlovanje vrhunskih športnikov v državni upravi.

Skladno s sklepom ministra pristojnega za šport⁸ (MŠŠ, 2009a) se za urejanje statusa vrhunskim športnikom po končani športni karieri zagotavlja:

- brezplačne programe usposabljanja in brezplačne licenčne seminarje za vrhunske športnike, ki se lahko za strokovno (trenersko in drugo) delo v športnih organizacijah po športni karieri brezplačno usposobijo in brezplačno pridobijo licenco za opravljanje strokovnega dela v športu. V ta namen se zagotavljajo sredstva iz Evropskega socialnega sklada (ESS). II. stopnja usposobljenosti je tudi pogoj za pridobitev statusa zasebnega športnega delavca, in s tem je omogočena skrb za socialno varnost (zdravstveno, pokojninsko, invalidsko zavarovanje);
- plačilo šolnin vrhunskim športnikom – z vsakoletnim razpisom za izobraževanje odraslih MŠŠ od leta 2009 v celoti sofinancira izobraževanje vrhunskih športnikov, ki po 25. letu starosti z zaključenim letnikom ali izobraževanjem znotraj srednješolskega izobraževanja pridobijo stopnjo izobrazbe. Po letu 2011 se bo vrhunskim športnikom financiralo tudi šolnine za pridobitev višješolske izobrazbe;
- finančna nagrada vrhunskim športnikom in njihovim trenerjem za športne dosežke (medalje na EP, SP in OI) se izplačuje iz državnega proračuna neposredno športnikom (nagrada ne gre v dohodninsko osnovo).

V praksi se nemalokrat ugotavlja, da se športniki podpore in "bonitet", ki jim jih država daje in zagotavlja, sploh ne zavedajo.

⁸ Ukrepi za urejanje statusa vrhunskih športnikov po končani športni karieri (MŠŠ, 2009).

5 Analiza zaposlovanja vrhunskih športnikov in trenerjev v državni upravi

V tem prispevku se bomo omejili zgolj na sistemski ukrep "zaposlovanje vrhunskih športnikov v državni upravi", ki je še posebej zanimiv v luči varčevalnih ukrepov, ki jih mora država sprejeti v krizni gospodarski in ekonomski situaciji.

V Sloveniji se je zaposlovanje vrhunskih športnikov pojavilo po osamosvojitvi. Prvi vrhunski športniki so bili zaposleni v sredini leta 1991. Takrat je bilo na podlagi sklepa vlade zaposlenih šest športnikov v športni enoti takratne teritorialne obrambe. Pozneje je športna enota postala sestavni del vojaške policije v slovenski vojski. Februarja 1993 so zaposlili prve vrhunske športnike v slovenski policiji, kar se šteje za prve zaposlitve vrhunskih športnikov v državni upravi. V carini se v tistih letih vrhunski športniki še niso zaposlovali. Vse te zaposlitve so bile izvedene predvsem na podlagi dogovorov med panožnimi športnimi zvezami in ministrstvi brez prave pravne podlage.

Ob spoznanju, da je lahko vrhunski športnik uspešen le, če ima zagotovljene ustrezne materialne in druge pogoje⁹ za nemoteno treniranje in tekmovanje ter zagotovljeno socialno in ekonomsko varnost, je država v vrhunskih športnikih prepoznala tudi lastni interes in pričakovane splošne učinke njihovega zaposlovanja v državnih organih (MŠŠ et al., 2007, str. 1):

- promocija države s športom (ali preko njega); športniki k prepoznavnosti države pripomorejo z vrhunskimi dosežki (naslov olimpijskega ali svetovnega prvaka),
- dvigovanje ugleda države,
- reševanje programskih zasnov.

Slovenija je sledila zgledom večine držav Evropske unije. Maja leta 1996 je bil podpisan prvi Sporazumom o zaposlovanju vrhunskih športnikov in trenerjev v Ministrstvu za obrambo – Slovenski vojski, Ministrstvu za notranje zadeve – Policiji in Ministrstvu za finance – Carinski upravi (v nadaljevanju: sporazum). Sporazum so podpisali ministri resorjev, ki zaposlujejo športnike in trenerje, minister za šolstvo in šport ter predsednik OKS. V sporazumu je bilo predvideno, da se bo do leta 2000

⁹ Mednje sodijo: organizacijska struktura športnega okolja, športna infrastruktura, vrhunsko usposobljeni strokovni kadri (trenerji), interdisciplinarna strokovna podpora ipd.

v državni upravi postopoma zaposlilo 200 vrhunskih športnikov. Ob podpisu sporazuma je bilo v Sloveniji kategoriziranih približno 450 vrhunskih športnikov (glej grafikon 1). V sporazumu so bili zapisani tudi predvideni učinki za šport (MŠŠ et al., 2007, str. 2):

- podpora vrhunskim športnikom in trenerjem, ki deluje v tržno manj zanimivih športih; športniki in trenerji se lahko v celoti posvetijo treningom in tekmovanjem,
- izboljšanje splošnih pogojev dela v športu,
- dvig rezultatov in promocija športa.

Svoj interes pri tem so prepoznale tudi državne institucije, ki športnike zaposlujejo (MŠŠ et al., 2007, str. 2):

- promocija državnih institucij na SP, mednarodnih tekmovanjih in na SP teh institucij; policijsko in vojaško SP v letnih in zimskih športih ter svetovne igre carinikov,
- večja prepoznavnost institucij, v katerih so zaposleni vrhunski športniki in trenerji (prisotnost v medijih),
- povečana delovna usposobljenost posameznih institucij oziroma njihovih enot (nasveti in pomoč vrhunskih športnikov pri pripravi programov usposabljanja),
- možnost, da se delavci teh institucij identificirajo z vrhunskimi športniki, promocija športa in njegovih učinkov v posameznih organih,
- višja raven športne kulture v organih oziroma institucijah, kjer je dobra psihofizična priprava eden izmed osnovnih pogojev uspešnega dela.

Prvo merilo za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi je bilo v skladu s sporazumom merilo športne kakovosti, na podlagi katerega nastaja prednostna lista za zaposlovanje, ki jo pripravlja OKS. Pri tem je glavni kriterij kategorizacija vrhunskih športnikov na podlagi mednarodno primerljivih športnih rezultatov posameznega športnika. Drugo je merilo prednosti športne panoge, tretje pa merilo posebnih potreb ministrstva.

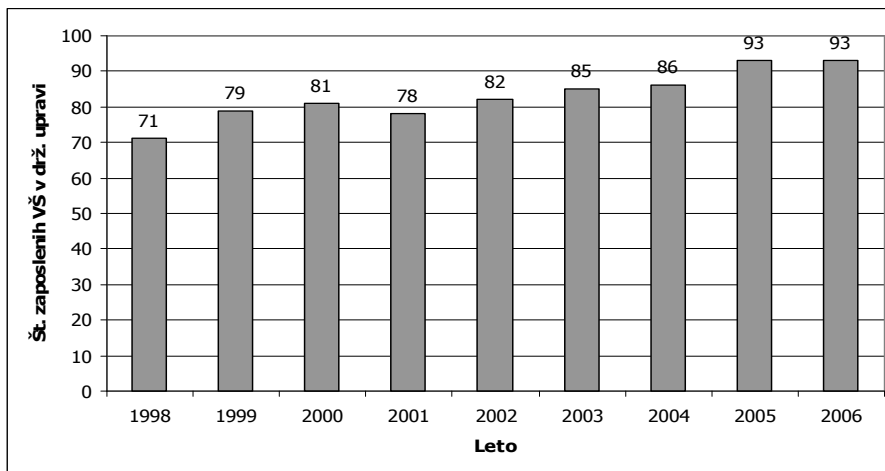
Splošni pogoji za zaposlitev športnika, določeni v sporazumu (MŠŠ et al., 2007, str. 4–5), so:

- kandidat mora imeti izpolnjene pogoje za pridobitev statusa kategoriziranega športnika, olimpijskega, svetovnega, mednarodnega ali perspektivnega razreda,
- kandidat mora imeti končano najmanj srednjo izobrazbo,
- pri kandidatu se upoštevajo doseženi rezultati na SP in EP v zadnjih dveh sezonah.

Splošni pogoji za trenerje, ki lahko kandidirajo za zaposlitev v državni upravi (MŠŠ et al., 2007, str. 4), pa so:

- kandidat mora imeti ustrezno strokovno usposobljenost in izdano licenco,
- prednostno se upoštevajo kandidati, ki so trenerji državnih reprezentanc, oz. da imajo pod svojim okriljem več kategoriziranih športnikov, ki imajo status svetovnega, mednarodnega ali perspektivnega razreda.

Grafikon 3: Število zaposlenih športnikov po sporazumu v letih 1998–2006



Vir: MŠŠ, OKS – ZŠZ (2011)

Grafikon 3 prikazuje gibanje števila vrhunskih športnikov zaposlenih v državni upravi v obdobju od podpisanega prvega sporazuma o zaposlovanju leta 1996 do leta 2007. Kljub temu, da se je slovenski vrhunski šport izredno razmahnil, tako da se je za več kot dvakrat povečalo število vrhunskih športnikov¹⁰ (leta 1996 jih je bilo 467, leta

¹⁰ Takšno povečanje števila vrhunskih športnikov je lahko temeljilo ne doseganju svetovno primerljivih športnih rezultatov ter s tem izpolnjevanjem pogojev navedenih v poglavju 3.

