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Uvodnik

Spoštovani.

Pred vami je prva številka *Mednarodne revije za javno upravo, International Public Administration Review*, ki nadaljuje desetletno delovanje revije *Uprava, Administration*, ustanovljene leta 2002.

Novo ime revije nakazuje njeno tradicionalno usmerjenost v javni sektor, javno upravo, državno upravo. Spremembe v javnem sektorju države so odraz družbenih sprememb v svetu. Zato je reforma javne uprave »nikoli dokončana zgodba«, pri kateri bi morali znanost in stroka odigrati pomembno vlogo. Prepričani smo, da smo po desetih letih delovanja postali prepoznavna revija za javni sektor v Sloveniji, na Balkanu, v Evropi in tudi izven nje.

Mednarodna revija za javno upravo mora postati del sistema, ki omogoča primerjavo ne samo med različnimi organizacijami, ki zagotavljajo storitve javnega sektorja znotraj posameznih držav, ampak tudi med državami članicami Evropske unije in drugim svetom. Ugotovitve raziskovalnih projektov in najboljših zaključnih del predvsem na drugi in tretji stopnji študija so mnogokrat tako zanimive, da bi bilo resnično škoda, da jih ne bi posredovali domači in tuji strokovni javnosti. Pri tem se vsaj v Sloveniji še vedno srečujemo s premajhno zavzetostjo diplomantov in strokovnjakov iz prakse, da bi prelili svoja spoznanja v članke in jih ponudili v objavo. Celo podiplomski študentje, ki morajo za najvišje ocene zaključnih del dobiti potrdilo o objavi članka v mednarodni reviji z recenzijo, raje pristanejo na nižje ocene. Morda je to odraz nizkih ambicij diplomantov ali pa previsoke kritičnosti do lastnih pisnih izdelkov. Očitno bo treba še več navajanja na pisanje člankov predvsem med mlajšo generacijo študentov magistrskih programov. Najslabše bi bilo, da bi se odpravila zahteva po objavah, češ da je to previsok kriterij.

Povsem drugačne navade imajo strokovnjaki in študentje v nekaterih razvitih državah, kjer je povsem samoumevno, da so objave v mednarodnih revijah sestavni del strokovnega napredovanja. Zato so revije, ki so vključene v najbolj odmevne baze, zasute s ponudbo člankov avtorjev z vsega sveta. Izbira je zelo zahtevna, čakalna doba za objavo pa tudi nekaj let.

Z *Mednarodno revijo za javno upravo* želimo biti vključeni v najboljše baze, zato njeno novo ime poudarja še večjo mednarodno usmerjenost revije. Zavezani smo najvišjim standardom kakovosti, ki bodo najpomembnejši kriterij za objavo v reviji. Prepričani smo, da bomo le tako dosegli še večjo mednarodno prepoznavnost in znanstveno uveljavljenost revije.

V tokratni številki sta zelo zanimiva prispevka dveh nemških avtorjev. Prvi opisuje vlogo in pomen čezmejnega sodelovanja tudi na področju javne uprave. Poslovneži se pogosto odločajo za opravljanje gospodarske dejavnosti

v državah v bližini svojega matičnega podjetja in pričakujejo pri tem čim manj administrativnih ovir. Ustvarjanje mreže organizacij, ki lahko v več sosednjih državah pomaga pri informiranju in spodbujanju čezmejnega sodelovanja, je samo ena od pomembnih nalog Evrope in regij.

Drugi prispevek pa na primeru Nemčije prikaže metodologijo za presojo učinkov ukrepov države na razvoj lokalnih skupnosti, saj storitve javnega sektorja odločilno vplivajo na kakovost življenja prebivalcev. Globalizacija in svetovna gospodarska kriza postavljata nacionalne države v povsem novo vlogo, ki ji morajo države prilagoditi tudi svoje institucije in funkcije. Država skupaj z vsemi drugimi družbenimi podsistemi naj skrbi za sprejem ukrepov, ki naj bi zagotovili stabilizacijo in ponovni razvoj družbe. Hkrati je vedno bolj očitna velika odvisnost posameznih držav in delov sveta od mednarodnih sprememb. Zato bodo v naslednjih letih še bolj pomembni pravočasna informiranost, odprtost in prenos znanstvenih spoznanj in dobrih praks.

Odgovorna urednica

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Prospects of Cross-Border Cooperation in Europe: Capacity-Building and the Operating Principle of “Horizontal Subsidiarity”

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ABSTRACT

Based on a reflection of the seven central challenges which all cross-border territories in Europe are facing in practice, the article analyses how cross-border cooperation in Europe could be improved in the future. Two central fields are interpreted in this regard: training/facilitating and applied interdisciplinary research. The article suggests that a more effective cross-border policy-making of the future depends on a systemic capacity-building, based on the new operating principle of »horizontal subsidiarity«. For the moment being, cross-border cooperation is only a functional sub-system, created by and largely depending on contributions coming from the states involved. Horizontal subsidiarity, combined with new approaches such as territorial impact assessment, multi-level governance or joint interest representation would allow for a better development of an integrated cross-border policy-making, based on the real challenges and potentialities of a 360° perspective on the cross-border territory.

Key words: border, cross-border policy-making, capacity-building, interdisciplinary research, training, European territorial cohesion

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1 Introduction: The Seven Challenges of Cross-Border Co-Operation in Europe – A Need for Capacity Building

The horizontal analysis of the contributions of the joint research cycle carried out by the Euro-Institute and the University of Strasbourg with more than 100 contributions coming from both the academic field and from practitioners of cross-border cooperation (Wassenberg, 2010; Beck & Wassenberg, 2011; Wassenberg & Beck, 2011a, 2011b; Beck & Wassenberg, 2013a, 2013b) allowed to identify two generalized patterns of cross-border-policy-making in Europe. One first conclusion that we were able to formulate on this

basis (Beck, 2012) is the hypothesis of a certain convergence with regards to the practical functioning of cross-border cooperation (CBC) in Europe. This convergence is mainly caused by the procedural logic of the financial promotions programmes of the European Commission with regards to the ETC objective (INTERREG) leading to more or less unified practices regarding the implementation of elements like the partnership-principle, the principle of additionality, multi-annual programming based on SWOT-analysis, project-based policy-making, project-calls, financial control etc. As a consequence we can observe during the last two decades or so a general pattern of CBC policy-making that is characterized by a shift from informal exchanges to more concrete projects, from general planning to attempts for a more concrete policy implementation, from rather symbolic to real world action, from closed informal networks to more transparent and official institutions.

In addition the role and the perception of the very concept of the border has changed considerably: the separating function is less important today but more and more replaced by an integrated 360° perception of the cross-border territory and its unused potentials (Grossouvre & Maulin, 2009). At this level it is not so much the impact of the European programmes and their sometimes a bit too ambitious objectives as such, but rather the change in the perception of the local and regional actors themselves, which after years of sometimes frustrating experiences, leads to a certain positive pragmatism when it comes to cross-border issues: it becomes more and more evident, that cross-border institutions today are more platforms than real administrative units, allowing for the very pragmatic search for joint solutions to common local problems resulting from the increasing border-crossing socioeconomic dynamics (Wille, 2012; Beck, Thevenet & Wetzel, 2009), in areas such as transportation, spatial planning, environmental protection, risk prevention, citizen's advice and health cooperation, etc. rather than for the definition and implementation of big strategic ambitions.

The research project has on the other hand allowed to identify a second general pattern, which is represented by seven central challenges of CBC policy-making, determining and often still hindering – however with differences regarding their intensity and combination – the horizontal interaction in cross-border territories everywhere in Europe:

- **Developing functional equivalences between different politico-administrative systems:** How to develop functional interfaces that allow for successful cooperation between partners coming from different institutional domestic backgrounds with regards to distribution of power and resources, professional profiles and sometimes even the scope and the legitimacy for transnational action as such (Beck, 2008a)?
- **Creating effective knowledge-management for the cross-border territory:** How to generate and use valid information about the characteristics, the real world problems but also the potentialities of a cross-border territory in a 360° perspective, how to base future action

on a sound and integrated empirical basis and thus avoiding a negative »garbage can model« (Cohen, March & Olsen, 1972) practice of cross-border policy making (ad hoc solutions developed by individual actors, based on individual preferences in search for an ex post justification and a real world problem).

- **Transferring competencies from principals to agents:** How to reduce the dependency of cross-border actors and policy-making on the respective domestic context by identifying fields of cross-border action that best can be implemented by a transfer of real administrative and functional competence from the national jurisdictions towards cross-border bodies with sufficient administrative, financial personnel capacity, how to design decision-processes in this regard (Benz, Scharpf & Zintl, 1992)?
- **Optimizing the interaction between actors:** How to turn the confrontation of different cultures, attitudes, expectations, assumptions, values, interests etc. into a productive working context, which allows for the avoidance of mutual blockages and the development of innovation and real added-values instead (Demorgon, 2005; Eisenberg, 2007; Euro-Institut, 2007; Thedieck, 2007) how to integrate actors representing different sectors (public, private, societal) and cultures into existing patterns and structures of cooperation, how to create and manage inter-sectoral synergies in a cross-border perspective (Beck & Pradier, 2011)?
- **Finding the right level of organization and legal structure:** How to find the right degree of institutionalization and the right legal form for different cross-border tasks by developing a good balance between open network and classical organizational approaches when structuring the cross-border working context; how to avoid both the case of institutional sclerosis and informal/individual arbitrariness (Beck, 1997)?
- **Capturing and measuring the value added and the territorial impacts:** How to pre-assess cross-border impacts of different policy-options before taking action on the preferred one; how to develop and inform specific indicators allowing for a better demonstration of the specific value added of the integrated cross-border action compared to an action taken by the neighboring jurisdictions separately (Taillon, Beck & Rihm, 2011)?
- **Increasing the sustainability beyond a simple multi-project approach:** How to avoid the case of multiple uncoordinated sectoral projects which creates fragmented cross-border activity for a certain time (funding) period only, by strengthening the target-orientation and selectiveness of cross-border policy-development based on integrated (eg. inter-sectoral) territorial development strategies (Casteigts, 2010).

It is evident, that the seven challenges cited above are at the same time the central fields for any capacity-building approach responding to the needs of a future multi-level-governance perspective of cross-border cooperation (Beck & Pradier, 2011; Beck & Wassenberg, 2011). This includes not only the question of how individual actors or members of institutions can better be trained in order to cope with these challenges. Rather the overall systemic question is on the agenda, e.g. how the entire cross-border cooperation-system can be improved and professionalized in order to reach a new level of quality which allows for a better development of the endogenous potentials of this type of territory within the context of the overall objective of territorial cohesion in Europe.

2 Training/Facilitation: The Euro-Institute Approach and TEIN

A key bottleneck preventing the deepening of cross-border cooperation in Europe is the lack of knowledge and understanding of the political and administrative systems of the neighbouring countries. A successful cross-border cooperation needs qualified actors who are able to close the gap between the subsystem and its specific functional characteristics and the functional preconditions provided by the different domestic jurisdictions involved (Jann, 2002; Beck & Thedieck, 2008). One approach, which has been very successful for 20 years now, is the creation of a specific institution, which exclusively works on CBC training – the *Euro-Institute Kehl/Strasbourg* (Beck, 2008b). This bi-national institution contributes to the improvement of cross-border cooperation by continuing education and training and provides practical advice and coaching to practitioners in the cross-border field. In this way, the Institute has become a facilitator for successful cross-border cooperation in the Upper Rhine region and in Europe with regard to public policies, and contributes actively to the resolution of problems resulting from different legal and administrative systems.

Based on the Euro-Institute's experience, training in a cross-border context as part of an overall capacity-building approach should develop at least three levels of personal skills:

Basic training on cross-sectoral competences

The basic component of such a training approach is the development of the cross-sectoral skills and competences necessary for any cross-border and/or inter-regional cooperation. The main objective here is to provide those involved with the necessary institutional and legal knowledge about the politico-administrative system of the neighbouring states and about the system of cross-border cooperation itself. In addition, the relevant instrumental, methodological and linguistic skills must be trained in order to prepare and structure the proposed cross-border activity in advance. It is very important to sensitise the future actors about the importance of the intercultural factor and to provide them with the necessary tools and methods of intercultural

management. Courses should also provide participants with the specifics of managing cross-border projects in terms of planning, financing, organisation of meetings, monitoring and evaluation.

Specialised training

A cross-border training programme should then also provide specialised training courses which are more oriented towards representatives from the different administrative sectors in the neighbouring states. The content of these courses consists of selected policy-oriented topics within cross-border cooperation. The aim is to provide a neutral platform for exchanges between specialists from the different countries so that they can better understand the specific sectoral competences and organisational structures in the other countries, and identify differences and similarities with their own – or just allow them to get current information and analysis on policy developments and good practice in the neighbouring state. At the Euro-Institute, this training mainly consists of two day seminars, including informal exchanges during an evening event on the first day. As most cross-border problems have a sectoral or thematic component, and thus require cooperation between the relevant sectoral services, these specialist seminars are very often the starting point for future joint projects, and sometimes even lead to the establishment of bilateral or trilateral standing working groups.

Developing competences on European affairs for local and regional authorities

At the third level, it seems necessary to enhance the capacities of national public administrations with regards to European integration. Most local and regional administrations take a very pragmatic view and see Europe mainly as an opportunity to access EU financial support programmes like INTERREG. This is a legitimate position which raises numerous practical questions: how to find the right partner across the border; how to fill in the application form; how to set up a project's organisation; how to manage a cross-border budget; how to justify expenses; how to define good progress and impact indicators, and how to make a project-oriented monitoring and evaluation system work. Although the INTERREG secretariats of the relevant Operational Programmes usually do a very good job, practical experience shows that local and regional partners are very often overloaded by the complexity of the reporting and accounting demands, imposed on them by the funder. In addition, project partners coming from different jurisdictions often have different perceptions of these demands, and have to deal in the day-to-day running of a cross-border project with national administrations with quite different administrative cultures. This is why the Euro Institute, using its own extensive experience of such projects, provides adaptable practical coaching to both the individual project leader and the bi- or tri-national project teams as an intercultural group. This contributes to the smooth functioning of the project teams, helps to avoid blockages, and thus facilitates both project and programme implementation.

Under the EU-objective of territorial cohesion, more and more local and regional authorities want to participate in inter-regional or even trans-national projects, and are developing partnerships with other European regions. In this context the question of good practice in international network management arises: how to build and maintain a solid international partnership; what is the relative position of the actors in the network; how to prepare and manage international meetings and so on. Here the Euro-Institute also provides practical assistance.