2007 862 – glej grafikon 1), zaposlovanje že v teh letih ni sledilo sporazumu. Do leta 2000 so jih ministrstva od predvidenih 200 zaposlila le 81 (grafikon 3).

Zato je bil leta 2006 usklajen in pripravljen, leta 2007 pa podpisan, nov Sporazum o zaposlovanju vrhunskih športnikov in trenerjev v MORS – Slovenski vojski, MNZ – Policiji in MF – Carinski upravi. Poleg resornih ministrov ministrstvo "zaposlovalcev" ga je podpisal tudi minister za javno upravo. Ministri so se ponovno obvezali, da bodo v prvem sporazumu (1996) določeno število vrhunskih športnikov in trenerjev, zaposlenih v državni upravi (200), postopoma uresničili do leta 2015. Ob podpisu novega sporazuma je državna uprava zaposlovala 98 športnikov.

Posledično je bil leta 2008 dopolnjen Zakon o javnih uslužbencih (ZJU, Ur. list RS, št. 69/2008), kjer je bila 1. odstavku 68. členu¹¹ dodana 7. točka, ki zaradi podpore in promocije vrhunskega športa omogoča zaposlovanje vrhunskih športnikov ali trenerjev za določen čas. 69. členu (trajanje delovnega razmerja za določen čas) je bila dodan 7. odstavek, ki določa sklenitev delovnega razmerja za eno leto z možnostjo podaljšanja, pri čemer mora predstojnik organa, ki športnika ali trenerja zaposluje, preveriti izpolnjevanje pogojev (predvsem statusa vrhunskega športnika) za zaposlitev oziroma njeno podaljšanje. S tem so postali vrhunski športniki in trenerji, zaposleni v javni upravi, javni uslužbenci z vsemi pravicami in obveznostmi.

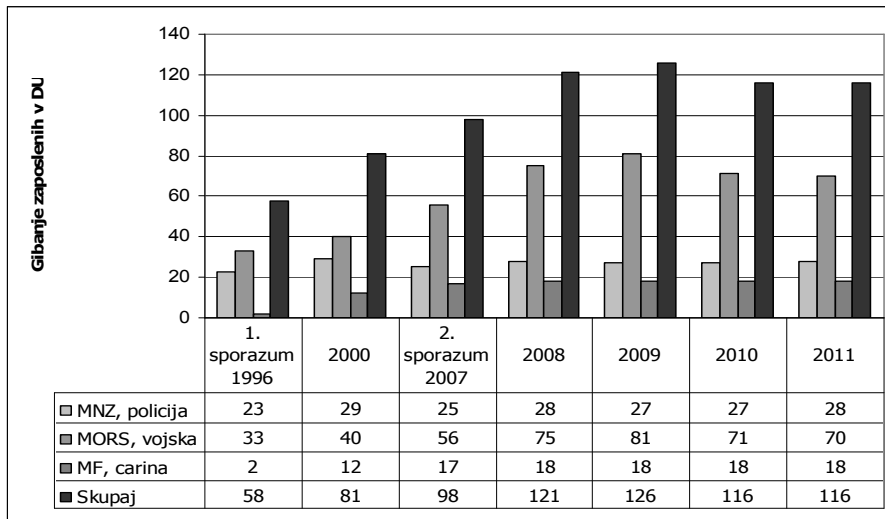
Iz grafikona 4 je razvidno gibanje zaposlovanja športnikov in trenerjev v državni upravi od leta 1996, ko je bil podpisan prvi sporazum, preko leta 2000 do leta 2007, ko je bil sporazum prenovljen, in trenutno stanje (leto 2011) zaposlenih športnikov in trenerjev. Veljavni sporazum predvideva, da se bo v skladu z novimi možnostmi za zaposlitev do leta 2010 povečalo število zaposlenih športnikov v slovenski vojski za najmanj 44, torej na 100. Kot prikazuje grafikon 4, je bilo konec leta 2009 v vojski dejansko zaposlenih 81 športnikov, v vseh treh resorjih, ki zaposlujejo, skupaj 126, v začetku leta 2011 pa 116.

Sporazum iz leta 2007 poleg meril za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi, ki jih povzema po sporazumu iz leta 1996, opredeljuje tudi obveznosti teh športnikov in trenerjev (npr. da morajo nastopati na mednarodnih policijskih ali vojaških prvenstvih

¹¹ IX. Poglavje - Delovno razmerje za določen čas.

z identifikacijo in simboli ministrstev oz. organov, za katere tekmujejo, da morajo sodelovati na promocijskih, propagandnih, protokolarnih in drugih prireditvah, ki jih organizirajo ministrstva, da morajo pomagati pri usposabljanju profesionalnih delavcev, skrbeti za ohranjanje osebne športne pripravljenosti...) in njihove pravice (pravica do ustrezne tekmovalne opreme, do nemotenega treninga, do nastopanja za klub in panožno zvezo, do usposabljanja in izpopolnjevanja ...).

Grafikon 4: Gibanje zaposlovanja vrhunskih športnikov v državni upravi



Vir: MŠŠ, OKS – ZŠZ (2011)

Glede na gospodarske razmere v državi v tem času, se je koordinacijsko telo (v nadaljevanju: koordinacija) za zaposlovanje športnikov in trenerjev¹², ki je zadolženo za predlaganje športnikov, ki naj bi se zaposlili v državni upravi, glede na odstopanje dogovorjenega zaposlovanja (predvsem Ministrstva za obrambo, v nadaljevanju: MORS), veliko ukvarjala z vprašanjem oziroma zahtevo po zmanjšanju zaposlenih športnikov in trenerjev v državni upravi. Pri tem je koordinacija iskala tudi rešitve, kako zagotoviti, da število zaposlenih športnikov in trenerjev ne bi bilo tako odvisno od gibanja zaposlenih v državni upravi. Na pobudo Ministrstva za šolstvo in šport (MŠŠ) je predlagala, da se preveri možnost ločenega prikazovanja delovnih mest za zaposlene

¹² Koordinacija za zaposlovanje vrhunskih športnikov in trenerjev je zadolžena za pripravo predlogov za zaposlitev športnikov in trenerjev v državni upravi in za pripravo predlogov za prenehanje delovnega razmerja. Sestavljajo jo po en predstavnik ministrstev, ki zaposlujejo športnike in trenerje, predstavnik OKS ter predstavnik MŠŠ, ki koordinacijo tudi vodi.

športnike v okviru kadrovskega načrta vlade (v nadaljevanju: KNV), in to ji je uspelo. Pri pripravi predloga skupnega kadrovskega načrta MJU za leti 2011 in 2012 je bil ta predlog že upoštevan.

Hkrati se je, tako pri delu koordinacije, kakor tudi pri samem zaposlovanju športnikov in trenerjev, odprlo nekaj vprašanj, povezanih s kriteriji¹³ za zaposlovanje, kakor jih opredeljuje sporazum o zaposlovanju, in o statusu prednostne liste za zaposlovanje športnikov, ki jo oblikuje OKS. Koordinacija je ugotovila, da bi bilo treba v razmerah, ko imajo resorji, ki zaposlujejo, včasih drugačna pričakovanja in zahteve kot OKS (ki si zlasti prizadeva, da dobijo zaposlitev športniki z vrhunskimi rezultati, ki so potencialni kandidati za olimpijade), preveriti obstoječe kriterije v sporazumu.

Praksa je pokazala (pa tudi grafikon 4 tako kaže), da novi sporazum o zaposlovanju iz leta 2007 ni zagotovil pogojev, da bi število zaposlenih športnikov in trenerjev vsako leto ustrezno naraščalo. Zaradi zmanjševanja števila zaposlenih v državni upravi je bilo ogroženo uresničevanje sporazuma. Zato je bila ustanovljena medresorska delovna skupina, katere naloga je bila proučiti stanje in najti take rešitve, ki naj bi zagotovile čim bolj nemoteno uresničevanje sporazuma, s čimer naj bi bili vrhunskemu športu in športnikom zagotovljeni ustrezni pogoji za njihovo treniranje in nastope. To je tudi v skladu z javnim mnenjem, ki je izrazilo naklonjeno vrhunskemu športu in šampionom.

Medresorska delovna skupina je ugotovila, da je za povečanje števila zaposlenih športnikov v državni upravi, v skladu s sklepom Vlade Republike Slovenije, treba:

13 *Merilo športne kakovosti* (temelji na doseženih mednarodno primerljivih športnih rezultatih, ki jih razvrščajo kriteriji za kategorizacijo športnikov v Republiki Sloveniji), merilo prednostne športne panoge a) športne panoge, ki so na programu nacionalnih in mednarodnih športnih iger posameznih ministrstev; b) športne panoge, ki so v ministrstvih zajete kot redno usposabljanje; c) vsi drugi individualni športi, merila posameznih potreb ministrstva (pri tem so še posebej pomembni določeni športi oziroma športna znanja. Ker tako zaposleni športniki lahko pomembno izboljšajo delovno usposobljenost posamezne organizacijske enote ministrstva, se lahko ministrstvo odloči, da zaposli določeno število športnikov ne glede na merilo športne kakovosti. Zaposlitev po tem merilu je treba vedno ustrezno pisno utemeljiti), merilo za zaposlovanje trenerjev (na predlog NPŠZ OKS predlaga koordinaciji zaposlitev trenerja državnih reprezentanc, in sicer praviloma v primeru, ko so v določenem ministrstvu zaposleni najmanj trije športniki iz iste športne panoge).

- z VKN za leti 2011 in 2012 na ministrstvih zagotoviti kvote delovnih mest za zaposlitev 127 športnikov,
- v proračunu zagotoviti potrebna finančna sredstva, kar na letni ravni za dodatnih 11 zaposlitev znaša 160.000 evrov,
- spremeniti Zakon o javnih uslužbencih¹⁴ (v nadaljevanju: ZJU), na podlagi katerega bo mogoče pripraviti ustrezen podzakonski akt (po možnosti vladne uredbe) o zaposlovanju vrhunskih športnikov in trenerjev v državni upravi, ki naj bi nadomestil sporazum o zaposlovanju in zagotovil trdnejši dolgoročni pravni okvir za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi.

○ kvotah za posamezna ministrstva, ki zaposlujejo športnike in trenerje, se delovni skupini ni uspelo uskladiti.

Zaradi pritiskov javnosti po izjemnih uspehih slovenskih športnikov na velikih mednarodnih športnih prireditvah (predvsem Ol v Pekingu 2008) in po posredovanju predsednika države je bil junija 2009 pripravljen aneks k sporazumu o zaposlovanju vrhunskih športnikov in trenerjev iz leta 2007, ki so ga podpisali vsi pristojni ministri, razen ministrice, pristojne za obrambo¹⁵. Aneks vsebuje določilo, da se lahko vrhunskemu športniku svetovnega razreda, zaposlenemu v državni upravi, v skladu s tem sporazumom, pogodba o zaposlitvi podaljša še za dve leti po končani športni karieri (MŠŠ et al., 2009). To je bilo storjeno zato, da bi na ta način vrhunskim športnikom, zaposlenim v državni upravi, po končani športni karieri omogočili primeren prehod v nov način življenja, ki naj bi vseboval tudi strokovno usposabljanje za lažje iskanje zaposlitve¹⁶. MJU,

¹⁴ Zakon o javnih uslužbencih, Uradni list RS, št. 63/2007, 69/2008 – UPB-3 (v nadaljevanju: ZJU).

¹⁵ MORS se je pri odklonitvi podpisa aneksa k sporazumu sklicevalo tudi na razlago MJU, ki je ocenilo, da aneks ni v skladu z ZJU. Vendar je bilo poudarjeno, da v vojski sicer nekaj časa ne bomo mogoče povečevati števila delovnih mest za športnike, da pa se število zaposlenih športnikov ne bo zmanjševalo in januarja 2010 predlagalo pripravo novega besedila aneksa.

¹⁶ Vrhunska športna kariera zahteva od posameznika popolno osredotočenost in številni posamezniki športu prilagodijo vse druge dejavnosti, tudi šolanje in izobraževanje. Zaradi tega imajo športniki ob koncu kariere pogosto nižjo in slabšo izobrazbo kot njihovi vrstniki nešportniki. Športniki so pogosto slabše pripravljene na delo v poklicu. Zaradi neustrezne izobrazbe morajo bivši športniki sprejemati slabše plačana in manj zahtevna dela. Financiranje nadaljevanja izobraževanja še poveča športnikove eksistencialne težave v pošportnem življenju. Koncu športne kariere običajno sledi iskanje zaposlitve, pri čemer imajo športniki pogosto težave. Športniki, ki so med aktivno kariero prekinili in zanemarili

ki je aneks prvotno podpisalo, je kasneje od že podpisanega aneksa odstopilo z obrazložitvijo, da predlagano besedilo aneksa ni ustrezno, ker nima podlage v ZJU, saj s prenehanjem športne kariere vrhunskemu športniku preneha razlog, zaradi katerega je bila pogodba o zaposlitvi dejansko sklenjena¹⁷. Po ZJU (2008), ki je bil sprejet in uveljavljen po podpisu sporazuma o zaposlovanju leta 2007, so namreč športniki, zaposleni v državni upravi, postali javni uslužbenci.

Tako je bila izpostavljena pravna dilema glede statusa športnika po koncu športne kariere. V kolikor vrhunski športnik po končanju športne kariere izgubi status vrhunškega športnika, potem ne izpolnjuje zakonskega pogoja za podaljšanje delovnega razmerja iz 7. odstavka 69. člena ZJU. Prevladalo je mnenje, da bi bilo to določbo treba spremeniti, če bi hoteli ohraniti sedanji aneks k zaposlovanju, ki ga ministrica za obrambo ni podpisala prav zaradi navedene zakonske omejitve.

Koordinacija je s sklepom OKS naložila ustreznost rešitev vprašanja kategorizacije vrhunskih športnikov, da bodo ti lahko še dve leti po končani športni poti zakonito zaposleni v državni upravi. Sklep je bil sprejet prav z namenom, da se zakonsko pokrije dodatna dveletna zaposlitev športnikov svetovnega razreda v državni upravi po končani športni karieri.

Strokovni svet za šport Vlade Republike Slovenije je na predlog OKS maja 2010 sprejel sklep¹⁸, s katerim je spremenil določbe Pogojev, pravil

izobraževanje, v pošportnem življenju zaradi pomanjkljive izobrazbe veliko težje dobijo ustrežno zaposlitev (Globočnik, 2008, str. 33)

17 ZJU v prvem odstavku 68. člena primeroma določa, kdaj se lahko sklene pogodba za določen čas. V 7. točki prvega odstavka 68. člena je določeno, da se pogodba za določen čas lahko sklene v primerih, ko gre za zaposlitev vrhunškega športnika ali trenerja zaradi podpore in promocije vrhunškega športa. Po določbi 7. točke 69. člena tega zakona se zgoraj navedeno delovno razmerje sklene za 1 leto z možnostjo podaljšanja. Pred podaljšanjem delovnega razmerja predstojnik preveri, ali so še izpolnjeni pogoji za zaposlitev, oziroma pogoji, ki jih organ, pristojen za vrhunski šport, določa za pridobitev statusa vrhunškega športnika. Če pogoji niso izpolnjeni, se delovno razmerje ne podaljša.

18 Pred točko 1.3.3.7 se doda nova točka 1.3.3.6.2: »Izredno podaljšanje statusa športnika svetovnega razreda« ter naslednje besedilo: »Status športnika svetovnega razreda, izjemoma tudi status športnika mednarodnega razreda, če je športnik v status športnika mednarodnega razreda prešel iz statusa športnika svetovnega razreda, se športniku, ki je prenehal nastopati na tekmovanjih uradnih tekmovalnih sistemov, lahko izredno podaljša do štiriindvajset (24) mesecev na podlagi pravočasno oddane vloge NPŠZ zaradi zagotavljanja statusnih pravic po končani karieri.«

in kriterijev za registriranje in kategoriziranje športnikov v Republiki Sloveniji (OKS – ZŠZ, 2010) ter s tem zadostil določbi 7. odstavka 69. člena ZJU. Po tej spremembi pogojev je OKS v posameznih primerih, ko je športnik, zaposlen v državni upravi, zaprosil za izredno podaljšanje statusa vrhunškega športnika, ta sklep že upošteval, kar pomeni, da so vrhunski športniki, zaposleni v državni upravi, tam lahko zaposleni še dve leti po tem, ko prenehajo tekmovati.

Pri analizi dokumentacije zaposlovanja vrhunskih športnikov v državni upravi od leta 1996 dalje (arhiv MŠŠ) in postopkov v zvezi z iskanjem pravne podlage za zaposlovanje vrhunskih športnikov v državni upravi je bilo ugotovljeno sledeče:

1. Praksa (tako pri nas kakor tudi v tujini) kaže, da je zaposlovanje športnikov v vojski, policiji in carini dober ukrep države za podporo vrhunskemu športu, saj gre za področja, kjer je športnike mogoče ustrezno zaposliti ne le pri promociji resorjev, kjer so zaposleni, ampak tudi pri določenih opravilih, ki so specifična in tudi primerna za športnike, kar še zlasti velja za vojsko in policijo, delno pa tudi za carino.
2. Država Republika Slovenija ima z ZSpo in NPŠ sprejete številne sistemske ukrepe za podporo vrhunskemu športu in slovenskim vrhunskim športnikom, s čemer jim priznava delovanje v javnem interesu in to področje tudi finančno podpira z javnimi (proračunskimi) sredstvi.
3. Skladno s sporazumom so bili in so v državni upravi zaposleni le vrhunski športniki in trenerji individualnih športnih panog.
4. ZJU v 68. in 69. členu vsebuje podlago za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi (z obrazložitveno določbo – promocija vrhunškega športa v Republiki Sloveniji), zato predstavlja sporazum korektno pravno podlago za izvajanje ukrepa podpore države vrhunskemu športu, ne omogoča pa podaljšanja zaposlitve dve leti po prenehanju športnikove aktivne športne poti.
5. Sporazum o zaposlovanju vrhunskih športnikov v državni upravi iz leta 2007 je pravno-formalno veljaven in ga je treba smiselno izvajati.