Last but not least, the local and regional authorities are increasingly realising to what extent they are affected by European legislation. The fact that in Germany, for example, 70% of all local administrative action is more or less determined by EU law, rises the question of how to become more actively involved in the preparation of this law and how to better represent local and regional interests in its formulation. Based on the wide practical experience of its Director, who has since 2004 been an accredited trainer on Impact Assessment for the European Commission's Secretariat General, the Institute helps local and regional actors to become more familiar with the relevant procedures at EU-level and teaches them how to contribute actively to stakeholder consultations and ex ante impact assessments, which increasingly have to consider regional and/or trans-regional dimensions (Taillon, Beck & Rihm, 2011).

The success of this Euro-Institute approach has recently led to the creation of a new European actor: the transfrontier *Euro-Institut-network* (www.transfrontier.eu) – TEIN which aims to built up training capacity on cross-border questions at an EU-wide level. 12 partner-institutions coming from 9 different cross-border contexts all over Europe decided to propose a coordinated answer to the increasing need for knowledge, competences, tools and support on cross-border affaires. Regarding the rising awareness of the importance of cohesion policy in Europe, the idea of the Network is to build capacities in cross-border and transfrontier contexts and this way strengthening the European integration. In order to achieve this goal and to have an extensive overall view of the territorial specificities in Europe, the project coordinator has been careful to invite partners from different parts of Europe to participate in the project. Hence, the partners involved in this project come from »maritime borders«, »old European borders«, »new eastern borders«, »post-conflict borders«, »external borders«, as well as »overseas borders between outermost regions«. As such, the partnership will be able to gain a comprehensive overview of the need for the professionalization of actors in cross-border cooperation and also gain insight into the current situation regarding transfrontier cooperation.

The TEIN gathers training organizations and universities and aims at facilitating cross-border cooperation and at giving concrete answers to the need of Europe for professionalizing actors on transfrontier issues. The »identity and reference grids« of all the partners testify from the quality and the great

experience of each partner. The partners of the TEIN exchange best practices, analyse the specificity of training and research on cross-border issues/in cross-border contexts, capitalize on and draw synergies from the different local initiatives, work on new products like transferable training modules (training for cross-border project managers, etc.), methods (need-analysis methods in cross-border regions, etc.), tools (impact assessment toolkit, etc.), produce valuable research in this field and assure that newest research results within this field are disseminated to actors involved in transfrontier cooperation. TEIN will develop a joint certification system for cross-border training in Europe and will also enable bilateral projects in fields of common interest (exchange of learning units, of lecturers, common research programme, involvement in conferences, etc.) and an increased knowledge and awareness of cross-border issues (at local, regional, national and European level) by producing higher quality work in this field.

3 Applied Research: On the Necessity of an Inter-Disciplinary Approach

Until now, the theme of cross-border cooperation was not dealt with by the scientific literature and research in Europe to a very significant extent. Of course, in different disciplines, we find in Continental Europe a large number of publications dealing with this subject from different angles: a census conducted by the University of Bayonne and the Euro-Institute as part of TEIN, edited by Michel Casteigts, identified more than 3,000 publications (Casteigts & Gollé, 2010).

However, it is still not possible to speak of a true object of scientific research in this regard (Beck, 2012a). This may be related firstly to the fact that cross-border cooperation is very strongly marked by a practice, which, moreover, has been compared to other policy areas, relatively little analyzed, both quantitatively and qualitatively so far. Moreover, cross-border cooperation as an object of research is inherently difficult to define. Thus, it is not surprising that we find especially in the scientific literature often case studies focused on the practice, which, moreover, are very often the work of practitioners. However, to date, science has not yet really taken hold of this material abundant.

To this is added the fact that in the studies and scientific literature available to date, two central features of cross-border cooperation in Europe can be identified: the strong plurality and diversity of cross-border regions in Europe and the multidimensional nature of the phenomenon of the border and the cooperation related to it. Therefore, the purpose of research is more difficult to define and delimit.

If one looks first to the wide variety of border areas in Europe, it may be noted that there is a wide spectrum of possible configurations. With reference to the territorial dimension, it is possible to distinguish between macro-regions

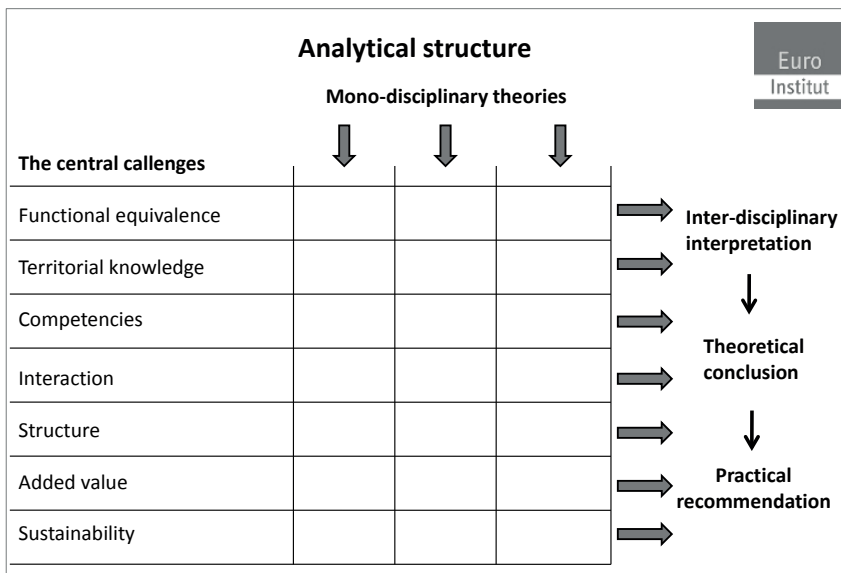
(area of the Baltic Sea, Danube area, Mediterranean, Black Sea etc.), the meso-regions (Upper Rhine, Lake Constance, Grande Région) and micro-regions (Euroregions, Eurodistricts). Moreover, the very nature of the border varies in Europe: there are maritime border regions, mountainous areas, internal and external borders of the EU, natural borders, urban and rural, central and peripheral border regions etc. In addition we have to consider the distinction between »old« border regions, like those of Western Europe, who were born in the 1950s, the »new« border regions, which appeared with the successive enlargements of the EU, and border areas that have emerged with the disintegration of the Soviet Union, such as the border area between Georgia, Armenia and Azerbaijan. In the last twenty years, 26000 km of new borders were drawn in Europe and Central Asia (Foucher, 2007). Moreover, the nature of the border also varies depending on the territorial, political, cultural and historical context : we can find in Europe both configurations that can be described as »simple« (common language, points of common anchor in space and culture, politico-administrative systems comparable, for example in the case of cooperation around Lake Constance) and borders marked by a high degree of complexity, where the scars of recent history and the different administrative systems of the partner are sufficient to form significant barriers in practice (Lambertz, 2010).

Various scientific disciplines have theories, methods and empirical studies at hand, which can be used to study the phenomenology of the border (Beck, 2010; Casteigts, 2013). An analysis of references shows that there are already lots of unidisciplinary reflections on the phenomenon of the border in general and cross-border cooperation in particular. However, no integrated vision, that is to say, interdisciplinary (Frodeman, Thompson Klein & Mitcham, 2010; Jung, Romfeld & Sukopp, 2010) has been developed until now. This is particularly true for the area of applied sciences, which is even more surprising with cross-border cooperation being a policy-field which very much depends on pragmatic solutions to be developed for concrete challenges.

At this stage of research, we cannot yet speak of the emergence of a theory of cross-border cooperation in the strict sense of the term (Thiel, 1996; Balzer & Heidelberger, 1983; Kuipers, 2001; Dordrecht et al., 2001; Kuhn, 1976), and it may even be questioned if such a theoretical approach would be feasible or even desirable. However, the above described seven challenges may be used as a reliable empirical basis for the purpose of further research in the field of applied sciences, allowing for the foundations of an epistemological view on the phenomenology of cross-border cooperation. However, for the formation of such a »middle-range« theory that allows to go at least beyond very knowledgeable and territorially nuanced empiricism and wants to generate prescriptive knowledge for future capacity-building, we need a more systematic and interdisciplinary approach which finds its programmatic foundations in the reference model of applied sciences. One idea that was emerging from the results of this research-cycle is to develop

an Interdisciplinary Handbook on cross-border cooperation. Here, it is not the territorial point of view as such that will be highlighted, but rather the interdisciplinary interpretation of the seven challenges mentioned above, based on different theories and models of scientific interpretation: How can the defined challenges be categorized and explained in terms of different scientific disciplines? What prescriptive interpretations can be drawn to guide the actors in the future – especially using interdisciplinary? What kind of methods can be applied in order to generate prescriptive knowledge for real world actors of cross-border cooperation? Complementary to the very comprehensive scientific reflection taken by Michel Casteigts (Casteigts, 2013) which can be located in the field of basic research, such a capacity-oriented interdisciplinary research-approach of applied sciences may be illustrated by the diagram in Figure 1.

Figure 1: Analytical structure of applied research on CBC



Source: Beck (2012a)

4 Setting the Frame of a Systemic Capacity-Building for Cross-Border Cooperation

Cross-border co-operation in Europe is still confronted and finds itself sometimes even in conflict with the principle of territorial sovereignty of the respective national state (Beck, 1999). Even legal instruments aiming at a better structuring of the cross-border co-operation by creating co-operation groupings with a proper legal personality (Janssen, 2007) like for instance the European Grouping of Territorial Co-operation (EGTC) (Regulation (EC) No1082/2006), do not allow for an independent transnational scope of action: regarding budgetary rules, social law, taxation, legal supervision etc. the details of the practical functioning of an EGTC depend fully on the domestic law of the state, in which the transnational grouping has finally chosen to take its legal seat.

Even in those regions where the degree of co-operation is well developed, cross-border co-operation is therefore rather a transnational politico-administrative subsystem, created by and composed of the respective »domestic« national partners involved. Both, institutions, procedures, programmes and projects of cross-border co-operation depend – in practice – on decisions, which are still often taken outside the closer context of direct bi- or multilateral horizontal co-operation. In most transnational constellations – also where federalist states are participating – cross-border policy-making cannot be based on a transparent delegation of proper competences from the domestic partners towards the transnational actors, but the domestic partners must still rather recruit, persuade and justify their actions and their legal and financial support for each and every individual case. The »external« influence on such a sub-system of co-operation is relatively important. Cross-border co-operation can therefore be interpreted as a typical principal-agent constellation (Czada, 1994; Chrisholm, 1989; Jansen & Schubert, 1995): with the principals being the national institutional partners of this co-operation (regions, state organisations, local authorities etc.), representing the legal, administrative, financial and decisional competences and interests of their partial region, and the agents being the actors (cross-border project partners, members of transnational bodies or specific institutions, programme officers and co-ordination officers etc.) responsible for the preparation, the design and the implementation of the integrated cross-border policy (Beck, 1997). Cross-border co-operation thus has always both an inter-institutional and an inter-personal dimension, requiring the co-operation of both, corporate and individual actors with their specific functional logic, motivated by special interests in each case.

In addition to the training/facilitation and research approaches that have been presented in more detail above, four further components of such a systemic cross-border capacity-building seem to be of particular strategic interest for the future:

Strengthening the evidence base of cross-border policy-making: One central weakness of most cross-border policy-making consists in the lack of tangible base-line information regarding both the real world strengths/weaknesses and the potentials of the cross-border territory in question. The national and regional statistics often suffer from a lack of comparability and specific analysis on the characteristics and the magnitude of the socio-economic cross-border phenomenon (be it mobility of citizens, economic exchanges and relations, transport and traffic movements, exchanges between universities, students, associations etc) suffers both from the challenge of quantification and qualification. In addition, the results of the SWOT-analysis carried out at the beginning of a new programming period, are often not really binding later on, when the selection of project applications actually takes place. In turn, both the programme and the project level have difficulties to describe and capture the specific cross-border added-value of the actions that were funded – mostly due to the absence of credible impact-indicators and a data generation that requires specific qualitative and quantitative methods.

Under the new generation of the cohesion policy, the idea of evidence based policy-making has a prominent place. Cross-border territories will have to strengthen their efforts to creating and proceeding tangible impact information in the near future. This is also a prerequisite for any cross-border policy-approach that wants to become more strategic in the sense of a more focused and concentrated pattern that concentrates on the integrated development of territorial potentials (360° perspective) instead of multiplying disconnected sectorial projects.

With the Impact Assessment toolkit for cross-border cooperation the Centre for Cross Border Studies in Ireland and the Euro-Institute have developed an instrument that can be very significant in this regard, allowing for a much more evidence based policy- and project development in the future.

Developing a multi-level-governance based on subsidiarity: In the perspective of a systemic capacity-building approach it seems desirable to strengthen and enlarge the scope of action of the sub-system of cross-border-cooperation in Europe. Overcoming the seven challenges cited above would require multi-level governance that leads both to a much closer and more integrated cooperation and a much clearer functional division of labour between the different levels of cooperation. In such a perspective the EU-level would anticipate impacts of future EU-initiatives on the cross-border territories at an early stage and would allow for a better inter-sectoral coordination between the different thematic policy-areas and institutional competences which have a logical border crossing dimension. Integrated policy-making would require, for instance, standing inter-service groups on cross-border cooperation, which are them themselves interlinked with relevant groups of the Committee of the Regions and the European Council and Parliament.

The member states (and their territorial subdivisions) would on the other hand support cross-border cooperation actively and would allow for flexible solutions to be developed on the borders. This would lead to a new operating principle, which I described recently as »horizontal subsidiarity« (Beck, 2012b): Whenever a policy-field that is relevant for horizontal exchange, cannot be harmonized at the European level, member states should then at least try to setting the frame via direct coordination with their neighboring states. The term »horizontal subsidiarity« means in this respect, that with regards to cross-border policy issues the »smaller« cross-border unit should have the possibility to solve a problem or handle a question prior to the intervention of the »bigger« national jurisdiction. This would then require that the smaller unit will become enabled by the provision of the necessary legal flexibility: experimental and opening clauses in thematic regulations and exemptions based on *de minimis* rules (whenever a cross-border phenomenon does not exceed a certain level of magnitude – e.g. 5% of the population being commuters, 3% of the students studying at the neighbouring university, 2% of patients asking for medical treatment with a doctor beyond the border – an exception to the national rules will be allowed).

The local and regional actors on the other hand would have to develop shared cross-border services (Tomkinson, 2007; AT Kaerny, 2005) and transfer domestic local/regional competencies to joint cross-border bodies with real administrative competencies for concrete missions within relevant cross-border fields. Instead of building or maintaining relatively expensive public infrastructures separately on both sides of the border in service areas such as health, leisure time, schools, kindergarden, fairs, libraries but also transport operators, hospitals, fire department or civil protection etc., local and regional actors would develop complementary fields of specialization and share their infrastructures with local and regional actors from the neighboring state. This could give cross-border cooperation a completely new finality, allowing not only to save scarce resources but also to symbolize both the permeability and the added-value of the »joint« cross-border territory from the point of view of the ordinary citizen.