6. Interesi resornih ministrstev, ki skladno z veljavnim sporazumom zaposlujejo vrhunske športnike, ne sledijo interesom civilne športne sfere (OKS) oziroma vrhunškega športa.
7. MŠŠ in koordinacijsko telo vlagata velike napore v zagotovitev stabilnega in zakonitega uresničevanja ukrepa podpore države vrhunskemu športu – sistema zaposlovanja vrhunskih športnikov v organih državne uprave, katerega uresničevanje naj ne bo odvisno od volje aktualne vlade oziroma aktualnih resornih ministrov.
8. MJU nima zadržka, da se kvota za zaposlitev športnikov in trenerjev v državni upravi oblikuje ločeno, čeprav opozarja, da upošteva tako ZJU, kot tudi zakon, ki ureja javne finance in izvrševanje proračuna, kvote ni mogoče popolnoma izločiti iz VKN. Ta je v skladu z zakonom podlaga za določanje obsega sredstev za plače, ki se zagotavlja v proračunu Republike Slovenije, ta sredstva pa morajo biti načrtovana in zagotovljena na določenem programu in na določenih proračunskih postavkah proračunskega uporabnika (ministrstva). V skladu z 42. in 43. členom ZJU se namreč kadrovske načrte pripravljajo upoštevajo proračunske možnosti, program dela in obseg nalog, predstojnik pa ga pripravlja hkrati ob pripravi proračuna.
9. MJU je pri pripravi predloga skupnega kadrovskega načrta za leti 2011 in 2012 sledilo predlogu MŠŠ, da se kvota za zaposlitev vrhunskih športnikov in trenerjev v okviru skupnega kadrovskega načrta organov državne uprave oblikuje tako, da se prikaže in vodi ločeno v okviru kadrovskega načrta posameznih ministrstev, v okviru katerih se športniki in trenerji zaposlujejo. Navedeni predlog pomeni, da se dovoljeno število zaposlitev športnikov in sredstva za ta namen planira v okviru posameznega ministrstva, kjer so športniki zaposleni že sedaj. Kvota za njihovo zaposlitev pa bo določena posebej in bo razvidna v okviru KNV.
10. Predlog MJU, da se kvota za zaposlitev vrhunskih športnikov in trenerjev centralizira v okviru skupnega kadrovskega načrta organov državne uprave tako, da se prikaže in vodi ločeno v okviru kadrovskega načrta MŠŠ, ki kot pristojno ministrstvo planira tudi sredstva za plače, je sprejemljiv. To pomeni, da je dovoljeno število zaposlitev športnikov in sredstva za ta namen načrtovano pri MŠŠ, ki naj bi skrbelo za realizacijo zaposlitev v

sodelovanju z ministrstvi, kjer so športniki zaposleni oziroma se zaposlujejo. Pri tem pa MŠŠ upravičeno izpostavlja vprašanje, ali ne bi bilo v tem primeru najbolj smotrno, da bi bili športniki zaposleni pri MŠŠ. Hkrati izpostavlja dilemo, kako in koliko bi ti športniki lahko opravljali posamezne dejavnosti v okviru MŠŠ, ki se vendarle po svoji dejavnosti bistveno razlikuje od resorjev, kjer so športniki zaposleni sedaj.

11. MJU meni, da bi vnaprej določeno možno število zaposlitev športnikov in trenerjev v povezavi z obsegom sredstev za plače omogočalo stabilen okvir za nadaljnjo promocijo vrhunškega športa in ne bi bilo povezano z aktualnimi oziroma nepredvidenimi dogodki v resornih ministrstvih. Tako sprememba ZJU ni potrebna.
12. Glede na ravnanja MORS se zastavlja vprašanje, ali resorji, ki zaposlujejo športnike, znajo in vedno tudi zmorejo ustrezno izkoristiti sposobnosti in izkušnje zaposlenih športnikov. Resorji oziroma organi, ki zaposlujejo športnike, imajo tudi svoja domača in mednarodna športna tekmovanja, ki narekujejo zaposlovanje športnikov v športih, ki so na programih teh tekmovanj, vendar je dosedanja praksa v zaposlovanju pokazala, da je mogoče te zahteve organov v veliki meri upoštevati, saj koordinacija v sodelovanju z OKS poskuša najti ustrezne rešitve tako s stališča potreb športa kot tudi resorjev, ki zaposlujejo. So pa ta tekmovanja v domačem kot mednarodnem merilu pomemben element promocije slovenske države in resorjev, kjer so športniki zaposleni. Vsega tega v takem obsegu in na tak način MŠŠ (vezano na ugotovitev 10) verjetno ne bi moglo zagotavljati.

Iz navedenega je mogoče zaključiti, da je sedanja rešitev ustrezna in primerno normativno urejena, kar pa ne pomeni, da je ni treba z dopolnitvami izboljšati. Predvsem v delu, ki bo omogočal izvedbo ukrepa po končanju športnikove aktivne športne kariere. Glede na gospodarsko-ekonomski položaj države in družbe lahko predvidevamo, da sporazum v dogovorjenem obdobju (do leta 2015) in predvidenem obsegu (200 zaposlenih vrhunskih športnikov) ne bo uresničen.

6 Zmanjševanje števila zaposlenih vrhunskih športnikov v slovenski vojski

V začetku leta 2010 so v MORS-u, skladno z usmeritvami vlade, pričeli z zmanjševanjem števila zaposlenih na ministrstvu, tudi športnikov v vojski. Število zaposlenih športnikov in trenerjev so zmanjšali od 80, kolikor jih je bilo zaposlenih ob koncu leta 2009, na 70 zaposlenih. V kvoto pri njih zaposlenih športnikov so posegli z veliko večjim odstotkom zmanjšanja (11 %), kot ga je sicer vlada določila za zmanjševanje zaposlenih v državni upravi. Odločitev je šla v smer, da MORS zaposluje samo športnike iz športnih panog, v katerih so organizirana vojaška SP (CISM). S tem je bistveno odstopilo od določb sporazuma¹⁹.

Ravnanju MORS je sledil predlog MŠŠ ministrstvu za javno upravo (MJU)²⁰, da se v skupnem kadrovskem načrtu Vlade Republike Slovenije za leto 2010 pri organih državne uprave, ki zaposlujejo vrhunske športnike in trenerje, v kadrovskem načrtu organa v okviru skupne kvote vseh dovoljenih zaposlitev, ločeno prikazuje kvota zaposlitev, namenjena za zaposlovanje športnikov in trenerjev, in sicer: v MF – Carinski upravi 18 zaposlitev, v MNZ – Policiji 28 zaposlitev in v MORS – Slovenski vojski 80 zaposlitev, ter da vlada pri sprejemu skupnega kadrovskega načrta organov državne uprave za obdobje od leta 2011 do 2015, na podlagi sklenjenega sporazuma, ki pravi, da bodo podpisnice do leta 2015 zagotovile ciljno število 200 zaposlenih športnikov in trenerjev, določi, da se skupna kvota delovnih mest za zaposlovanje vrhunskih športnikov in trenerjev v organih, ki zaposlujejo vrhunske športnike, povečuje za 20 mest na leto, da bo do leta 2015 uresničen dogovorjeni cilj v sporazumu.

Kljub vsem prizadevanjem MŠŠ in krovne športne organizacije v Republiki Sloveniji OKS, da bi se operativno sledilo veljavnemu sporazumu iz leta 2007, vse kaže, da je, oziroma bo, trend nadaljnega zaposlovanja vrhunskih športnikov v državni upravi pojenjal.

¹⁹ Ni sporno, da imajo v slovenski vojski športi, v katerih so organizirana vojaška svetovna prvenstva CISM, posebno mesto, ne morejo pa biti izključno merilo za zaposlovanje športnikov. Prvo merilo za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi je prednostni vrstni red za zaposlovanje, ki ga pripravlja OKS in kjer je glavni kriterij kategorizacija vrhunskih športnikov na podlagi mednarodno primerljivih športnih rezultatov posameznega športnika.

²⁰ Pismo ministra za šolstvo in šport resornim ministrom ministrstev, ki zaposlujejo, dne 20. 9. 2010 (MŠŠ, 2010).

7 Predlogi za novo ureditev zaposlovanja vrhunskih športnikov in trenerjev v državni upravi

Glede na ugotovljeno lahko predloge za izboljšanje stanja na področju zaposlovanja vrhunskih športnikov v državni upravi, strnemo v naslednjih točkah:

1. Za izvajanje zaposlovanja vrhunskih športnikov in trenerjev v državni upravi je ZJU treba spremeniti oziroma dopolniti tako, da bo na njegovi pravni podlagi mogoče pripraviti ustrezen podzakonski predpis, ki bo nadomestil sporazum o zaposlovanju in zagotovil trdnejši dolgoročni pravni okvir za zaposlovanje vrhunskih športnikov in trenerjev v državni upravi. Dodati je treba določbo, ki bo omogočila ohranitev statusa zaposlenemu športniku dve leti po koncu njegove športne poti, oziroma, ko izgubi status vrhunškega športnika.
2. Če se ZJU ne spremeni in se obravnava področje ne uredi s podzakonskim predpisom, je treba spremeniti, oziroma z aneksom dopolniti veljavni sporazum, ki naj določi tudi odstotek zaposlenih športnikov v resorju, ki bodo zaposleni na podlagi merila posebnih potreb ministrstev.
3. Jasno je treba opredeliti oblikovanje kvote za zaposlitev vrhunskih športnikov in trenerjev v okviru skupnega kadrovskega načrta organov državne uprave.
4. V državni upravi je treba omogočiti zaposlovanje tudi vrhunskim športnikom invalidom, saj so ti v vseh pravnih okvirjih in aktih OKS statusno izenačeni z drugimi vrhunskimi športniki.
5. V državni upravi je treba omogočiti zaposlovanje tudi vrhunskim športnikom ekipnih športnih panog, saj so po veljavnem sporazumu v neenakopravnem položaju s športniki v individualnih športnih panogah in disciplinah.