Subsidiarity within the cross-border territory: In an area such as this, where there is freedom to undertake cross-border action strengthened by horizontal subsidiarity, two additional subsidiary perspectives must be taken into account. On the one hand, a vertical subsidiarity should be established within the cross-border areas of responsibility across the total spatial level (eg. the total territory of the Danube macro-region, the total territory of the Lake Constance Conference, the total territory of the tri-national metropolitan region of the Upper Rhine) which would only become operative when the smaller cross-border entities (inter-municipal cooperation, Eurodistricts, EUREGIOs, etc) receive excessive demands on their pragmatic, territorial expertise. Thus, distributions of functional and specific assignments on the proficiency scale could be developed in the cross-border area which would

be likely to reduce any duplication of work which has been observed, and which is still widespread today, between the different actors, institutions and territorial levels of cross-border cooperation.

On the other hand, the prospects of intersectoral subsidiarity should also be greatly strengthened. While today, in most cross-border territories in Europe, cross-border issues are primarily the responsibility of political and administrative actors (the current configuration of European aid programmes sustains this trend), subsidiary cross-border cooperation should support more strongly sectoral ownership of cross-border systems in economy, science and research, and civil society. Public action contributions would therefore be in these sectors that in the future would need to better arrange cross-border action amongst themselves, either in a catalytic (eg. to simulate project initiatives) or complementary way (eg. in the form of financial assistance to initiatives coming from these very sectors), however they should not replace them either (Grabher, 1994; Scharpf, 2006). In addition to the key public cross-border assignments (infrastructure, welfare, security against risks, etc), public actors could ultimately in such a perspective, divert the justifiable functional legitimacy to act from the long-term protection mission of posterity (Böhret, 1993; Dror, 2002) which should be visible in the integrated approaches of a cross-border sustainability strategy.

Joint interest-representation: From the perspective of cross-border territorial cohesion the frequently different implementations of EU law by the neighboring countries regularly lead to technical and political asymmetries, which often even reinforce structural differences rather than leveling them. It must be worrying that the comprehensive annual work output of the European Commission (on average, there are several thousand proposals for directives, policies, regulations, decisions, communications and reports, green papers, infringement procedures per year) does not explicitly consider possible impacts on the European cross-border territories so far – although it is evident how strongly they are affected by it. It therefore seems necessary that cross-border territories become more visible with regards to their specific implementation role and thus get more explicitly considered by the European policy-maker when developing key-initiatives in the context of the strategy »Europe 2020«. In the European Commission's impact assessment system (Europäische Kommission, 2009) a specific cross-border impact category is currently still lacking. However, cross-border territories could become ideal test-spaces for the ex-ante evaluation of future EU policies. On the other hand this would require a real awareness of cross-border territories to also actively engage in this in a coordinated manner, and – for instance – present joint opinions and impact analysis throughout official thematic consultations, launched by the European Commission. It is evident, that also a joint and coordinated thematic lobbying and advocacy activity of cross-border territories should be strengthened in this regard. The European macro-regions have shown how the interests of specific types of cross-border areas

may well find their way into European strategies. The Open Days regularly demonstrate how rich and exciting a joint presentation and reflection of different cross-border experiences can be.

5 Conclusion

After an experience of over 50 or (for the case of new member states) 20 years, we are now in Europe on the threshold of cross-border cooperation of a completely new quality (Beck, 2011). With the new cohesion policy of the European Union, which – in addition to a differentiation of governance both vertically and horizontally – attaches much greater importance to territorial cohesion and the extent of impacts actual cross-border actions (Taillon, Beck & Rihm, 2011), but also thanks to a new generation of actors (Botthegi, 2013), who are more interested in results than procedures, many border territories will have to redesign and strengthen their given pattern of cooperation (Casteigts, 2010). At the same time, cross-border cooperation should continue to be developed and enhanced by a capacity building structurally and functionally, so that it is up to the real importance of border territories for the future European integration process (Jakob, Friesecke, Beck & Bonnafoous, 2011).

The European support (INTERREG, EGTC, ...) of the past brought much progress to the field of cross-border cooperation, with the implementation of concrete projects instead of a discussion of nice ideas, with real partnerships including shared co-financing and responsibility instead of endless meetings, with integrated programmes instead of stand-alone approaches of different regional partners, with innovative structures instead of institutional sclerosis and a new and more holistic perception of cross-border territories seen under a 360° perspective: In many cross-border territories we can identify a shift from selective problem perception (and the generation of isolated sectoral project-approaches) towards a joint ambition allowing for an integrated development of given potentials of the cross-border territory. On the other hand, the seven main challenges of cross-border policy-making presented above still remain unsolved. It is evident, that a new quality of integrated cross-border cooperation needs a much more systemic capacity-building for and within cross-border territories, in order to actively develop the potentials of cross-border territories and strengthen their role as catalysts for horizontal European integration (Beck, 2011; Wassenberg & Beck, 2011a).

The TEIN / MOT / ABER partnership approach, that has been officially signed on 10 July in Brussels seems to be a very promising initiative in this regard. The added value of the partnership approach is to allow for a systemic capacity building for cross-border cooperation, operating at different levels: Concrete capacity-building actions at the level of the border, delivered by individual Euro-Institutes and supported by INTERREG A; actions at EU level between TEIN, ABER and the Conference of European Cross-border and

Interregional City Networks CECICN (CECICN & AEBR, 2012), in synergy with network programs such as Interact, INTERREG B and C, ESPON, URBACT etc., but also actions at national level, with tools such as MOT or the CSCE Budapest Platform (http://www.cesci-net.eu/budapest-platform_en) which is composed of 4 national agencies supporting cross-border cooperation. This can result in a very significant contribution in supporting a new quality of cross-border cooperation in line with the architecture of the Cohesion Policy 2014–2020.

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POVZETEK

PRIHODNOST ČEZMEJNEGA SODELOVANJA V EVROPI: KREPITEV ZMOGLJIVOSTI IN UVEDBA NAČELA HORIZONTALNE SUBSIDIARNOSTI

Ključne besede: meja, oblikovanje čezmejne politike, krepitev zmogljivosti, interdisciplinarne raziskave, izobraževanje, evropska teritorialna kohezija

Izhodišče članka je analiza sedmih osrednjih izzivov, s katerimi se v praksi soočajo vsa čezmejna evropska ozemlja. To so: razvijanje funkcionalne enakovrednosti med različnimi politično-upravnimi sistemi; vzpostavljanje učinkovitega upravljanja znanja za čezmejna ozemlja; prenašanje pristojnosti iz glavnega nosilca na zastopnika; optimizacija vzajemnega delovanja med udeleženci; iskanje prave ravni organizacije in pravne strukture; zajemanje in merjenje dodane vrednosti in ozemeljski vplivov; povečanje trajnosti preprostega večprojektnega pristopa.

Članek navaja, da je teh sedem izzivov hkrati osrednje polje za uspešno krepitev zmogljivosti, kar je nujno potrebno za prihodnost večstopenjskega upravljanja čezmejnega sodelovanja v Evropi. Odgovore na vprašanja glede prihodnjega razvoja bi morali oblikovati čim prej; tako na primer, kako se lahko izboljša celotni čezmejni sistem sodelovanja in profesionalizira, tako da bi dosegel novo raven kakovosti, ki bi omogočala boljši razvoj endogenih potencialov tovrstnih območjih v okviru celotnega cilja teritorialne kohezije v Evropi. V zvezi s tem sta analizirani dve osrednji področji: usposabljanje/pospeševanje in uporabne interdisciplinarne raziskave.

Ključno ozko grlo, ki preprečuje poglobljanje čezmejnega sodelovanja v Evropi, je pomanjkanje znanja in nerazumevanje političnih in upravnih sistemov v sosednjih državah. Uspešno čezmejno sodelovanje potrebuje usposobljene akterje, ki bi bili sposobni zapreti vrzel med podsistemom in njegovimi specifičnimi funkcionalnimi lastnostmi ter funkcionalnimi pogoji, ki jih zagotavlja ustrezna domača zakonodaja. V zadnjih 20 letih je bila zelo uspešna ustanovitev posebne ustanove Euro-Institut v Kehl /Strasbourg, ki omogoča usposabljanje za čezmejno sodelovanje. Uspeh delovanja Euro-Instituta je nedavno privedel tudi do oblikovanja novega evropskega akterja: transnacionalnega omrežja Euro-Instituta (www.transfrontier.eu) TEIN, katerega cilj je zgraditi zmogljivosti za usposabljanje o čezmejnih vprašanjih na vseevropski ravni. 12 partnerskih ustanov, ki prihajajo iz 9 različnih čezmejnih okolij po vsej Evropi, se je odločilo oblikovati usklajeno rešitev za naraščajočo potrebo po znanju, sposobnostih, orodjih in podpori za čezmejna vprašanja. Glede na vedno večje zavedanje o pomenu kohezijske politike v Evropi, je namen TEIN-a povečati zmogljivosti v kontekstu čezmejnega in transnacionalnega sodelovanja ter na ta način okrepiti evropsko integracijo.

Do sedaj v Evropi znanstvena literatura in raziskave tematike čezmejnega sodelovanja niso obravnavale v veliki meri. Seveda najdemo na evropskem kontinentu v različnih disciplinah veliko število publikacij, ki obravnavajo to temo z različnih zornih kotov: popis, ki sta ga izvedla Univerza Bayonne in EURO-Institut kot del TEIN-a, in ga je uredil Michel Casteigts, je odkril več kot 3000 takih publikacij. Vendar članek v zvezi s tem navaja, da še vedno ni mogoče govoriti, da bi čezmejno sodelovanje postalo pravi predmet znanstvenih raziskav. Vsekakor se zgoraj opisani sedmi izzivi lahko uporabijo kot zanesljiva empirična podlaga za namene nadaljnje raziskave na področju uporabne znanosti, ki bi omogočale temelje epistemološkega pogleda na fenomenologijo čezmejnega sodelovanja. Vendar pa za nastanek teorije »srednjega dosega«, ki bi omogočala preseganje sedanjih, vendar ozemeljsko omejenih izkušenj in bi ustvarila perspektivno znanje za večje zmogljivosti v prihodnosti, potrebujemo bolj sistematičen in interdisciplinarni pristop, ki bi se oblikoval v referenčni model uporabne znanosti. Zamisel, ki je izhajala iz rezultatov tega ciklusa raziskav, je oblikovati Interdisciplinarni priročnik o čezmejnem sodelovanju.

Poleg usposabljanja/pospeševanja ter raziskovanja članek predlaga štiri praktične sestavine sistemske krepitve čezmejne zmogljivosti:

Okrepitev evidenčne zbirke za oblikovanje čezmejne politike: V okviru nove generacije kohezijske politike, je pomembna zamisel o otipljivi evidenčni zbirki za oblikovanje čezmejne politike. Čezmejna ozemlja morajo okrepiti svoja prizadevanja za ustvarjanje informacij o čezmejnih vplivih ter jih tudi posredovati drugim. To je tudi osnovni pogoj za kakršenkoli čezmejni politični pristop, ki naj bi postal bolj strateški z oblikovanjem bolj osredotočenega in zgoščenega vzorca in bi težil k celostnem razvoju teritorialnih potencialov, namesto da bi množil nepovezane sektorske projekte.

Horizontalna subsidiarnost: Z vidika sistemskega pristopa krepitve zmogljivosti je zaželeno okrepiti in povečati obseg delovanja podsistema čezmejnega sodelovanja v Evropi. Za premagovanje zgoraj navedenih sedmih izzivov bi bilo potrebno upravljanje na več ravneh, ki bi hkrati vodilo do tesnejših in bolj celostnih sodelovanj ter do veliko bolj jasne funkcionalne delitve dela med različnimi ravni sodelovanja. S tega vidika bi morale države članice (in njihovi ozemeljski deli) aktivno podpirati čezmejno sodelovanje in omogočati prilagodljive rešitve, ki bi jih bilo treba razviti na mejah. To bi privedlo do novega načela sodelovanja, ki je opisan kot »horizontalna subsidiarnost« (Beck, 2012b): kadarkoli področje politike, ki je pomembno za horizontalno izmenjavo, ne more biti usklajeno na evropski ravni, morajo države članice poskušati določiti okvir z neposrednim usklajevanjem sosednjih držav in tako omogočiti potrebno pravno prožnost: poskusne in začetne klavzule v tematskih uredbah in izjemah, ki temeljijo na pravilu čezmejnih de minimis pravil sodelovanja, bi na primer omogočale delovanje načela horizontalne subsidiarnosti.

Subsidiarnost znotraj čezmejnega ozemlja: Na področju, kjer je svoboda za opravljanje čezmejnih dejavnosti še okrepljena z horizontalno subsidiarnostjo, je treba upoštevati še dve dodatni pomožni perspektivi. Po eni strani bi bilo treba vzpostaviti vertikalno subsidiarnost znotraj čezmejnega področja odgovornosti po vsem skupnem prostoru. Po drugi strani pa je treba močno okrepiti možnost za medsektorsko subsidiarnost. Medtem ko danes v večini čezmejnih območij v Evropi o čezmejnih vprašanih predvsem odločajo politični in upravni akterji (ta trend ohranja trenutna ureditev evropskih programov pomoči), bi morala subsidiarnost čezmejnega sodelovanja bolj odločno podpirati sektorsko lastništvo čezmejnih sistemov v gospodarstvu, znanosti in raziskovanjih ter v civilni družbi.

Predstavnštvo skupnega interesa: Z vidika čezmejnega ozemeljske kohezije so pogoste različne izvedbe prava EU v sosednjih državah, kar vodi do tehničnih in političnih odstopanj, ki velikokrat celo okrepijo strukturne razlike, namesto da bi jih izenačile. Zaskrbljujoče je, da Evropska komisija v celotnem svojem letnem delovnem proizvodu (to so tisoči predlogi za direktive, pravila, uredbe, odločbe, sporočila in poročila, zeleni dokumenti, postopki za ugotavljanje kršitev na leto) do sedaj izrecno ni proučevala mogočih vplivov na evropskih čezmejnih ozemljih. Zato se zdi nujno potrebno, da bi čezmejna ozemlja postala bolj vidna v glade na njihovo specifično vlogo uvajanja in bi jih bolj izrecno obravnavali v okviru oblikovanja Evropske politike pri razvoju ključnih pobud v kontekstu strategije »Europe 2020«.