8 Zaključek

Vrhunski šport je med drugim sredstvo za potrditev narodne identifikacije, je promotor vseh oblik množičnega športa, promotor države in sredstvo dokazovanja športnikov in vseh, ki z njimi delajo. Predstavlja tudi področje, na katerem se lahko prek dosežkov na mednarodni ravni uresničujejo koristi države (npr. prepoznavnost). Z njim se potrjujejo

družbeni sistemi in države ter posamezniki. Zato športni dosežek ni cilj samo športnika.

Število vrhunskih športnikov, ki so dosegli mednarodno primerljive športne rezultate (medalje na olimpijskih igrah, svetovnih in evropskih prvenstvih), je v Sloveniji v času njene samostojnosti neprestano naraščalo. K temu nedvomno prispevajo tudi sistemski ukrepi države, ki je v športu prepoznala javni interes. Pomemben ukrep države je zaposlovanje vrhunskih športnikov in trenerjev v organih državne uprave, saj nedvomno drži dejstvo, da je vrhunski športnik lahko uspešen le, če ima zagotovljene ustrezne pogoje za nemoteno treniranje in tekmovanje ter zagotovljeno socialno in ekonomsko varnost. Država in državni organi so v vrhunskih športnikih prepoznali tudi lastni interes in pričakovane splošne učinke njihovega zaposlovanja v državnih organih, pri čemer je sledila zgledom večine držav Evropske unije.

Izvajanje ukrepa omogoča sporazum o zaposlovanju vrhunskih športnikov in trenerjev v slovenski vojski, policiji in carini. Izvajanje sporazuma so od prvega podpisanega sporazuma leta 1996 naprej spremljale precejšnje težave, tudi pravne narave. Analiza je pokazala, da nobeden od doslej podpisanih sporazumov ni uresničil svoje zaveze, da bi število zaposlenih športnikov in trenerjev dogovorjeno naraščalo. Nasprotno. Predvsem zaradi ukrepov v MORS je zaznati trend upadanja števila zaposlenih vrhunskih športnikov v državni upravi. Glede na to, da javno mnenje v zadnjem času državni upravi in javnemu sektorju ni naklonjeno, ko se glede na razmere v gospodarstvu vse glasnejše zahteve po zmanjševanju števila zaposlenih v vseh segmentih javne uprave, ne le državni upravi, lahko domnevamo, da se bo trend zaposlovanja vrhunskih športnikov v državni upravi zmanjševal, kar gotovo ni dobro za vsestranske celostne učinke športa na družbo, zaradi katerih mu tudi politika pripisuje javno dobro in je tako v javnem interesu. Če želimo ostati "športna nacija" je treba sprejeti trdno politično zavezo in nadaljevati uresničevanje sporazuma, mu dati dodatne vsebine in pravno obličnost, ter zaposlovanju vrhunskih športnikov v državnem sektorju zagotoviti stabilno ter dolgoročno pravno podlago v ZJU. Da zaposlovanje ne bi bilo odvisno od volje aktualnih vlad oziroma ministrov ter spreminjajočih se ekonomskih razmer v državi. Vrhunski športni dosežki so redki, so enkratni in se ustvarjajo "na dolgi rok".

Dariko Repenšek vso svojo poklicno pot deluje v organih državne uprave. Od leta 2006 je sekretar na Ministrstvu za šolstvo in šport, kjer vodi Sektor za razvoj športa in investicije v Direktoratu za šport. V obdobju 1996–1998 je bil vključen v avstrijsko-slovenski medvladni proces usposabljanja in izpopolnjevanja slovenskih višjih upravnih delavcev in je pridobil diplomu Avstrijske zvezne upravne akademije iz Dunaja in Fakultete za upravo Ljubljana. Je absolvent podiplomskega znanstvenega magistrskega študija Uprave na Fakulteti za upravo. Je zunanji sodelavec Fakultete za upravo in avtor številnih strokovnih prispevkov in priročnikov s področja vodenja v javni upravi in področja športa ter soavtor dveh strokovnih knjig.

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SUMMARY

EMPLOYMENT OF TOP LEVEL ATHLETES IN STATE ADMINISTRATION AT RISK

Key words: sport, top level athletes, employment of top level athletes in public administration

Sport may be seen as a social, economic and media phenomenon. Sport affects all aspects of social life and involves individuals, narrow or broad social groups as well as various layers of population. A very important segment of sport for the society, for the nation and each individual is top level sport. Indicators of growth and development have shown that sport had made a progress in the last decade both in the extent of sporting activities and sports active citizens as well as from the point of view of quality of achieved sports results at the international level. The analysis of the fundamental strategic sports document in Slovenia the National Programme of Sport (NPS), being in power between 2000–2010, has shown that the working conditions in top level sport (material basis, sports infrastructure, expert staff, scientific research work) have been improved. Positive correlations were found between sports organisational structures and organisations implementing sport programmes, between adoption and implementation of system measures, based on the provision of financial resources (co-financing of sport) and top level sport development as well as with its impact on elite sport results. With the Law on Sport (ZSpo, 1998), with the contents and expert and development tasks of the NPS and other provisions the state introduced, in order to support athletes, in particular, perspective and top level athletes, a prescribed number of direct or indirect action measures for all, the affirmed top level athletes as well as for young talented athletes. The objective of the article is to present the importance of one of the supporting measures the state introduced in order to give support to Slovenian top level sport: the employment of top level athletes in the state administration.

Whereas we once ascertained that top level sport in fact is a game, we are now fully aware of the fact that it is a creative work where personal, national, economical, political and other interests are intertwined. Top level sport may also be considered as the area where through the achievements at the international level the state interest may

be realised (e.g., visibility). Social systems, states and individuals are being confirmed through top level sport (1998, pp. 7–8, NPS 2000, p. 42) in terms of »preparations for athletes' competitions, who have according to the standards of the Olympic Committee of Slovenia (hereinafter OCS) for the categorisation of athletes in the Republic of Slovenia the status of international, world and perspective athlete«. Top level athletes subordinate a large part of his lifetime to their career in terms of training and consequently to their ultimate goal – to competitions leading to the top level sport results. There is no room in top athletes life (or there is very little room) for any other activity, and they are handicapped also in terms of development of their vocational career. The number of top level athletes of world, international and promising status has been in Slovenia steadily increasing between the years 1991 and 2011. Their number has increased almost four times. It grew from 143 to 979, which means that the same number of athletes actually participated at the big international sport events (Olympic Games, World and European Championships), where they achieved top level sport result. The latter is measured by the number of won medals the number of which also steadily grew between the years 1998–2010. Undoubtedly, also the system measures, based on the Law on Sport and NPS, contributed to those good results, among them also the employment of top level athletes in state administration.

Recognising that top level athletes may be successful only if their material and other conditions for undisturbed training and competitions are adequately provided and that their social security and their economic safety are ensured, the state has also recognised that top level athletes represent also the state interest and their employment in the state administration has many positive effects. In February 1993 first employments of top level athletes took place in the Slovenian Police, which are considered to be the first employments in the state administration. Slovenia followed through this example cases from the majority of EU member states. All employments have been put in place on the basis of agreements between sports federations and ministries with no particular legal basis. In May 1996 the first agreement on the elite athletes and trainers employment was signed at the Ministry of Defence – Slovenian Army, the Ministry of Internal Affairs – Police and the Ministry of Finance – Customs Administration. Upon the signature of the agreement there were about 450 categorised top level athletes in Slovenia. The agreement envisaged that until the year 2000 there will be up to 200 top

level athletes gradually employed in the state administration; however, the employment rate could not follow the provisions of the agreement. Till 2000 the ministries employed only 81 from the envisaged 200. As a result a new agreement was signed in 2007, by which the respective ministers accepted the responsibility that they would gradually realize the agreed number of employed top level athletes and trainers (200) from the first contract (1996) by the year 2015. At the time of the signature of the first agreement the state administration employed 98 athletes. With the adoption of the Act on Civil Servants in 2008 also legal grounds were provided for the agreement for top level athletes employment in state administration, which in terms of support and promotion of top level sport provides part time employment of elite athletes and trainers (for one year with a possibility of extending for another term if basic condition is fulfilled, i.e., that they have the status of top level athlete or trainer). As a result, the employed elite athletes and coaches in state administration indeed became civil servants, and upon losing their status of top level athlete also their employment contract was terminated. In contrast to this provision (Law on Civil Servants) the Annex to the Agreement signed in May 2009 enshrines a provision that the employment contract in state administration can be extended for another two years for top level athletes of world status who finished their sporting careers. This way, elite athletes employed in state administration would be provided with an adequate transfer to their post-carer life cycle, which would include also vocational education and training in order to increase their employment opportunities.

Hence, a legal dilemma on the post career status of top level athletes was raised. Given that elite athletes lose their status of top level athlete (in principle they do), it means that they do not comply with the legal provisions for the extension of their employment in reference to paragraph 7 of article 69 of the Law on Civil Servants. There was a prevailing opinion that this provision should be altered in order to keep the annex on employment being in power at present, and which the Minister of Defence refused to sign exactly from the afore described legal limitations. In addition, the Ministry of Defence followed the directions of the Government concerning reduction of employed staff in state administration and in 2010 started to decrease the number of employees at their ministry, including athletes in the Slovenian Army. They reduced the number of employed athletes from 80, which was the figure by the

end of 2009, down to 70. That quota was in their case exceeded by 11% even more that determined by the Slovenian Government. The decision of the Ministry of Defence took the course of employing athletes only from those sports disciplines that are included in the organisation of the Military World Championships (CISM). Thus, the ministry departed significantly from the provisions of the agreement and therefore put its implementation at risk.