Članek ugotavlja, da smo po izkušnjah več kot 50, oziroma v primeru novih držav članic 20 let v Evropi na pragu čezmejnega sodelovanja povsem nove kakovosti. Z novo kohezijsko politiko Evropske unije, ki – poleg vertikalne in horizontalne diferenciacije vladanja – pripisuje precej večji pomen teritorialni koheziji in obsegu vplivov dejanskih čezmejnih dejavnosti, in tudi zahvaljujoč novi generaciji akterjev, ki so bolj zainteresirani za rezultate kot postopke, bodo morala mnoga mejna ozemlja preoblikovati in okrepiti svoj sedanji način sodelovanja. Hkrati bi bilo treba čezmejno sodelovanje še naprej razvijati in krepiti, strukturno in funkcionalno, tako da bi obmejna območja lahko pomembno prispevala k Evropskim integracijskim procesom.

Differences in Regional Economic Prosperity: Do State Policies Matter? – An Empirical Investigation of Data from the German States

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ABSTRACT

Different regional economic theories come to different conclusions with regard to the impact of (state) policies on the economic prosperity of regions. This article provides empirical evidence that determinants like geography, urbanization, industrial mix and social capital explain 68 percent of the variation in GDP per worker among West German regions. One element that all these factors have in common is that they cannot, at least in the short run, be influenced by state policies. Determinants like infrastructure and human capital, both of which can be influenced by state policies, only account for another 11 percent of the variation in GDP.

Key words: regional economic development, state policies, fiscal equalization scheme

JEL: H7, O1, R1

1 Introduction

The economic performance of the different German federal states (*Länder*) varies greatly; this is also true beyond the easily explained differences between West German regions and the former socialist East German regions. The gross domestic product (GDP) per worker in the richest West German federal state Hessen in 2009 was 68,963 Euros while in the poorest West German federal state Saarland this figure was as low as 56,373 Euros. Questioning what role state policies play in these differences produces controversy. On the one hand, the numerous politics related to *Länder*-rankings suggests

that state policies partly share responsibility – and not to an insignificant extent – for the economic prosperity of the state. So, for example, in Bertelsmann Stiftung (2005, p. 11) it is stated that the »states can influence, to a noticeable extent, how dynamically the economy and employment situation develops in the respective regions«.

On the other hand, there are a series of historical *Länder* case studies that tend to indicate the opposite. Mathias et al. (1980) and also Schmidt (1989) and Fuchs (1992), for example, emphasize the fact that the economic development of the Saarland in the past was significantly influenced by the importance of the coal and steel industry, which led to a regularly changing political affiliation in the region. This in turn had a negative impact on the business investment relationship and slowed the development of new economic sectors. In a similar manner – albeit the other way round – when looking at Hessen, the development of the economic prosperity of the Rhine-Main region can be considered a result of the interplay of historical factors (e.g. a tradition as a place of banks, stock markets and fairs dating far back into the past) and the fact that this is a geographically advantageous location (central position in the federal territory, a railroad and motorway junction dating to the pre-war era, and one of the most important continental European nodal points for air traffic). See Krenzlin (1961), Freund (1991) or Bördlein & Schickhoff (1998) for more information on this point.

In spite of the fact that there is no clear cut empirical evidence regarding the impact state policies have on a state's economic prosperity, many politicians support the idea of a reduction in the level of redistributive transfers between the *Länder* on the basis of the argument that the economic performance of the individual states, whether performing well or poorly, and the accompanying high or low revenue from taxation are the result of »good« or »bad« economic and fiscal policy. These demands are made with the aim of using the »fiscal surplus« of the financially strong *Länder* as a basis for increasing their future growth potential (see Berthold & Fricke, 2007). Empirical evidence on the effect of state policies on regional economic prosperity therefore has direct consequences for the political debate on the adequate level of re-distributive transfers. If the influence of state policies on the economic development in Hessen and Saarland is marginal, then the economic consequences of the disincentives for the economic growth policy in both states, which result from the current fiscal equalization system, is also relative.

In the first part of the paper, a very brief outline of regional economic theory is provided focusing on the contributions of different theories with regard to the question of policy impact (section 2). This section concludes that the established theoretical approaches do not provide satisfying answers to the »Do policies matter«-question. The question has therefore to be addressed empirically (section 3). Using a potential function with the average gross domestic product per worker for the years 2007–2009 as a dependent

variable, factors that can only minimally be influenced by state policies in the short and medium term (such as the structure of urban and industrial development, geography and social capital) are differentiated from those factors which can indeed be influenced by state policies in both the short and the medium term (such as transport and educational infrastructure). The empirical analysis covering 112 West German functional urban regions shows that differences in state policies do not explain more than twelve percent of the variation in GDP per worker among the regions. The final section of the paper discusses some political implications for the debate on the reform of Germany's fiscal equalization system emerging from the results presented (section 4).

2 Regional economic development and politics – theoretical approaches

2.1 Spatial Dimension of »Old« and »New« Economic Growth Theories

From the point of view of traditional growth theory, the economic development of states is determined by the three major saving ratios: capital accumulation, population growth (employment) and technical development (see for the basics of traditional economic growth Solow, 1956, and Swan, 1956; see for a summarised description Capello, 2007, p. 83 et seq.). Although the extent of capital accumulation in this model is accorded a significant weight in terms of economic growth, this factor does not have an original influence if one considers that capital accumulation follows a growth path predetermined by population growth and technical development. Traditional growth theory assumes a decreasing marginal productivity of the production factor capital, which ensures the convergence of state income per capita. In addition, the mobility of production factors leads to a regional balancing of the factor price. If interregional trade occurs, price equalization results even if there is no adjustment of the factor proportions. In this theoretical approach, state policy is not a decisive factor in (regional) economic growth. Economic policy can at best accompany the convergence process, which would in any case occur »naturally«, by means of the removal of mobility and market entry barriers (see for example Caselli et al., 1996).

It is worth noting that the models of new economic development theory allow for a more optimistic assessment of the role of state policies in regional economic development. New growth theory can be traced back to the work of Lucas (1988) and Romer (1986). From the perspective of this approach, long term economic development is only guaranteed through technical development (see for example Arrow, 1985; see also Smolny, 2000). Bearing this in mind, the primary focus of newer growth theory approaches is the explanation of long term growth by means of specifying the determinants of technological change. From a spatial perspective, these approaches imply

that, in contrast to traditional growth theory, there does not have to be a tendency towards regional convergence. One of the main reasons for this is the fact that spatial proximity in terms of the generation and use of technical advances and knowledge is considered of crucial importance.

Regional knowledge networks emerge most easily where substantial human capital and the necessary know-how is already available. This is particularly true for urban agglomerations considered as hubs for the generation of new knowledge with their research infrastructure and above average population of knowledge intensive industries (for an overview Bretschger, 1999; Breschi & Lissoni, 2001; Döring & Schnellenbach, 2006). In addition, it is assumed that regional regeneration occurs through the generation of new knowledge where both the immediately affected region benefits as well as border regions. Based on these considerations and the federal division of competences in Germany, both human capital accumulation and technological externalities in the form of knowledge spillovers can be used as starting points for political activity aimed at positively influencing regional economic development.

2.2 Growth Pole Theories and New Economic Geography

Similar to the proponents of new growth theory, the advocates of polarization theory assume that economic development does not inevitably converge. Here, efforts are made to (dynamically) explain the frequently observed disparities in the economic activities of regions (see Hansen 1967; see Perroux (1955) as a proponent of industrial polarisations models; see in contrast Myrdal (1957) and Hirschman (1958) as proponents of regional polarisations models). In doing so it is assumed that imbalances emerge in economic development processes that start off a cumulative development process. Once this has begun, the process of development exacerbates existing imbalances and leads to sectoral and regional polarization effects, which can emerge in the form of (increasing) divergence between the centre and the periphery.

From this perspective, the market mechanism produces an intensification of differences in development; hence, a balance between states can only be achieved through the introduction of state funded measures. The aim of economic policy thereafter must be to start off a positive, circular-cumulative process. In this case, measures to support capital transfer in economically weak states as well as the introduction of state trade barriers to limit the negative effects of interregional competition can be reckoned with. An increase in investments in transport and communications infrastructure and also an increased public demand for commodities and services from economically weaker states are among the responsibilities of regional decision makers (federal states).

Within the concept of new economic geography, and similar to polarization theories, it is assumed that the economic development of regions occurs in different ways, along the lines of a centre-periphery structure (see

Krugman, 1991; see also Ottaviano & Puga, 1998 as well as Schmutzler, 1999, both of which cover the basic approaches of new economic geography). The interplay of economies of scale based on market-size effects and (spatial) transaction costs (trade barriers, transport costs) are both considered as central to the heterogeneous economic development of regions. Seeing as some of the factors are mobile (mobile businesses and their employees), a cumulative causation effect can result: i.e. firms locate where the demand is high and access to the necessary input factors is best. This is the case in regions where there has been an agglomeration of businesses and where mobile production factors – partly of historical coincidence – have already become concentrated. If one casts an eye on the political economic implications of this model, it can be assumed that the availability of public infrastructure capacities (transport, information and communications infrastructure) makes a significant contribution to the reduction in spatial transaction costs, which is important for agglomeration processes. In addition to this, individual political instruments such as taxation (tax competition), subsidies, the location of authorities or state institutions in periphery regions or a »home market«-oriented public purchasing are analyzed to show how political measures can influence economic activities in a state (see for example Brakman et al., 2002; Baldwin et al., 2003; Brüllhart & Trionfetti, 2004; Dupont & Martin, 2006).

In the new economic geography models these measures generally ensure positive economic development in »disadvantaged« regions. However, this does not occur without – at the same time – increasing the costs of business investments and thereby reducing the macroeconomic growth (see Martin, 1999; Martin, 2003; Boldrin & Canova, 2001). The fact that regions can have a »natural advantage« over other regions points to a basic relativisation of the influence of state policies. In light of this, a high or low concentration of population or the number of regional businesses can be explained by a coincidental combination of favorable or unfavorable natural characteristics of a state. Within new economic geography this situation is taken into account in the use of the terminology »first nature, second nature« (Krugman, 1993). In addition, historical factors (the location of official government offices, displacement of an economically important group of population etc.) can have an effect on the possible concentration of economic activities in a particular location. These location factors, which can have considerable initial effects for the economic development of regions, are often the result of historical coincidences (see Roos, 2002 for related empirical results for Germany).

2.3 Influence of Institutional Factors on Regional Economic Development

In addition to the previously mentioned factors such as geography, industrial structure, human capital and transport infrastructure, which may prove responsible for economic differences between states, institutional factors are also considered relevant. In the economic approaches presented above

it has generally been the case, at least until recently, that these institutional factors have been neglected. When considering the question of whether political decisions and measures have an influence on regional development »it is not possible to ignore the institutional level of economics« (Wößmann, 2001, p. 74). In other words, in order to explain the spread of economic activity in a region it is necessary not only to consider natural and economic location factors, but the institutional conditions of economic action must also be examined more closely. From an economic perspective, it is possible to distinguish between both formal and informal institutions (see in place of many others North, 1991).

From an economic clustering approach (see for example Porter, 1990; Maine et al., 2011), and even more so from an innovative milieu and network structures perspective (see amongst others Granovetter, 1973; Camagni, 1991), it is less the development of formal institutions and much more so that of informal institutions that are considered of importance for regional economic development, as the regional variance of formal institutions (e.g. of constitutions) is small. In these models the existence and innovation capability of such clusters and networks depends on the norms of the actors concerned. In economic terminology, the available »social capital« at the location becomes highly relevant for the economic development of a region, as differences in regional social capital can lead to increasing economies of scale and comparative advantages for a region (see for example Putnam, 1993; Helliwell & Putnam, 1995; for Germany see also Miegel, 1991; Blume & Sack, 2008). The term social capital combines factors of influence such as network preferences and civil society engagement, which – according to the literature – are only subject to a very limited political influence, if any at all.

3 Varied Economic Prosperity in West German Federal States: A Quantitative Investigation of the Determinants

3.1 Methodological Approach

A glance at the theoretical approaches that have been considered above results in following the conclusion: It is not possible to make a clear statement as to whether or not, and/or to what extent, policies in general, and state policies in particular, influence the economic development of regions. The contradictory nature of the different theoretical models points towards the need for empirical research on this topic. In the following section, an empirical approach will be presented that builds on a so-called potential function, as is used in both traditional and current empirical regional development research (see Biehl et al., 1975; Eckey & Kosfeld, 2004).

The basic assumptions of this approach are comparable to the methodological procedures applied in comparative country studies of level regression carried out in the much-cited paper by Hall & Jones (1999). Based on this, in order to

explain the differences in the long term development of regions, regressions with differences in the levels of economic prosperity as a dependent variable are considered better suited than Barro-type growth regressions. These models (e.g. Barro, 1991; Barro & Sala-i-Martin, 1992) assign the growth of an economic region in a particular timeframe as the dependent variable and contain the GDP per worker in the starting year as the key explanatory variable. They are particularly well suited to conducting convergence-divergence studies. Long term differences in growth paths accumulate in differences in economic prosperity and when it comes to identifying the structural determinants for these differences, level regression should be applied.

This approach is also applied here. Accordingly, economic prosperity measured against gross domestic product (GDP) per worker represents the dependent variable to be explained in the potential function. As GDP is characterized by business cycle variations, an average value (arithmetic mean) of the years 2007 to 2009 is used. For the Hall-Jones approach, it is important to apply an exogenous variable with high temporal persistency. This is the main reason for the choice of determinants mentioned in section 3.2 such as geography, urban and industry structure or social capital. A common feature of these exogenous variables is that they are all referred to in regional economic literature as key potential factors which influence the competitiveness of regions, investment behavior and hence income, and in their development a high temporal stability can be accounted for both theoretically and empirically. The temporal variance was studied for all the exogenous variables used, as far as the data date back in the past. In order to balance out small fluctuations, when possible an average for the decade was assigned.

In the empirical analysis carried out within this paper, a regional science approach to the explanation of *Länder*-specific differences in economic prosperity has been chosen. This is because in both regional economics (regional and sectoral polarization theories, new economic geography) and economic growth theories (traditional and new growth theory) spatial areas with a high intensity of economic integration («regions») are identified as relevant units for empirical analysis. In the following section economically integrated spatial units in the form of employment market regions are used, which are differentiated on the basis of commuter relationships in the region (for the demarcation of the employment market regions used see Eckey et al., 2006). As in these regions employment and living largely coincide according to the definition, the results presented here do not react in a sensitive way to the choice of benchmark for the economic output, regressions with GDP per inhabitant as a dependent variable show similar results.

Considering the potential function method determines that only variables with high temporal persistency can be used as explanatory variables, the analysis will only be carried out for 112 West German employment market regions. The average (yearly) gross domestic product per worker for the years

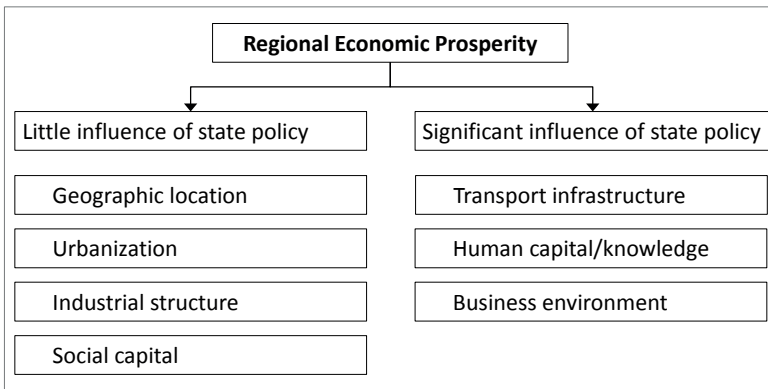
2007–2009 in these regions ranges from EUR 48,309 (Daun employment market) to EUR 72,436 (Munich employment market).

3.2 Hypotheses and Statistical Operationalization

In order to provide empirical evidence of the influence of state policies, the theoretical information on the determinants of economic prosperity of regions mentioned in section II will be divided into different groups of variables.

The first group incorporates the endogenous development potentials of a region or federal state, to which geographic factors, social capital and industry and urban structure will be counted. A common feature of the factors summarized in this group is the fact that *Länder* politics has only a very minimal influence on them in the short and medium term. In contrast, the other group includes the major factors like education and transport infrastructure that the *Länder* can at least partly control (Figure 1).

Figure 1: Determinants of Regional Economic Prosperity



Source: Own illustration

First, the chosen determinants will be explained in connection with the hypotheses relating to their effect on regional economic prosperity before the empirical results are presented and discussed in the following sub-section. The data used is taken from official statistics (see Bundesamt für Bauswesen und Raumordnung, 2007; Statistische Ämter des Bundes und der Länder, 2006), unless otherwise stated.

In order to take differences in geographic factors into consideration, the following variables are used: a dummy for the location of a region on navigable rivers; a dummy for regions with a capital city; a dummy for the location of a region on the eastern border as well as for the rainfall between 1962 and 1990 in millimeters per year. As the German regions only minimally vary in terms of their average yearly temperature, the rate of rainfall is chosen (measured

over at least a 10-year average) in order to portray the climatic conditions. According to the observations of Roos (2002), a positive effect of the first two factors and a negative effect of the last two factors on the economic prosperity of the region are to be expected. Historic trade routes developed on big navigable rivers, while raw materials in particular were transported over the waterways. Industrial settlements followed, giving regions on navigable rivers an economically advantageous starting point. In capital city regions, both infrastructure related location advantages (historic traffic and transport intersection) reaching far back into the past and settlement related factors play a role, as capital cities as a rule developed into large agglomerations with the accompanying market potential. State borders, on the other hand, are seen to hinder the exchange of goods and services. This was true in particular for the borders to the former eastern block states. Based on the hypothesis that mobile production factors (high income, businesses) are likely to settle in regions which are characterized by a good climate and low rainfall, the influence of the climate on economic development will also be included in the investigation.

In order to include the implied positive influence of urbanization of regions on their prosperity level, as is indicated in the models of new economic geography, a number of different variables from official statistics can be used. In specific, the number of inhabitants per square kilometer of land area (density of population), the number of inhabitants per square kilometer of the settlement and traffic area (settlement density), the proportion of settled area in the entire area, and the proportion of inhabitants in municipalities with a population density of less than 150 per square kilometer (proportion of rural population). All of these settlement related structural indicators are highly correlated among themselves. It therefore stands to reason that a factor analysis with this data is carried out, in order to consolidate the information held in the variables. Based on the assumption that all the named variables measure a common latent variable (that of agglomeration), according to the Kaiser-Criteria one single factor can be extracted with a main component analysis, which explains 74% of the variance of the five starting variables. The factor values of the factor »agglomeration« will be used as a determinant in order to improve the clarity of the regression analysis. A regressions analysis, which directly includes the five starting variables, shows comparable results.

The regional sectoral structure will be mapped over the proportion of workers in the industry branches as a further determining factor with high temporal persistency, as added value data is not available in an appropriate sectoral and spatial breakdown. The sectors included represent the classifications in the official statistics (WZ 93) and relate to the arithmetical mean of the years 1995–2007. As other studies show (e.g. Gornig, 2000), an above average proportion of people employed in the primary sector, in construction and in consumption related services, is generally accompanied by a below average level of prosperity. In contrast, an above average spread of business related

services is accompanied by above average economic development. The branch proportions on the one-digit level of WZ 93 for these sectors will accordingly be included in the analysis. In addition, for the processing industry at the two-digit level of the classification scheme of the economic sector the proportion of workers of a region will be summarized as an »old industry« variable in those branches which between 1982 and 2007 were characterized by a decline in employment of more than 40 percent (including iron and steel production, ship building, clocks, leather and shoe production, textile and clothing industry).

As indicated in section 2, in new regional economic literature the term *social capital* is understood as stable norm beliefs and governance preferences of the population that can be traced back to settlement related structural differences, socio-demographic and historic differences between the regions. In this analysis the attitude variable »political interest« is chosen as a proxy from regionalized FORSA data from the year 1997, for post material values and civil society engagement (on a scale from 1=very weak to 4=very strong). The variable »church going frequency« as a proxy for conservative values such as market preferences and citizen networks originates from the same data source (as a percentage of people who go to the church very often). The variable »party membership« as a percentage of the population in 1998 is taken from the Institute for Regional Geography Leipzig's national atlas of Germany as a proxy for political networks, which in social capital literature – in contrast to the first two factors named – is linked with a negative welfare effect through rent seeking and exclusion. The choice and interpretation of these variables takes place on the basis of their correlation with other social capital indicators as shown in Blume & Sack (2008). A two-level least square estimation, which ascribes these variables to socio-demographic factors such as family structure (measured against the percentage of single households) and the employment structure (measured against the proportion of workers, salaried workers, and self-employed), shows comparable results.

In order to identify the proportion of the variance in regional economic prosperity that relates to regionally specific factors, it is enough to include dummy variables for the individual *Länder* in the analysis. The proportional importance of these dummy variables can then be interpreted as the maximum contribution of differing state policies to the differences in economic prosperity. This can be regarded as the maximum contribution because *Länder*-specific influences can also be ones that cannot be influenced by politics, such as natural tourist attractions (e.g. the Alps). The inclusion of variables with a 0/1-codification for the individual *Länder* makes the results of the analysis robust, in contrast to doubts about the subdivision adopted in Figure 1. Such a codification is used here. In order to avoid total collinearity, a reference region has to be chosen when regional dummies are included, in this case the region Rhineland-Palatinate/Saarland. Keeping in mind the potential regional autocorrelation, the regional capitals Hamburg and Bremen were not

considered in isolation from the surrounding state area. Neither the choice of reference region nor the combining of Schleswig-Holstein/Hamburg and Lower Saxony/Bremen had an observable influence on the results.

In order to enrich the information content of the analysis, an attempt is made at the same time to separately illustrate two determinants of regional economic prosperity, which can be influenced by state policies in the short and medium term. These include transport infrastructure and educational infrastructure both of which fall under the responsibility of the *Länder* based on the assignment of political tasks within the German federal system. Standard variables are available for both groups, which can again be consolidated with the help of a factor analysis for both an indicator »transport« and an indicator »knowledge«.

For transport infrastructure the variables are »average car travel time from each district to the next motorway junction in minutes«, »average car travel time from each district to the main centre in minutes«, and »average travel time to the next three agglomeration centers in railway traffic in minutes«. The variables for a regional knowledge basis include the proportion of highly qualified employees (Bundesamt für Bauwesen und Raumordnung, 2007; a higher qualification refers to a final examination from a higher professional college, university of applied sciences, college or university), the quota of people with a school leaving exam as well as the number of registered patents per worker (in keeping with Greif, 2006, always as an average value for the period 2000–2004).

3.3 Empirical Results

As the first column in Table 1 shows, the selected geographical and settlement related structural variables – considered in isolation – explain some aspects of the differences in regional GDP per worker. Here the variables on settlement structure (capital city, degree of agglomeration) show a significant positive effect, while the border location shows a significant negative effect. If the proximity of the region to other regions is considered using a spatial error term (in a spatial-error-model), this leads to the relative importance of settlement structure and geographic location increasing to above 40%. The Moran Coefficient, significant to a 99 percentage level, shows with 0.334 spatial autocorrelation for these estimations.

The same is true for the estimations in columns 2, 3 and 5. Only the estimations in columns 4 and 6 show no error specification in the Moran Test (0.034 respectively 0.035). The same is also true when looking at the normal division of residuals. The Jarque-Bera Test is only insignificant here for columns 4 and 6. The estimations in columns 1–3 and 5 are as such only to be considered as an illustration and not as correctly specified models.

Table 1: Least square estimations with the average GDP per worker for the years 2007–2009 as a dependent variable (n = 112 labour market regions)

	(1)	(2)	(3)	(4)	(5)	(6)
Navigable rivers (dummy)	-81,5 (0,06)			98,4 (0,08)		-408,7 (0,51)
Location on east border (dummy)	-2245(*) (1,63)			-1426 (1,50)		-2023,5* (2,04)
Federal state capital (dummy)	6972** (3,51)			4190** (2,53)		4011** (2,88)
Rainfall (mm per year)	-2,48 (0,92)			-3,69(*) (1,67)		-2,39 (1,22)
Factor »agglomeration«	1198* (2,11)			886,9 (1,53)		1650** (2,66)
Farming/Forestry/ Fishery		-134012(*) (1,72)		-154648(*) (1,89)		-49819 (0,68)
Old industry		-61308** (3,27)		-62047** (3,34)		-46927** (3,08)
Construction		-78468** (2,51)		-61760(*) (1,63)		-39494 (1,21)
Transport/ Communication		54845 (1,59)		55766 (1,60)		56034(*) (1,82)
Banking and Insurance		266307** (6,62)		189656** (4,32)		125566** (3,41)
Services		-32521** (3,32)		-37749** (3,41)		-35212** (3,96)
Organizations		-96542(*) (1,79)		-122706* (2,07)		-133515** (2,75)
Public bodies/ Social insurance		-71804** (3,44)		-60594** (2,64)		-35674(*) (1,86)
Interest in politics(1–4)			21572* (2,42)	14987** (2,18)		8302 (1,39)
Church-going frequency (%)			115,6(*) (1,60)	91,29 (1,37)		31,58 (0,52)
Political party membership (%)			-197,2** (2,98)	-116,1* (2,21)		-46,00 (0,88)
Factor »transport«					961,5* (1,99)	-693,5 (1,34)
Factor »knowledge«					3427** (7,08)	1279* (2,35)
Bavaria (dummy)						6067** (5,26)
Baden-Württemberg (dummy)						1816 (1,40)
Hessen (dummy)						6898** (4,73)
Schleswig-Hol-stein/ Hamburg						4883* (2,23)
Niedersachsen/ Bremen						1508 (1,02)
Constant	58299	68923	7083	36904	56388	48237
R ²	0,240	0,578	0,139	0,684	0,332	0,797

The table shows the β -coefficients of the OLS-regressions, the numbers in parentheses are the absolute t-values based on White's heteroskedasticity-consistent standard errors (HCSE) '***', '**' or '*' indicate that the estimated parameters are significantly different from zero on the 1, 5, or 10 percent level, respectively.

Source: Own Calculation

As the second column in Table 1 shows, the regional sectoral structure measured against the proportion of people employed in selected branches

– again considered in isolation – explains 58% of the variance in regional GDP per worker. The third column indicates the same for the three social capital indicators chosen here, which when taken together explain another ten percent of the differences in regional GDP per inhabitant. As the fourth column in Table 1 shows, geography, settlement structure, branch structure and social capital determine to a large extent the economic situation in the regions. The spatial variance of differences in economic prosperity between regions can be explained up to 68% by these factors. All these factors are temporally very persistent factors, i.e. that they can be influenced by the economic policy of the *Länder* only minimally in short and medium terms.

In comparing the estimations with and without the influence of the *Länder* (column 4 vs. column 6 in Table 1) it becomes clear that taking the different locational conditions of the regions into consideration, beyond the geographic location, settlement structure, industry structure and social capital, provides an additional relative influence of eleven percentage points. It is important to stress here that the extent to which *Länder* have an influence on the level of welfare of a state was not investigated, but just what contribution the *Länder* make to the explanation of differences between the welfare levels of the states. If one looks at the factors »transport« and »knowledge« in isolation (column 5), the variance of regional income differences is 33.2%. The influence of this factor, however, clearly decreases if the other determinants of regional economic prosperity are also taken into consideration. This can be interpreted in such a way that large parts of regional differences in transport infrastructure and regional knowledge basis relate back to differences in the settlement structure or the industry structure and cannot be attributed to other differences such as state policies.

4 Political Related Conclusions

The empirical results presented in this work suggest that the main differences in the economic prosperity between West German *Länder* is less a result of differences in state policies and much more due to differences in the starting conditions of the states. If the regional differences in settlement structure, industry structure and social capital are investigated, the region's belonging to a German federal state only explains eight percent of the differences in regional GDP per inhabitant. And even this explanation for the *Länder* borders can only partly be traced back to differences in state policies, as there are other *Länder*-specific but politically independent influences which are also conceivable, such as special natural potential that has not been included in the model. In other words, the transformation, for example, of Bavaria from an agriculturally structured state to a dynamic location of high-tech industry is not simply a result of politically related factors, but can mainly be traced back to long term determinants such as the plant re-locations of the post war period resulting from the division of Germany and the important effects they had on further settlement of business.

This empirical result not only points to the limitations and feasibility of the politically related *Länder*-rankings mentioned in the introduction to this paper, this outcome is also relevant for the central arguments of the current discussion about reform of the federal state fiscal relations. On the one hand, this relates to the demand for a reduction in the equalization level of the *Länder* fiscal equalization scheme, in order to realize the full possible efficiency potential of a strengthened competition between the *Länder* – so that the fruits of successful economic policy of individual states will not be largely redistributed and made accountable for the failure of others. Among other things, this has an effect on the closely related demand to strengthen the financial autonomy of states by means of an additional state taxation source, in order to reduce the measure of tax sharing between the *Bund* and *Länder*.