Despite all the endeavours of the Ministry of Education and Sport and the umbrella sports organisation in Slovenia, the OCS, to functionally follow the provisions of the agreement still in force from 2007, it seems that it already has, or it shortly will come true that the trends of top level athletes employment in state administration will be decreased.

In reference to the finding that the top level athletes employment in state administration has proven as a perfect measure of the state how to support elite sport in the Republic of Slovenia, we may summarise the proposals for the improvement in this area in the following points:

1. In order to implement the top level athletes and trainers employment in state administration it is necessary to amend the Law on Civil Servants in the way that it shall give legal basis to prepare adequate by-law replacing the existing agreement on employment and shall provide solid long term legal framework for the top level athletes and trainers employment in state administration. We should add the provision that would enable the maintenance of the status of the employed athletes two years after the conclusion of their sporting careers, and/or also in cases when they lose the status of top level athlete.
2. Should the Law on Civil Servant not be amended and the discussed matter not be settled through by-law provisions, it would seem necessary to change or to amend the existing agreement by an annex which should also determine the percentage of employed athletes in each government department to be employed also according to the regulations and the needs of each ministry.
3. The quotas for top level athletes and trainers employment in state administration should be clearly determined within the frame of common staff planning of state administration departments.

4. Also disabled top level athletes should be given the opportunity of getting employment in state administration, since they are in all legal provisions and legal regulations of OCS equal in their status with the rest of elite athletes.
5. Also the elite athletes from team sports should be given the opportunity of employment in state administration as the existing agreement does not provide equal position to individual sports disciplines.

If our desire is to remain a "sporting nation" we would certainly need to make a firm political commitment to continue with the implementation of the agreement, and to give it a new content and a new legal frame, and to ensure for the employment of top level athletes in state sector a stable and long term platform in the Law on Civil Servants. The point is that employment should not be subject to good will of each government in position and of the ministers as well as of the changing economical situation in the country. Top level sport results are rare, they are unique and they are created "within long term" perspective.

Cross-Border Cooperation as Part of the Irish Peace Process: Opportunities, Impacts And Challenges

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ABSTRACT

Cross-border cooperation between Northern Ireland and the Republic of Ireland emerging out of the 1968–1998 conflict is an important and largely successful dimension of the peace process in Ireland, with institutional cooperation between the two governments on the island playing a key role. This article looks at the level of interaction between North and South on the island; asks what role the EU has played in this process and what are the challenges of measuring the impact of such cooperation; outlines the work of the Centre for Cross Border Studies, and looks ahead to the challenges facing cross-border cooperation in a period of severe financial and economic constraints.

Key words: Ireland, cross-border, cooperation, peacebuilding

JEL: R5, Z0

1 Introduction

The Irish border region is a peripheral, largely rural region composed of six counties in Northern Ireland and six counties in the Republic of Ireland¹, which shares most of the characteristics of such regions throughout Europe: small farms, poor soil, little industry except in a few towns, high unemployment and high outward migration. The main difference with

¹ The six counties in Northern Ireland are Antrim, Armagh, Down, Londonderry, Fermanagh and Tyrone; the six counties in the Republic of Ireland are Cavan, Donegal, Leitrim, Louth, Monaghan and Sligo.

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similar European border regions is that this area suffered particularly badly during the Northern Ireland conflict which largely ended in 1998 (although small armed republican groups remain active). It experienced a brief period of prosperity during the "Celtic Tiger" period of rapid economic expansion in 1995–2007 but with the collapse of that boom, unemployment and emigration have returned with a vengeance.

It is now nearly 17 years since the first Irish Republican Army (IRA) ceasefire and over 13 since the 1998 Belfast/Good Friday Agreement, signed by the British and Irish governments and the warring parties in Northern Ireland, effectively brought to an end 30 years of conflict. It is four years since the head of the most militantly pro-British Unionist Party, Rev Ian Paisley, and the former senior IRA commander, Martin Mc Guinness – after nearly 40 years of trying to bomb and shoot Northern Ireland into a united Ireland – completed the virtuous circle by sitting down in government together as First Minister and Deputy First Minister of a regional government.

An important dimension of the 1998 Agreement was the establishment of seven North/South inter-governmental bodies (under a North South Ministerial Council) to administer, on a cross-border basis, important elements of tourism, trade and business development, inland waterways, EU funding programmes, minority languages, food safety and aquaculture. These bodies provide an inter-jurisdictional architecture – the outcome of an international agreement – which is unique in Europe, and probably in the world (Coakley & O'Dowd, 2007).

2 Economic and Political Cooperation

This has been a long journey and cross-border cooperation between Northern Ireland and the Republic of Ireland – both at governmental and non-governmental level – has been an integral part of its extraordinary conclusion. Some say that, along with the reform of policing, it is one of the real success stories of the Northern Irish peace process. At a high-level meeting of officials from the Department of Foreign Affairs in Dublin about North-South cooperation in Ireland three years ago, the achievements of the previous decade of cooperation between the Republic of Ireland and Northern Ireland were listed, and they made for an impressive list. In that summer of 2008, the Irish *Taoiseach* or Prime Minister was promising that hundreds of financial services jobs would be farmed out from Dublin to Belfast; the Irish Government was proposing to

spend nearly 600 million Euros in roads in Northern Ireland; there was a newly-opened all-island single electricity market; North-South trade had doubled in the previous decade; Northern Irish firms were queuing up to join Irish government trade missions. That was, of course, before the cataclysm which hit the Irish banking system in 2008 and the discovery that the Republic of Ireland – its banks, its property developers, its government – had built the booming "Celtic Tiger" economy on a mountain of unsustainable debt of near-world record proportions. We are now suffering the consequences of that financial and governmental folly.

If the economic picture now looks grim, on the political front in Northern Ireland and between North and South the moves towards peace and cooperation have continued. The ancient antagonists of the Democratic Unionist Party (formerly headed by the Protestant fundamentalist clergyman Rev Ian Paisley) and Sinn Fein (the party of the IRA) are still meeting regularly and cordially (along with the Irish Government) to discuss and oversee North-South cooperation in everything from transport to trade, education to health, and tourism to agriculture, while 700 officials from both jurisdictions (in the specially established North-South inter-governmental bodies) jointly implement their decisions. Much of this cooperation has been relatively superficial, and has had little impact on core services in the two jurisdictions. Nevertheless, given the bloody events of the past half-century, it is the stuff of miracles that the Democratic Unionist Party now has a say in how the Republic's canals are run, while the Irish Government has funded a new road between Belfast and the ultra-loyalist (i.e. strongly pro-British) port of Larne.

3 European Union (EU) role

At the same time, the European Union (EU) has pumped money into Northern Ireland and the border counties of the Republic of Ireland. For much of the past two decades the EU – mostly through the Belfast-based Special EU Programmes Body, itself one of the inter-governmental cross-border bodies set up under the 1998 Belfast/Good Friday Agreement – has given out an enormous amount of money to a very wide range of projects in that small, distant, relatively under-populated part of Europe: more than 2.5 billion Euros to over 23,000 infrastructural, economic, environmental, educational, training, social, cultural and other projects. This has been mainly through two programmes: the Peace programme, a dedicated fund to assist Northern Ireland and the Irish border counties,

and INTERREG, the wider European cross-border programme. The primary aim of a large proportion of the funded projects has been either to lower inter-communal barriers between Catholics and Protestants inside Northern Ireland, or to lower the economic and social barriers between Northern Ireland and the Republic of Ireland.

The Centre for Cross Border Studies is both a product and a beneficiary of this European largesse, and has been to the forefront of both researching and developing this cross-border cooperation. Since its foundation in 1999 the Centre has carried out more than 80 cross-border research projects ranging from teacher education to local government, health services to sustainable development, animal disease to telecom technologies, Information and Communication Technology (ICT) to services to migrant workers; organized 60 cross-border conferences and seminars; provided the secretariats for three new all-Ireland networks bringing together universities, teacher training colleges and spatial planners; trained over 140 government and local authority officials in cross-border cooperation; and created major publicly accessible databases providing cross-border information for researchers and policy-makers² and practical information for cross-border workers and commuters³. The Centre's latest package of research, information and training projects, funded by INTERREG and grouped under the common title Ireland/Northern Ireland Cross-border Cooperation Observatory (INICCO), covers regenerating the border region economy, cross-border spatial planning, cross-border hospital services, cross-border citizens information, and measuring the impact of cross-border cooperation. The last of these projects – undertaken in collaboration with the Euro-Institut in Kehl, Germany – has produced a pilot Impact Assessment Toolkit for cross-border cooperation in Ireland which is believed to be the first of its kind in Europe, and a number of EU agencies have expressed an interest in seeing it adapted to other border regions. (Beck, Rihm & Taillon, 2011).

The Centre has been widely recognised for its work in building and managing cross-border and all-Ireland higher education networks. Its most successful such network is the Standing Conference on Teacher Education, North and South (SCoTENS): a network of 34 universities,

² Cf. www.borderireland.info(2.10.2010).

³ Cf. www.borderpeople.info(2.10.2010).

colleges and other organisations involved in the training of teachers. This was a sector which did relatively little research in either part of Ireland up to 10 years ago. During the past decade SCoTENS has encouraged cross-border research in teacher education and used small grants to support more than 70 research projects bringing together partners from Northern Ireland and Republic of Ireland (McAllister & Pollak, 2010). This is a classic example of an innovative cross-border initiative which fills a gap which was not being filled in the two jurisdictions separately. The Centre believes that there are probably similar gaps all over Europe where an absence of provision *within* a national jurisdiction can be filled by an innovative, dynamic *cross-border* initiative. This is a good example of what Dr Joachim Beck, Director of the Euro-Institut – a leading European authority on cross-border cooperation – calls »development of common potentials through cross-border cooperation« (Beck, 2011).