Given these demands, many authors support the idea of a competition-oriented reform of the vertical and horizontal finance equalization relationship between the *Bund* and *Länder* assuming that the growth contribution of such a reform would be significant (on the basis of the disincentive effect of the current fiscal equalization system). The results of the quantitative analysis presented here suggest, however, that economic and financial prosperity can only be marginally shaped by regional political decisions and measures (and the disincentive effect from a growth political perspective is therefore of less importance). It should, however, be pointed out that an extension of existing political opportunities on the expenditure side through additional competition elements could have an influence on the income side for individual *Länder*, and would mean that individual *Länder* could play a more active role in shaping the economic development within their own state borders. But, it is also true that in this case determinants such as settlement and industrial structure, which can only minimally be influenced by state policies in the short and medium term, lead to major differences in the economic prosperity of regions. Moreover, neither a higher rate of fiscal retention nor an increased financial autonomy will have much influence on this.

In the political trade-off between the insurance function of redistributive systems such as the German federal fiscal equalization scheme and the related disincentive effects of these systems on economic growth, the results presented here would seem to strengthen the argument for the insurance function. Without a significant but not excessive fiscal equalization and the shared use of existing taxation revenues, the dominating determinants of economic development – which cannot be influenced by *Länder* – would lead to even stronger regional disparities, which as a final consequence could result in the end of a competitively oriented federalism.

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POVZETEK

RAZLIKE V REGIONALNEM GOSPODARSKEM NAPREDKU: ALI JE DRŽAVNA POLITIKA POMEMBNA? – EMPIRIČNA RAZISKAVA PODATKOV IZ NEMŠKIH ZVEZNIH DEŽEL

*Ključne besede: regionalni ekonomski razvoj, državne politike, shema fiskalne
izravnave*

Gospodarska uspešnost se v različnih nemških zveznih deželah zelo razlikuje; velike, sicer lahko razložljive razlike so tudi med zahodnonemškimi regijami in nekdanjimi socialističnimi vzhodnonemškimi regijami. Bruto domači proizvod (BDP) na zaposlenega v najbogatejši zahodnonemški zvezni deželi Hessen je bil v letu 2009 68.963 evrov, medtem ko je bil v najrevnejši zahodnonemški zvezni deželi Saarland (Posarje) 56.373 evrov. Na vprašanje, kakšno vlogo ima državna politika pri teh razlikah, ni enotnega odgovora. Na eni strani številne politike, povezane z obstoječim rangiranjem zveznih dežel, kažejo, da je državna politika delno odgovorna za gospodarski napredek zvezne dežele – in to v precejšnji meri. Po drugi strani pa številne raziskave razvoja zveznih dežel kažejo nasprotno. Tako je na primer očitno, da je imela na gospodarski razvoj zvezne dežele Posarje v preteklosti pomemben vpliv industrija premoga in jekla, kar je privedlo do velikih sprememb politične pripadnosti v regiji. To pa je negativno vplivalo na vsebino poslovnih naložb in upočasnilo razvoj novih gospodarskih sektorjev. Podobno – čeprav obratno – če pogledamo Hessen, lahko razvoj gospodarskega napredka regije Ren-Main štejemo kot rezultat medsebojnega vplivanja zgodovinskih dejavnikov (npr. tradicije bank, borz in sejmov, ki segajo daleč nazaj v preteklost) in dejstva, da gre za geografsko zelo ugodno lego (središčno lego na zveznem ozemlju, priključek železnice in avtoceste, ki izhaja iz predvojnega časa, in enega od najpomembnejših kontinentalnih evropskih vozlišč za zračni promet).

Kljub dejstvu, da ne obstajajo jasni empirični dokazi glede vpliva politike države na gospodarski napredek zvezne dežele, mnogi politiki podpirajo zamisel za znižanje prerazporeditvenih transferjev med deželami na podlagi argumenta, da je gospodarska uspešnost posamezne dežele, skupaj z visokimi ali nizkimi prihodki iz obdavčitve, rezultat »dobre« ali »slabe« gospodarske in davčne politike. Te zahteve se izražajo z namenom, da se uporabi »proračunski presežek« finančno močnih dežel kot podlaga za povečanje njihovega prihodnjega potenciala rasti. Zato imajo empirični dokazi o vplivu državne politike na regionalni gospodarski napredek neposredne posledice na politično razpravo o ustrezni ravni prerazporeditvenih transferjev. Če je vpliv državne politike na gospodarski razvoj v Hessnu in Posarju postranskega pomena, potem so relativne tudi gospodarske posledice negativnih spodbud za politiko gospodarske rasti v obeh državah, ki izhajajo iz sedanjega izravnalnega fiskalnega sistema.

Različne regionalne ekonomske teorije pridejo do različnih ugotovitev glede vpliva (državne) politike na gospodarski napredek regije. Z vidika tradicionalne teorije gospodarske rasti določajo gospodarski razvoj države trije glavni dejavniki varčevanja: akumulacija kapitala, rast prebivalstva (zaposlenost) in tehnični razvoj. Pri tem pristopu državna politika ni odločilen dejavnik regionalne gospodarske rasti. Ekonomska politika lahko v najboljšem primeru podpira proces konvergence, ki bi se v vsakem primeru zgodil »naravno«, ko bi odstranili mobilnost in ovire za vstop na trg. Tukaj naj omenimo, da novejša teorije gospodarskega razvoja bolj pozitivno ocenjujejo vlogo državne politike pri regionalnem gospodarskem razvoju. S prostorskega vidika tak pristop pomeni, da v nasprotju s tradicionalno teorijo rasti ni nujno, da razvoj teži k regionalni konvergenci. Eden od glavnih razlogov za to je dejstvo, da je bližina za ustvarjanje in izkoriščanje tehničnega napredka in znanja ključnega pomena. Na podlagi teh ugotovitev in državne delitve pristojnosti v Nemčiji lahko akumulacija človeškega kapitala in tehnološki učinki prelivanja znanja postanejo izhodišče za politične dejavnosti, katerih namen bi bil večji vpliv na regionalni gospodarski razvoj.

Podobno kot zagovorniki nove teorije rasti predvidevajo zagovorniki teorije polarizacije, da gospodarski razvoj ne bo nujno konvergirala. Prizadevajo si pojasnjevati pogosto opažene razlike v gospodarskih dejavnostih regije. Pri tem se predpostavlja, da se pojavljajo neravnovesja v procesih gospodarskega razvoja, ki sprožajo kumulativen proces razvoja. Torej mora biti cilj gospodarske politike, da zažene pozitiven, krožno-kumulativen proces. V tem primeru je treba računati z podpornimi ukrepi za transfer kapitala v gospodarsko šibkih zveznih deželah, kot tudi, na primer, s povečanjem investicij v transport in komunikacijsko infrastrukturo. V okviru koncepta nove gospodarske geografije in podobno kot pri teoriji polarizacije, se predpostavlja, da se gospodarski razvoj regij pojavlja na različne načine, podobno kot struktura središča širšega prostora. Povezava ekonomije obsega, ki temelji na učinkih velikosti trga, in (prostorskih) transakcijskih stroškov pa ima osrednji pomen za heterogeni gospodarski razvoj regij. Dejstvo, da imajo ene regije lahko »naravno prednost« pred drugimi regijami, kaže, da je vpliv državne politike v bistvu relativen. Poleg tega lahko zgodovinski dejavniki (lokacija uradnih vladnih uradov, predstavitev gospodarsko pomembne skupine prebivalstva itd.), ki so pogosto posledica zgodovinskih naključij, vplivajo na morebitno koncentracijo gospodarskih dejavnosti na določeni lokaciji. Razen prej omenjenih dejavnikov, kot so geografija, struktura industrije, človeški kapital in prometna infrastruktura, ki se lahko izkažejo kot odgovorni za ekonomske razlike med deželami, so pomembni tudi institucionalni dejavniki. Zaradi ekonomskega združevanja in še bolj zaradi inovativnosti okolja in strukture omrežja je za regionalni gospodarski razvoj pomemben tudi razvoj neformalnih institucij. Tedaj sta obstoj in inovativna sposobnost takšnih združenj in omrežij odvisna od norm vpletenih udeležencev. V ekonomski terminologiji postane razpoložljivi »socialni kapital« zelo pomemben za gospodarski razvoj regije, saj lahko razlika v regionalnem socialnem kapitalu vodi do večje ekonomije obsega in

primerjalne prednosti za določeno regijo. Pojem socialnega kapitala združuje dejavnike vpliva, kot so struktura omrežja in angažiranje civilne družbe, ki sicer niso odvisni od politike.

Če upoštevamo omenjene teoretične pristope, moramo ugotoviti, da ni mogoče preprosto trditi, da lahko politika na splošno, in zlasti državna politika, vpliva na gospodarski razvoj zveznih dežel in v kolikšni meri. Nasprotujoča si vsebina različnih teoretičnih modelov kaže na potrebo po empiričnih raziskavah o tem vprašanju. Zato uporabimo empirični pristop, ki temelji na tako imenovani potencialni funkciji in se uporablja pri tradicionalnih in sodobnih empiričnih raziskavah regionalnega razvoja. Osnovne predpostavke tega pristopa so primerljive z metodološkimi postopki, ki se uporabljajo v primerjalnih raziskavah stopnje regresije v državah. Za zagotovitev empiričnih dokazov o vplivu državne politike se teoretične informacije o dejavnikih gospodarskega razvoja regij, navedenih v teoretičnih pristopih, razdelijo v več skupin spremenljivk. Prva skupina vključuje potenciale endogenega razvoja regije ali zvezne dežele, h katerim se prištevajo geografski dejavniki, socialni kapital, industrijska in urbana struktura. Druga skupina pa zajema pomembne dejavnike, kot so izobraževanje in prometna infrastruktura, o čemer lahko regionalni politiki vsaj delno odločajo.

Empirični rezultati kažejo, da glavne razlike v gospodarskem razvoju med nemškimi zveznimi deželami verjetno niso nastale zaradi razlike v državni politiki, temveč bolj verjetno zaradi razlik v izhodiščnih pogojih zvezne dežele. Če raziskujemo regionalne razlike v strukturi naselja, industrijski strukturi in socialnem kapitalu, potem regije, ki pripadajo nemškim zveznim deželam, pojasnjujejo le osem odstotkov razlik v regionalnem BDP-ju na prebivalca. Z drugimi besedami, preobrazba, na primer, Bavarske iz kmetijsko strukturirane dežele v dinamično lokacijo visokotehnološke industrije, ni zgolj posledica politično pogojenih dejavnikov, temveč posledice segajo večinoma nazaj do dogodkov z dolgoročnim vplivom, kot je preselitev elektrarne na novo lokacijo v povojnem obdobju, ki izhaja iz delitve Nemčije in pomembnih posledic, ki so jih imeli na nadaljnje reševanje poslovanja. Rezultati empirične analize poudarjajo, da regionalne politične odločitve in ukrepi lahko le delno vplivajo na gospodarski in finančni uspeh. Treba pa je omeniti, da bi lahko razširitev obstoječih političnih možnosti vplivala na uspešnost rasti nemških zveznih dežel, kar bi pomenilo, da bi lahko imele bolj aktivno vlogo pri oblikovanju gospodarskega razvoja znotraj lastnih deželnih meja. Vendar je res tudi, da bi v tem primeru dejavniki, kot so na primer naseljenost in industrijska struktura, na katere državna politika v kratkoročnem in srednjeročnem obdobju lahko le minimalno vpliva, lahko privedli do velikih razlik v gospodarskem razvoju regij.

Representative Public Administration as the Modelling Behaviour for the New Bureaucracy

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ABSTRACT

There is a widespread belief that the states and markets are not the omnipotent institutions. Although public participation is gaining importance, this paper argues that in the present situation liberal and democratic elements can be fastest achieved by promotion of values in the public administration. The idea is built on a notion of active representative bureaucracy, while passive representation of the society should be still under the rule of law and/or merit system of hiring public servants. The proposed strategy in a time of austerity is somehow illogical, but it could be efficient: more public funds should be given in education, (re)training and practical experiments of the good practices from other states should become more relevant. Although in our time – when reductions of public funds and dismissals of employees are present – it will be difficult to achieve this goal, we should not forget that humanity has never depended on finances; the public trust, awareness, faith and other values are all the more needed in the time of crisis. We should start from ourselves as individuals to proceed towards the benefits of community.

Key words: positive individual, public participation, public values and active representative bureaucracy

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The world is a dangerous place to live not because of the people who are evil but because of the people who do not do anything about it.

Albert Einstein

1 Introduction

Recent national and global economic shocks have caused wide public expectations that the national states will circumvent or remove them with the existing or additional measures. The public expectations, interests, beliefs, convictions and public (e.g. civil rights, liberal, revolutionary and other) mass movements are therefore the constant leitmotif

for reinventing¹ government. In more and more complex and globally oriented environment, integration and cooperation are gaining importance; this is shown in the notions of governance², global administrative law³ and global governance⁴, while the old bureaucratic model is still present and even enhanced by the informal meetings, procedures and decisions that are taking place within the international treaties, agreements or informal clubs (e.g. in UNCLOS, FAO, ICSID, IMO, ISA, WMO, IMF, WB, G7 – FATF, G8, G20, the Basel Committee on Banking Supervision). Public administration as the bureaucratic organization from Weber on, is – already without the above mentioned processes – still struggling with the alleged difficulties of controlling its operations (Weber, 1978, p. 987); in today's neoliberal time there are even more rules, coercion and new regulatory authorities, while a bureaucratic apparatus is still firmly present (Vogel, 1995; Crawford, 2006; Christensen & Laegreid, 2005; Cole & Douzans, 2010) and has even more arbitrary powers (Aronson, 2009). Despite today's more »pattern-less mixture«⁵ between the classical and neoliberal ideas in different administrative models of state, the latter will still achieve public goals by the public administration through more or less (in)direct implementation. It looks that these processes will be even further away from power vested in the people than today. From the above-mentioned processes we could conclude that bureaucracy is rough opponent to increasing complexity.

Although the people are on bureaucracy's other side included within the notions of governance, network governance, network-centric governance etc., they are in practice still far away from any kind of real administration of state. Harder questions and means request higher legitimacy. A representative government cannot at today's technological development,

1 Reinvention is a more appropriate word than the word new, because it is nothing really much new in the NPM. The new is just the re-invention of the older ideas of the New Public Administration from the late 1960s, if we limit ourselves to the recent history. »New Public Administration was greatly influenced by the Laswell argument that politics, including public administration, determines who gets what, when and how« (Fredericson, 1996, p. 268).

2 In this paper the term governance will be used as »a participatory process of governing the social, economic, and political affairs of a country, state, or local community through structures and values that mirror the society. It includes the state as an enabling institution, the constitutional framework, the civil society, the private sector, and the international/global institutional structure within limits. Here, governance is used as a broader concept than the traditional, unilateral, and authoritative forms of government whose governing elites sit on in unilateral commanding positions« (Farazmand, 2004, p. 11).

3 See B. Kingsbury, N. Krisch and R.B. Stewart, 'The Emergence of Global Administrative Law'. doi:10.2139/ssrn.692628.

4 »All possibilities to improve global governance within its present paradigms and make it more resolute should thus be exhausted, including reforming the United Nations, strengthening cooperation between major powers, expanding global networks, facilitating global governance elites, developing global civil society and more. ... However distasteful, this recommendation is much preferable to the emergence of a Global Leviathan, if an approaching Behemoth or other catastrophes leaves no other choice for assuring the survival of humanity« (Dror, 2002, p. 192).

5 »Although we can see a pattern of sorts in reforms since 2000 — certain themes and tools that are internationally echoed and reproduced — these do not amount to a single new model or menu. Rather...we have a menu of dishes (tools), and different customers are selecting different combinations, and flavouring the same dish with different paradigmatic sauces« (Pollitt & Bouckaert, 2011, p. 213).

interconnectedness between the states, companies, markets etc. mean only that peoples' representatives can make decisions on their behalf, but also that citizens must have a closer contact with making and controlling⁶ public decisions. From the effects of the above mentioned »reinvention movements« and current practice it seems that the bureaucratic apparatus in not so distant future will still prevail; the people with their common problems of every day's life simply cannot approach and execute the more and more complex state's tasks on a professional basis. Can we look on public officials as citizens? Practice reveals that the latter show the same characteristics as bureaucrats, if they were/are put in the bureaucratic model of governance.⁷

We are therefore faced with the two contradictions: despite the fact that we would like to have more direct democracy, the latter with the necessary integration and cooperation between states fades (democratic deficit), and at the same time we would like to have professionally executed democratic decisions by a small bureaucratic apparatus (administrative deficit). Can a solution be found in crossing these parts, i.e. in democratic administration? Rather than to reform the whole state's organisation we could in the states with parliamentary democracy – where nowadays the executive branch⁸ prevails – »install« more democracy in the public administration. This idea is close to »representative bureaucracy« that rejects the politics-administration dichotomy⁹ and suggests that organizations perform better, if their workforces reflect the characteristics of their constituent populations.¹⁰ This idea has been studied by many other authors (Long, 1952; Meier, 1975; Mosher, 1982; Selden, 1997, Meier et al., 2001; Keiser et al. 2002), but so far has been less successful in creating any comprehensive, scientific framework.¹¹

6 »In the theory of the modern state, power derives ultimately from the people. The control of it is therefore, in the end, for the benefit of the people. There is no part of the law's discipline that is a more worthy subject for devotion in life than this« (Kirby, 2008, p. 14).

7 They all could »perform« a very important person of Gogol's *Overcoat*, the law court officers of Kafka's *Trial*, the overzealous official of the Environmental Protection Agency in *Ghostbusters*, the rule-bound automatons of Philip Howard's *Death of Common Sense* or the masters of obfuscation and manipulation in the BBC's comedy *Yes Minister*. This can be seen already in Plato's *Meno*, where a slave of Meno can recollect knowledge without any one teaching him, if he is only asked (guided by) the right questions (Plato, 2009, p 67). While Plato has argued that slave already has had knowledge in his soul, knowledge can be also in applying the laws of logic if someone is directed towards the right answers.

8 E.g. in Slovenia, within the period 1992–2011 the Government of Slovenia submitted 2783 draft laws of which 2575 were later adopted as the laws (92.52%), MPs submitted 807 draft laws, 229 of which were later adopted as the laws; voters (minimum 5000 citizens is needed for a legal initiative) submitted only the six draft laws of which only one was later adopted as the law (Državni zbor 1992–2007; Poročilo o delu Državnega zbora 2008–2011). There is no doubt that in other parliamentary democracies the prevalence of the executive is also present.

9 As Kenneth Meier puts it, »[t]he theory of representative bureaucracy begins by recognizing the realities of politics. In a complex polity such as the United States, not all aspects of policy decisions are resolved in the 'political' branches of government« (1975, p. 527).

10 The first comprehensive proposal for representative bureaucracy was presented by Kingsley (1944) in his analysis of the English Civil Service. He advanced the argument that the civil service should reflect the characteristics of the ruling class, i.e. the dominant political group.

11 »In the scientific sense, then, theories of representative bureaucracy are still immature. They tend to be considerably less parsimonious and elegant than the positivist ideal (a not-unusual characteristic of inductivism), and their focus on contextual detail has presented difficulties for replicability and predictive capacity« (Fredericson et al., 2012, p. 251).

What if it is so because there is not mainly science, but also ethics, morality, and humanity?

This paper claims that the public administration is not a value-free or neutral activity; although it is very close to politics, it can operate within the context of democratic values, it can – and it must – be sensitive to the public needs and goals. The paper argues that the latter are effective and efficient as much and mostly as the public officials are psychologically self-attuned to achieve desirable outputs in contingent environment with the help of public institutions in which they work. We will therefore proceed in this paper with an individual, driven by values and will put some means to establish and/or to recognise such persons. We will try to demonstrate that states made people selfish by public benefits that were not proportionate to real people's efforts. Luckily in humans there is also solidarity and collectivism; the next chapter will therefore enlighten the active, value driven persons, a notion of personalism, and give some means – by which the active, value driven persons could be »awoken«: national surveys and the usage of modern technology could be the most promising of them. The paper's third chapter states on barriers for the public management by the people and it is therefore rather pessimistic about this goal. This part puts many theories mainly about public participation, and a *contrario* argues that states still at large operate within the framework of the practical or classic administration of public affairs. The fourth part combines democracy with the public administration into the concept of representative public administration and points toward possible future effects of active, i.e. representative public administration. Although there are and/or will be many mistakes the legal rules should have their content given by values, not *vice versa*. Rawls's veil of ignorance and the Golden Rule or ethics of reciprocity are pretty much all that public administrations need at start for a diligent implementation.

2 Into Community-Oriented Individual

Except of the inspired individuals and groups that have strived for the greater good of society as a whole (saints, heroes, big leaders), in the so-called liberal state of 18th century there were demands only for the fundamental tasks of a state and were as obligations established by people as voters (by their representatives according to the will of the former in desire of the latter to be re-elected), which received its peak or a new platform in the post-New Deal administrative state (Lawson, 1994). Practice shows that government intervention ultimately leads to further intervention. The first intervention does not accomplish the stated goals and politicians then respond with new interventions to correct the problems from the first one. The welfare state thus made people more self-interested, because they do not contribute their adequate share to welfare (in the style: »a person has the human rights–therefore he should has benefits from them«), to which added the NPM with its focus towards the individual as a consumer who merely expects (»value for

money») and nothing (or not enough) gives in return. In a state of crisis higher contribution is needed, because democracy and the self-expression are present in their pure form only when the basic physiological and safety needs are fulfilled (remember the Maslow's hierarchy of needs). Within the concept of the legal and then of welfare state individuals could demand previously merciful benefits as their rights.¹² If this could hold in decades of economic growth, it became different from 1980s onwards; because of a lower state's control and its impact on society (due to the impact of privatization and liberalization) the latter became faced with more fragmentation, interdependencies, complexities and even bigger notion that state cannot do it as »one for all«¹³ as it can in the utilitarian welfare economics. This practical impossibility showed that political election complemented by the notion of government by law is not enough:

»Deliberative democratic theory emerged in the 1990s partly as a response to the 'aggregative' view of democracy advanced by rational choice theorists... [individuals] are also able to consider not only the personal value of specific actions or outcomes, but also the common value of general principles of interaction (constitutional essentials). Individuals therefore have the capacity to make judgments that are guided by a sense of justice as fairness« (Rosenberg, 2007, p. 4, 6).

A person as a social being can live only in society¹⁴ that is more than the sum of individuals and the latter ones are always more than just its part. There must be the value of care for (any) fellow man that is present in the idea of human that is *humane*, regardless of the basic needs of a giving individual. Like an individual can produce this »surplus«, which is reflected in leniency and assistance to others, community form this surplus in the notion of public interest. An individual who incorporates public values, a communitarian individual is the other pole and a cure against the self-interested individual, who emerged in the welfare state, who was also the main reason for the emergence of public choice and principal-agent theory. These theories were later incorporated into the new public management doctrine that stood against the previous bureaucratic ideas of good administration (Hood, 1991). Care about human beings therefore means to take good care for our relatives as for our fellow citizens. It can be the cause for legal, social and administrative state. In all of them there are goals of government that cannot be successful if they are no people's help: law and order, public infrastructure, education and health care and social security. This humane surplus without

¹² Social rights are stated e.g. in International Covenant on Economic, Social and Cultural Rights (1966) with the duty of State Parties to continuously improve the living conditions.

¹³ The famous dictum of »one for all, all for one« (the motto of *Three Musketeers* by Alexandre Dumas) gradually became just welfare's motto of »one (state) for all (people)«.

¹⁴ »Man is not self-sufficient – he cannot develop his typical human potentials outside the society. In this sense, the theory of the primacy of rights depends on atomistic thesis, which defends self-sufficiency. Any evidence that these skills can be developed only in society or in the certain types of society, is also a proof that we are obliged to maintain the society« (Taylor, 2004, p. 34).

the personal interest could be found in the Rawls »original position«¹⁵ refined with his difference principle¹⁶, in Dworkin's solution of the ethical question about the good life,¹⁷ which would depend on fairness of community's political decisions or in Arendt's »enlarged mentality«.¹⁸ If Rawls sees justice in community in overlapping consensus between citizens who hold different views (2005, p. 490), Dworkin stresses also the active component not only of state (as Rawls) but also of each individual, who contributes to justice in community:

»To act justly on general is not the thing of passivity;¹⁹ it means not only that we don't cheat but also to do everything we can to reduce the injustices... A just society is a prerequisite of life that respects both ideals [of private interest and interest of the community]. Therefore, our private lives... closely parasites on our joint success in politics. The political community has the ethical primacy over our individual lives« (Dworkin, 2004, pp. 211–212).

People are not only legitimised – with the principle of the sovereignty of the people – but they also have the formal right to participate in public life;²⁰ this is shown in the forms of direct democracy and of mini-publics (assemblies by random selection in the citizens' juries, planning cells, consensus conferences, deliberative polls).²¹ It is far from »obvious that for a particular individual, his or her maximum return is obtained by making no contribution – that is, freeriding ... the contribution of the individual in large groups may be absolutely or practically of no significance« (Felkins, 1995); if this were true, people would not vote at elections, would not help strangers, fight for homeland security, pay taxes and the like. But they *do*. Ideas of justice, solidarity and collective provisions for the individual needs are subject e.g. in Mary Douglas's *How Institutions Think*: »the rational choice theory ... is faced with insurmountable difficulties when it is faced with the idea of solidarity« (2001, p. 19). An individual is not only a selfish, ego-centred person, but he is also an altruist, volunteer, he is not directed only to himself, but also to others,

15 It should be settled in a situation in which we could choose a society in which we will be born without knowing at the moment of choice what would be our abilities, preferences and interests.

16 »Social and economic inequalities are to be arranged so that they are to be of the greatest benefit to the least-advantaged members of society« (Rawls, 1971, p. 303).

17 »The ethical question becomes: what is the good life for someone who is entitled to a share of resources to which I am entitled to?« (Dworkin, 2004, p. 210–211).

18 »A capacity to imaginatively place ourselves in the position of others, distancing ourselves from private circumstances that limit and inhibit the exercise of judgement« (Arendt, 1982, p. 42).

19 See Aristotle (1908): »in action and in passivity alike it is possible to partake of justice incidentally, and similarly (it is plain) of injustice«.

20 See the Declaration of the Rights of Man and of the Citizen (1789), Article 6; the International Covenant on Civil and Political Rights (1966), Article 25 and/or Universal Declaration of Human Rights (1948), Article 21.

21 »Citizens who typically do not participate in open consultation processes and other forms of political activity are willing to participate in what are more intensive forms of political engagement. The fact that the invitation is limited to only a small number of (randomly selected) citizens appears to be an important motivating factor« (Smith, 2009, p. 67).

to community.²² If this is not true – why then we have friends if we are on quest only for the self-interested gains? In the economic crisis is *a fortiori* time for the individual to take a larger part in *collectivism* (the history is full of examples where individuals in a time of need care at first for others and later for themselves). Can some form of »new-collectivism« be the major factor for the emergence of the new future order? It is not about to re-establish hierarchy that first comes to mind at ideas for the collective forms of management, nor for the liberal forms of market; it is about warning on the one-sided view of the hierarchic state and free market. There are also other elements, where the citizen is not only a passive or an active recipient of obligations or rights, but also *the* active element of community, who grouped with others, can represent massive transformative power.²³

2.1 Active, Value-Driven Persons

The idea is not to call back the old forms of collectivism, but to upgrade and implement pluralism in the field of values. One of the largest values – justice – ancient Greeks sought in equality, which is somewhere between the individual and society. The middle between extreme individualism and collectivism, is in personalism:

»Its key advantage is that human is acknowledged at the same time as the essential social being and as a being that exceeds his sociality. Human personality and his environmental transcendental individuality are in his freedom, where autonomy and personal initiative are put in dialectical relationship with attitudes held by a man as the member of social wholeness to other individuals or to the other as a whole. The individual is therefore not over the whole, but is included in it on such way that precisely with this inclusion exceeds it as the personal, spiritual, free, and initiative being. In this sense we can say that man is member of society and also at the same time he is standing against it« (Stres, 1996, p. 49).

Modern person as a »persona«, as a mask, through which its character is shown, has nowadays the form of apparent logical contradiction: *tercium non datur*. Today's logical principle can exclude a middle part; a person through his »mask« can show more than what is physically behind it, more than he usually

22 Some claim that we should move from the »public interest« to the »good« public administration, which is a sign of moving back (or more) towards collectivism (both, the NPM and GPA are being customer focused): the »sound« public administration gives primary role to the public servant in helping citizens to articulate and meet their shared interests (the New Public Service as the orientation towards citizens is similar to Rawls's overlapping consensus; see Denhardt & Denhardt, 2002); »collaborative« PA stresses the idea of responsiveness with the significance of citizens actions and participation (Vigoda, 2002), where citizens influence on policy through their participation in the execution of public programs (Whitaker, 1980).