4 Opportunities

So we have had a decade of great opportunities for cross-community peace-building between Protestants and Catholics in Northern Ireland and cross-border cooperation between North and South in Ireland. Have we used them well? The evidence points to greater progress on lowering barriers between Northern Ireland and the Republic of Ireland than overcoming barriers between the nationalist (and overwhelmingly Catholic) and unionist (and overwhelmingly Protestant) communities within Northern Ireland.

The Northern Ireland First Minister Peter Robinson – for 35 years Ian Paisley's first lieutenant – has said on numerous occasions that relationships with the Republic of Ireland have never been better. Until the beginning of the economic recession in 2008, cross-border business and trade had never been higher. The security threat from the remaining IRA dissidents – small but still significant – is held in check by excellent cooperation between the two police forces. The intergovernmental cross-border bodies outlined above have sometimes had to cope with squabbles among the coalition of ancient enemies that forms the regional government of Northern Ireland – but their officials continue to work quietly and in the main effectively across the border. Fuelled by the generous EU funding outlined earlier, community and voluntary groups have been particularly active in making connections across that border, although the volume of this work is less now that the funding is running

out. Conor Brady, a former editor of the country's main newspaper, the *Irish Times*, summed it up well in 2005, when he wrote (Brady, 2005):

»The cold denying silence that fell upon the island in the 1920s has all but ended. Right across public life – in public services, in business, in Non Governmental Organizations (NGO), in voluntary organizations – the deadly, deafening silences and the stopped-up channels of communication have been replaced by dialogue, cooperation and a realization that everyone gains, and nobody loses, when people and organizations work together. Of course it does not all flow from the Good Friday Agreement. There have been decades of on-the-ground work put in by clubs, volunteers, schools, organizations, churches and so on. But what the Agreement has done is to make it possible, acceptable and necessary for official Ireland, North and South, to get on with the everyday business of life – together.«

5 Measuring the impact

Despite these complimentary words from a leading journalist, it is not easy to measure the impact of all this cross-border activity on the post-conflict landscape. In fact, it is notoriously difficult to quantify the impact of such post-conflict peace and reconciliation initiatives, since they are inevitably long-drawn-out processes based on slowly improving relationships and patiently increasing understanding. Many of the interim evaluations have been positive. For example, an authoritative 2005 study of the Irish border region found that the *Peace* programme had »done much to underpin the peace process by providing close cooperation between civil society organizations and political leaders at local level. The programme validated work between ex-combatants and promoted their social and political reintegration. Cross-border work won increasing acceptance, was seen to be a norm and became less threatening to the loyalist (i.e. Protestant and Unionist) community« (Harvey et al., 2006).

Similarly, the conclusions of a research study by a team of political scientists and psychologists from University College Dublin and Queen's University Belfast among 130 families and over 1000 young people in the Irish border region in 2004–2006, exploring changing intergenerational attitudes towards identity and nationality in that region, were very positive. The researchers concluded that present British and Irish government and EU policy »to encourage cross-community and cross-border contact is

on exactly the right lines, and should be extended. This is the way in which lasting change can be provoked in enough individuals to percolate through entire communities«. They warned, however, that this would be a long-drawn-out process and »it would be counter-productive to demand immediate and measurable results from cross-community and cross-border initiatives« (Todd et al., 2006). Unhappily, far from being extended, financial constraints at both EU and national government levels – with the Irish government being forced by the present recession into probably the most drastic spending cuts of any EU government outside Greece – have led in the past three years to such programmes being cut back.

Certainly, the number of people involved in these EU funded projects is impressive. The head of the EU Special Programmes Body in Belfast, Pat Colgan, said at a conference organized by the Centre for Cross Border Studies in 2008 that 450,000 people had benefitted from EU funded projects over the period from 1995 to 2008 (that includes both cross-community projects inside Northern Ireland and cross-border projects with the Republic of Ireland), of whom 130,000 had participated in cross-border activities. This is in a region of around 2.5 million people.

The EU's role has been vital in underpinning this great volume of cross-border work between Northern Ireland and the Republic. In the words of Queen's University Belfast sociologists Cathal McCall and Liam O'Dowd, the distinctiveness of the EU's contribution to this work lies »in the extent to which it seeks to de-territorialise the [Northern Ireland] conflict, i.e. to build cross-border networks of cooperation around issues of common interest. In this sense, it seeks to move beyond bounded territory to the creation of a cooperative transnational space« (McCall & O'Dowd, 2004).

As has already been said, measuring the impact of this progress in any exact way will always be challenging. The Centre for Cross Border Studies hopes that its new Pilot Impact Assessment Toolkit for cross border cooperation in Ireland will provide the first such mechanism.

6 Challenges

However the challenges to peace-building in Ireland through cross-border cooperation remain great. This kind of work is slow, painstaking and expensive, and its impact must be evaluated across decades rather

than the two or three year time-spans of many EU funded projects. Irish politicians, with their focus on the short-term electoral cycle, find it difficult to understand the importance of sustaining peace-building and cross-border cooperation over the vital longer term. Political leaders in France and Germany after the Second World War were more far-sighted, initiating and continuing to support an ambitious programme of Franco-German youth exchanges (starting in the 1950s) with the long-term aim of effecting a fundamental change in the way the future citizens of those two formerly warring nations would view each other. Evaluations have shown that this programme made a substantial contribution towards promoting good relations between the two countries, but this was only discernible after a generation of young people had been given the experience of participating (Trant et al., 2002). The lesson for Ireland is clear: if cross-border programmes, particularly in education and youth and community development, are to make a serious contribution to reconciliation on the island of Ireland, they must prepare for the long haul.

So far cross-border cooperation as a successful contributor to the Northern Irish peace process has been widely recognized. But the past decade and a half have been in many ways the "golden age" of such cooperation, with huge interest and support at home and abroad for the mould-breaking 1998 Good Friday Agreement and its implementation; extremely generous EU funding; and a formerly cash-rich Irish government that was able to devote significant resources to North-South cooperation. We are now entering a period when these factors will lose much of their import: both international and Irish interest in the Northern Ireland political situation and North-South cooperation on the island are now at a low point, with most people believing the continuing deep problems of political instability and communal division in Northern Ireland have been solved; the EU's Peace programme will probably run out in 2013–2014 (although there is a current rumour that it may continue for one more funding period in a reduced form), and its INTERREG programme will be turning its attention to other European borderlands further east; and the Irish Government, stricken by the worst fiscal and banking crisis in the history of the state, is facing up to extremely difficult problems closer to home. Within Northern Ireland too, the political atmosphere is not conducive to maintaining a high level of such cooperation, let alone increasing it, with the largest Unionist Party in government anxious to minimize its extent at every opportunity.

This is the main challenge for cross-border cooperation on the island of Ireland over the next five-ten years: how to sustain the very significant work of the past decade in a harsher political and economic climate, and, if more favourable circumstances emerge, to expand it into new areas which have already been "scoped" such as the all-island and border region economy and cross-border health, higher education and spatial planning (e.g. InterTradelreland, 2006; Bradley & Best, 2011; Butler & Jamison, 2007; McCloughan, 2009; and Driscoll et al., 2007). For in these areas research, including research by the Centre for Cross Border Studies, has shown that such cooperation can bring significant practical benefits to the people of both Irish jurisdictions.

The Centre for Cross Border Studies and other practical peace-building and cross-border cooperation bodies will continue their long-term work in Ireland, a task that may take 30 or 50 or 100 years to reach fruition. There have been huge advances over the past decade and a half, to the extent that the Northern Ireland "peace process" is now seen as something of a model for overcoming age-old conflicts based on religion and nationality. An election was held in the region in May 2011 which was notable for its lack of controversy and preoccupation with "bread and butter" issues. One must remain optimistic that the island of Ireland is moving slowly towards mutual understanding and reconciliation – although probably not political unity – between the people of its two jurisdictions within their common European home.

Andy Pollak is the founding Director of the Centre for Cross Border Studies (with offices in Armagh, Northern Ireland and Dublin, Ireland). He is also Secretary of the all-island higher education network Universities Ireland and the all-island teacher education network, the Standing Conference on Teacher Education North and South (SCoTENS). Before he left to start the Centre, he was successively Belfast reporter, assistant news editor, religious affairs correspondent and education correspondent with "The Irish Times", the island's principal newspaper, from 1981 to 1999. He was co-author of "Paisley" (1986) and editor of "A Citizens Inquiry: The Opsahl Report on Northern Ireland" (1993). His father's book, "Strange Land Behind Me" by Stephen Pollak, was translated into Slovene in the 1970s.

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Recenzija knjige: Družbena odgovornost in odličnost javne uprave avtorice dr. Nine Tomažević

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V svetovni literaturi je mogoče najti večje število del, ki obravnavajo področje učinkovitosti, uspešnosti in kakovosti dela zasebnega sektorja. Bistveno manjši pa je znanstveni interes za teoretične opredelitve in empirične rešitve za področje javnega sektorja, javne uprave in državne uprave. Zaradi soodvisnosti zasebnega in javnega sektorja, ki je postala pomembna za države na prehodu šele v zadnjih dvajsetih letih, so se ta vprašanja znanstveno in strokovno analizirala z večjo časovno zamudo. Po meni dostopnih podatkih pa še nimamo celovitega dela s področja družbene odgovornosti kot osnove odličnosti v javnem sektorju, ki pomeni logičen naslednji korak v znanstvenem raziskovanju področja. Tuja literatura s tega področja obravnava predvsem parcialne pristope.

Upoštevaje tuje in domače izkušnje, je avtorica s kritično analizo posameznih modelov poudarila potrebo po njihovih dopolnitvah oziroma izboljšanju. V poglavju, ki je namenjeno kakovosti in odličnosti, avtorica najprej obravnava neustrezno kakovost. V nadaljevanju opisuje kakovost storitev v javni upravi ter orodja s kazalniki odličnosti. Ker se modeli odličnosti že uporabljajo, podrobno prikaže najbolj pogoste. Ugotovitve v tem poglavju logično vodijo do vsebine, ki se ukvarja z vprašanjem enakosti in razlik med zasebnim in javnim sektorjem. Pri tem avtorica uporabi pristop od makroekonomskega nivoja javnega sektorja do javne uprave, državne uprave, samoupravnih lokalnih skupnosti do posameznih organizacijskih enot.

Eno od osrednjih poglavij je sedmo poglavje, ki se ukvarja z odličnostjo v slovenski javni upravi. Podrobno predstavi ISO standarde, model EFQM, skupni ocenjevalni okvir za organizacije javnega sektorja in uravnoteženi sistem kazalnikov ter prednosti posameznega orodja.

Setnikar cankar, S. (2011). Recenzija knjige: Družbena odgovornost in odličnost javne uprave avtorice dr. Nine Tomažević
Uprava, IX(2), 145–146.

Poglavje se zaključi s prikazom sistema ocenjevanja odličnosti v javni upravi Slovenije.

Ugotovitve o praksi v javni upravi Slovenije so iztočnica za primerjavo z javnimi upravami izbranih evropskih držav v osmem poglavju. Avtorica se jasno opredeli do potrebe po ustrezni teoriji modelov odličnosti. Obravnava organizacijske procese in vprašanje uteži za dele modela ter njihove uporabe.

Avtorica se osredotoči na analizo sistemov zunanjega ocenjevanja odličnosti v izbranih evropskih državah. Izbor držav utemelji s primerljivostjo sistema javne uprave in s teoretsko in praktično odličnostjo. Njihova primerjava daje osnovo za primeren izbor za uporabo v Sloveniji. V monografiji predlagani model odličnosti, prilagojen posebnostim javne uprave, temelji na modelu prof. Rudija Rozmana, priznanega strokovnjaka s področja organizacije in managementa.

Deseto poglavje je eno od bolj obsežnih in je namenjeno prikazu rezultatov raziskave. Podrobno so opredeljeni področje raziskave, raziskovalni vzorec, ciljna skupina, raziskovalne hipoteze in metodologija. Predstavljeni so doseženi rezultati, preverjene so praktične hipoteze. Sledi prikaz uporabnosti rezultatov in možnosti za nadaljnja raziskovanja.

Avtorica v delu prikaže rezultate lastne raziskave, ki ustreza vsem zahtevam znanstvenega raziskovanja. Izjemen prispevek je njeno zavedanje, da je treba rešiti vprašanje izrazoslovja za področje managementa, organizacije, kakovosti in odličnosti v javnem sektorju. Ni mogoče spregledati njene odločitve, da prevede tujke, ki se pogosto uporabljajo na tem znanstvenem področju, v slovenski jezik. Obravnava tudi zelo aktualno vprašanje družbene odgovornosti v pogojih gospodarske krize in recesije. Uspelo ji je izbrati najboljše možne opredelitve, ki so osnova za delovanje sistema. Istočasno pa je poiskala dejavnike, ki so ključni za odličnost združb v javni upravi. Predlagani model odličnosti upošteva zahteve najboljših modelov in je uporaben tako v javnem kot tudi v zasebnem sektorju.

Popravek k reviji Uprava, številka 1/2011

Spoštovane bralke, spoštovani bralci!

V reviji Uprava, št. 1/2011, je pri prispevku dr. Mira Cerarja z naslovom "Koliko prava potrebuje šolstvo?" prišlo do neljube tiskarske napake pri tipologiji članka.

Članek sodi v tipologijo *1.01 izvirni znanstveni članek* in NE v tipologijo 1.02 pregledni znanstveni članek.

Za nastalo napako se avtorju iskreno opravičujemo.

Uredništvo revije Uprava

Navodila avtorjem

V reviji Uprava objavljamo izvirne članke, ki obravnavajo teoretična in praktična vprašanja razvoja in delovanja javne uprave.

Znanstvene članke objavljamo v slovenskem in v angleškem jeziku, izjemoma v nemškem ali francoskem jeziku. Druge članke objavljamo v slovenskem, angleškem, nemškem ali francoskem jeziku, z daljšim povzetkom v angleškem oziroma slovenskem jeziku.

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Uredništvo lahko še pred recenzijo zavrne objavo članka, če njegova vsebina ne ustreza najavljeni temi, če je bil podoben članek v reviji že objavljen, ali če članek ne ustreza kriterijem za objavo v reviji. O tem uredništvo pisno obvesti avtorja. Pred sprejemom članka v recenzijo mora avtor podpisati Izjavo o avtorstvu, s katero avtor prenese materialne avtorske pravice na izdajatelja revije in dovoli objavo članka na spletu.

Članek naj bo lektoriran, v uredništvu se opravlja samo korektura. Izjemoma se po dogovoru z avtorjem besedilo tudi lektorira.

Vsi članki se recenzirajo in razvrstijo.¹ Med recenziranjem avtorji in recenzenti niso imenovani. Članki pod 1.01, 1.02 morajo za objavo prejeti dve pozitivni recenziji, od tega eno od tujega recenzenta. Če recenzenti razvrstijo članek različno, o končni razvrstitvi odloči uredniški odbor.

Članek, ki ga je avtor poslal v slovenskem jeziku in sta ga recenzenta razvrstila po 1.01, 1.02, mora avtor nato poslati še v prevodu v angleški jezik.

1 Članke razvrščamo po tipologiji COBISS:

1.01 Izvirni znanstveni članek – prva objava originalnih raziskovalnih rezultatov v takšni obliki, da se raziskava lahko ponovi, ugotovitve pa preverijo.

1.02 Pregledni znanstveni članek – pregled najnovejših del o določenem predmetnem področju, del posameznega raziskovalca ali skupine raziskovalcev z namenom povzemanja, analiziranja, ovrednotiti ali sintetizirati informacije, ki so že bile objavljene. Prinaša nove sinteze, ki vključujejo tudi rezultate lastnega raziskovanja avtorja.

1.04 Strokovni članek – predstavitev že znanega, s poudarkom na uporabnosti rezultatov izvirnih raziskav in širjenju znanja.

1.08 Objavljeni znanstveni prispevek na konferenci – predavanje, referat, načeloma organiziran kot znanstveni članek.

Oblikovanje članka:

Naslovu prispevka naj sledi: polno ime avtorja/avtorjev, naziv institucije/institucij in elektronski naslov/naslovi. Članek mora vsebovati še:

- izvleček, ki naj v 8 do 10 vrsticah opiše vsebino prispevka in dosežene rezultate raziskave;
- ključne besede: 1–5 ključnih besed; ter
- kodo iz klasifikacije po Journal of Economic Literature – JEL (http://www.aeaweb.org/journal/jel_classsystem.html).

Članek, ki je bil razvrščen po 1.04 ali 1.08, naj vsebuje tudi povzetek v angleškem jeziku v obsegu 3 strani. V povzetku prevedite naslov in ključne besede ter predstavite vsebino članka (opredelitev problema in ugotovitve). Prevod povzetka članka tujih avtorjev v slovenski jezik zagotovi uredništvo.

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Slike in tabele, ki jih omenjate v članku, vključite v besedilo. Opremite jih z naslovom in oštevilčite z arabskimi številkami. Revijo tiskamo v črno-beli tehniki, zato barvne slike ali grafikoni kot original niso primerni. Če v članku uporabljate slike ali tabele drugih avtorjev, navedite sklic pod sliko, tabelo ali kot sprotno opombo. Enačbe oštevilčite v oklepajih desno od enačbe.

Članek naj obsega največ 30.000 znakov. V besedilu se sklicujte na navedeno literaturo na način: (Novak, 1999, str. 456).

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- Gilber, G., & Pierre, P. (1996). Incentives and optimal size of local jurisdictions. *European Economic Review* (40), 19–41.

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- Katzenbach, J., & Smith, D. (1993). *The wisdom of teams*. Cambridge, MA: Harvard Business School Press.

Knjiga z urednikom:

- Keene, E. (Ur.). (1988). *Natural Language*. Cambridge: University of Cambridge Press.

Prispevek na konferenci:

- Bugarič, B. (2002). Od hierarhične k participativni (odprti) javni upravi. *IX. dnevi slovenske uprave. Portorož* (str. 23–29). Ljubljana: Visoka upravna šola.

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Kadar ima publikacija več kot pet avtorjev, navedite samo prvega avtorja, npr. Novak et al. Če navajate dve deli ali več del istega avtorja, letnico označite, npr. 2005a, 2005b ... Priporočamo, da uporabite samodejni zapis literature, ki ga omogoča Word 2007 (zapis APA).

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