23 Recall on the so-called Arab Spring as the revolutionary wave of demonstrations and protests that has been taking place in the Arab world since December 2010 (revolutions in Tunisia, Egypt, a civil war in Libya, civil uprisings in Bahrain, Syria and Yemen, major protests in Algeria, Iraq, Jordan, Morocco and Oman, along with other protests in Greece, France, Great Britain etc. The massive transformative power was shown e.g. in Kennedy's inaugural speech: »Ask not what your country can do for you – ask what you can do for your country«.

thinks that he can do (and counts only what has been done²⁴). A today's person must be the active person and society could be based on individuals, who are active, pluralistic element of society and who manifest themselves in the self-realization, spiritual²⁵ growth, autonomy and free will, who are going beyond their basic needs²⁶ and contribute to the overall growth of the society²⁷. The modern individual is more than a private person that independently lives his (egoistic) life. People are becoming aware that the responsibility for the common good is on all of us, that indifference to the acts of government does not lead to overall success, that the ratio of command and control must receive new forms and that the values in community are our bonding material. This is also the notion of human capital²⁸ in which »the social contacts affect the productivity of individuals and groups« (Putnam, 2000). Fukuyama explains social capital as »shared norms or values that promote social cooperation, instantiated in actual social relationships« (2002, p. 27). Strong social capital is necessary for strong democracy that is essential for implementing the public goals throughout the society. It is the sort of the reverse vertical effect of human rights, where the effects do not refer in an individual's demand against the state's violation, but in help to the state or in promotion of human rights by individuals themselves. According to Dawn »important common key values – dignity, autonomy, respect, status and security – are being developed at a high level of abstraction in public and private law. Together these support ... paramount values of democracy, citizenship and participation« (1997, p. 218).

Such implementing values can also start with the collection and separation of different trash²⁹ and continue with other actions from which the community gains as a whole (e.g. assisting low-income people to achieve self-determination, free clinics, volunteers for different jobs). The civil society associations and NGOs that operate in the public interest are gaining their importance all over the world, are essential element of the notion

24 An individual can become a hero although he is afraid of the opponent, a good speaker although he has powerful fright of stage, is good although he does not mean to be. A human can go beyond himself.

25 »Ethical Government means much more than laws. It is a spirit, an imbued code of conduct, an ethos. It is a climate in which ... some conduct is instinctively sensed as correct and other conduct as being beyond acceptance« (Report of the President's Commission on Federal Ethical Law Reform, 1989).

26 In the »integrated wholeness« of Maslow the hunger drive (or any other physiological drive) and need for safety are at the bottom of a hierarchy of needs (Maslow, 1943).

27 Above mentioned statements are similar to the 2011 Edelman Trust Barometer Findings that are based on new Trust Architecture, which is consisted from transparency, engagement and profit with purpose in the difference from the old trust framework that has been based on controlling information, protecting the brand, standing alone, and focusing solely on profit. (<http://www.edelman.com/trust/2011/>)

28 Bourdieu defines social capital as »the aggregate of the actual or potential resources which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition« (Bourdieu, 1983, p. 249).

29 In Slovenia there is the project called »Let's clean Slovenia in one day!«. In 14th April 2010 attended more than 270,000 volunteers (which is more than 13.5% of the entire population of Slovenia) in one cleanup event that was inspired by the Estonian campaign Let's Do It 2008. The continuation of the project was organized again within the frame of the World Cleanup 2012 initiative, which started on 24th March by Portugal and Slovenia and will apparently lead to clean-up actions in over 80 countries until September 2012 (Dnevnik, 24 March 2012).

of governance; between classical liberalism and conservatism is located into the community-oriented individual, who wants his own well being to be reconciled with the welfare of other participants.

»Before and after markets there was and will be life thanks to social institutions that pre-date market systems by thousands of years and have demonstrated far greater resilience during times of scarcity. The most important is the gift economy, centred around the potlatch, in which an individual's value is measured not by what he or she has but by how much he or she gives away in presents« (Community Action Partnership, 2011, p. 9).

The practical examples are also hidden in »the core idea of *Wiki Government*... connecting the power of many to the work of the few in government« (Noveck, 2009, p. 14) and can be spotted already in »democratic experimentalism« of Dorf and Sabel (1998), where they name a system of collaboration as »learning by monitoring«³⁰ and is found also in the article 37 and 72 of the French Constitution. Noveck (2009) tells the story of Peer-to-Patent, where the Patent Office has integrated a volunteer network of self-selecting scientists and technologists into the formerly closed and secretive patent examination process; there are also other applications, which mashes up a wide range of local data to provide a picture of life and services at some area (e.g. cloud computing, AppsDC, DataGov, GovTrack, MAPLight, OpenSecrets, WashingtonWatch, FollowTheMoney, iLiveAt, FixMyStreet, MyBikelane).

2.1.1 One of the Means of Establishing the Active, Value-Driven Persons

Because of the public money and power the state's mechanisms are probably the best platform for designing such transformations, but there is no real public strategy for the promotion of such personal-public collectivism, no public program that would contrary to the programs of political parties be based on the public preferences, established through the opinion pools, deliberation, mini-publics, e-democracy and other communicative means, but »[t]he possibility of using measures of well-being as indicators to guide government policies has attracted considerable recent interest« (Kahneman, 2011, p. 410). Leading political parties and coalitions still run the states mainly through their political programs, not through the peoples' desires. States could accede to the implementation of national surveys about what people want, not which party they will vote. It will be more objective than elections. A place of individual in modern society is in flexible zigzag pattern between him as the private and public person; as such he can be leaded only by sharing values that enable him to live decent and fulfilling life, where a state must help

³⁰ »The model requires linked systems of local and inter-local or federal pooling of information, each applying in its sphere the principles of benchmarking, simultaneous engineering, and error correction, so that actors scrutinize their initial understandings of problems and feasible solutions. These principles enable the actors to learn from one another's successes and failures while reducing the vulnerability created by the decentralized search for solutions. The system in which citizens in each locale participate directly in determining and assessing the utility of the services local governments provides, given the possibility of comparing the performance of their jurisdictions to the performance of similar settings, we call directly deliberative polyarchy« (Dorf & Sabel, 1998, pp. 287–288).

him to upgrade his active status by the usage of modern technology (e-voting, e-referendums, online voting on measures envisaged by state, delivering the proposals, warning of problems, etc.). The psychological convictions as values can be different in different states while all of them present some dimension of morality, which Dworkin names as the »background rights, which ... provide a justification for political decisions by society in the abstract.«³¹ States should make the surveys about peoples' desires; on this way their basic values and needs would be enlightened and would form the base for the public strategies.

3 Management by the People – Wish or Myth?

Is active personalism only one of many theories about administration of decisions that are close to the developed and strong civil society, with »decentered state« (Black, 2002)³² that has apparently moved from old welfare state through regulatory state to new »enabling state« (Gilbert, 2005)³³, where command and control applies across all social and economic life? The new (more theoretical) modes of governance (in relation to the old one of command and control) have been in the EU particularly exposed with the emergence of the Open Method of Coordination (OMC)³⁴ that emphasizes the notion of European social dialogue. Despite different ideas and means for the public participation evidences show that participation of civil society is marginal:

»Although there are some signs of civil society involvement in the OMC – strongly dependent on policy area and national circumstances (De la Porte and Pochet 2005; Armstrong 2005; Kerschen 2005) – the dominant picture remains one of a narrow, opaque and technocratic process involving high domestic civil servants and EU officials in a closed policy network, rather than a broad transparent process of public deliberation and decision making, open to participation of all those with a stake in the outcome (Zeitlin 2005, 460; Smismans 2004a; Jacobsson and Vifell 2002; E. Leonard 2001). One should be very reluctant in arguing that new modes of governance are characterized by their particular democratic participatory nature. More horizontal and heterarchic governance does not mean automatically more participatory governance in normative democratic terms« (Smismans, 2006, pp. 18–19).

31 »I call a principle a standard that is to be observed, not because it will advance or secure an economic, political, or social situation deemed desirable, but because it is a requirement of justice of fairness or some other dimension of morality« (Dworkin, 1978; p. 22, 93).

32 In decentred perspective we face the »collapse of the public/private distinction in socio-political terms and more, challenging to our understanding of what regulation is, a rethinking of the role of formal authority in governance and regulation. In decentred analyses, regulation 'happens' in the absence of formal legal sanction – it is the product of interactions, not of the exercise of the formal, constitutional recognized authority of government« (Black, 2002a, p. 6).

33 »Policies designed to advance the march toward private financing and delivery. Approaches are concentrated on increasing private financing and on increasing the production and delivery of goods and services by the private sector« (Gilbert, 2005).

34 »The open method rests on soft law mechanisms such as guidelines and indicators, benchmarking and sharing of best practice. This means that there are no official sanctions for laggards. Rather, the method's effectiveness relies on a form of peer pressure and naming and shaming, as no member state wants to be seen as the worst in a given policy area« (White Paper on Governance, 2001).

Above mentioned conclusion is evident also from the statement in the *White Paper on European Governance* which refuses legal rules which would »create excessive rigidity and risk slowing«³⁵, or from the statement that »the guiding principle for the Commission is to give interested parties a voice, but not a vote« (Communication from the Commission, 2002, p. 5) or from concrete consultation procedure, where the individuals and/or civil society are very marginal element.³⁶ Reich based on the real-world applications warns on difficulties at public deliberation: it is not easy to manage well, the public will wish to avoid difficult issues, many people will resent the tensions and ambiguities inherent in such deliberation, there are procedural obstacles, inordinate time and resources, cycle can easily get out of control, there is no guarantee that resulting social learning will yield a clear consensus at the end. Instead the process may exacerbate divisions within the community and make it more difficult to achieve consensus in the future (1994, pp. 136–137). In the U.S. large regulated parties enjoy much greater presence in agency decision making processes than do the public interest groups and other parties (they are also the most active in the FOIA cases³⁷). The US Senate Committee generalized the results of its findings as follows:

»On the whole, the data clearly show that participation by public or nonregulated interests before Federal regulatory agencies is consistently exceeded by the participation of regulated industries, and too often constitutes only a tiny fraction of such industry participation. This pattern holds for both rulemaking and adjudication, although the margin is not as great for rulemaking as it is for adjudication« (Study on Federal regulation, 1977, p. 12).

Today's conditions in the U.S. can still show on lack of adequate participation as it is shown in the rule of law restoration.³⁸ How we could achieve

35 »Creating a culture of consultation cannot be achieved by legal rules, which would create excessive rigidity and risk slowing the adoption of particular policies. It should rather be underpinned by a code of conduct that sets minimum standards, focusing on what to consult on, when, whom and how to consult. Those standards will reduce the risk of the policy-makers just listening to one side of the argument or of particular groups getting privileged access on the basis of sectorial interests or nationality, which is a clear weakness with the current method of ad hoc consultations. These standards should improve the representatives of civil society organisations and structure their debate with the Institutions« (Paper on European Governance, 2001, p. 17).

36 On 2nd June 2010, the European Commission launched a wide-ranging public consultation about Green Paper on corporate governance in financial institutions and remuneration policies, COM(2010) 284 final. The following contributions have been received: 178 from organisations (where financial services industry, investor community, non-financial and cross-sector organisations, audit and accounting firms formed 82%, civil society 10%), 8 from citizens, and 28 from public authorities.

37 »FOIA is most frequently used to obtain information that an agency has required third parties to fill with it. In most such instances, the requesting party is a business firm seeking to discover a rival's trade secrets or other competitively sensitive information. Of the 48,000 FOIA requests made to FDA in 1993, 82 % came from industry« (Breyer et al., 2006, p. 687).

38 »Rule of Law Restoration Efforts Suspended for Lack of Adequate Participation: the two-pronged idea was quite simple: find candidates who would pledge to abide strictly by the rule of law while in office, and find voters who would vote only for such candidates. The first part was a surprising success in the 2010 election cycle, with 3,000 federal and state candidates invited and 71 taking the Candidate Pledge. The grand failure, however, came with the Voter's Pledge efforts. Even though we served up somewhere around 19,000 pageloads at the ROLR website in 2010, only 24 voters signed the Voter's Pledge. This number should have been in the thousands« (Pelham, 2011).

a balance between the teoretical »enabling state« (Gilbert), »responsive state« (Braithwaite), »decentring state« (Black)³⁹ or »regulatory capitalism« (Levi-Faur and Parker, 2010)⁴⁰ with the practical administration of public affairs? »Participation in agency decision-making processes is greater among those who can afford significant expenditures, and furthermore that more parties can afford to participate in informal rulemaking than in adjudication ... More opportunities for influence ultimately translate into more influence« (Croley, 1998, p. 129, 133). Practice shows that »regulation, deregulation and reregulation are all prone to strategic capture: they are essentially strategic tools that are employed for the benefit of the few at the expense of the silent, disenfranchised public« (Levi-Flur & Parker, 2010, pp. 548–549). A strategic capture (the iron triangle) is connected with the bureaucratic state that is still present with the authoritative commands and controls despite or even because of the neo-liberal ideas that at the side doors enable regulation in the new form of re-regulation (Vogel, 1998) and new state coercion.⁴¹

3.1 Barriers for the Public Management by the People

The original spoilage⁴² of human nature (Hobbessian doctrine of *bellum omnium contra omnes*) conditioned ideas about (and then emergence of) the principle of separation of powers⁴³, where the state was seen as the idea

39 »Decentring thus refers to changing (or differently recognized) capacities of the state and limitations on those capacities. Essentially, decentred regulation involves a shift (and recognition of such a shift) in the locus of the activity of regulating from the state to other, multiple, locations, and the adoption on the part of the state of particular strategies of regulation« (Black, 2002b, p. 112).

40 »Regulatory capitalism denotes a world where regulation is increasingly an hybrid of different systems of controls: etatist regulation co-evolves with civil regulation; national regulation expands with international and global regulation; private regulation co-evolves with public regulation; voluntary regulations expand with coercive ones; and the market itself is being used or mobilized as a regulatory mechanism« (Levi-Flur & Parker, 2010, p. 551).

41 »Without wishing to discount the importance of regulation beyond government, I have sought to highlight the danger of running away with the sense that the state as a conceptual entity and empirical reality is becoming redundant. Recourse to command and control continues to occupy a prominent place within the contemporary social regulation armoury. In many tangible ways, the state retains an anchoring role in the provision of security even with regard to much private governance. In Britain, state ambitions with regard to social ordering have not been reduced, but rather extended. However, government's capacity to deliver, always limited, has become more evidently so. In this mix, the law and command continue to be significant—if blunt—regulatory weapons. In certain areas state intervention is being withdrawn, in other areas it is redrawn, and in still others it is being extended. It is the latter than I have deliberately focused on. What we see resulting is not the state becoming 'weaker' or necessarily 'smarter', but rather diverse forms of a more frenetic, volatile, contradictory and politicized regulation of behaviour« (Crawford, 2006, p. 471).

42 We could say that division of power results from the corruption of man: already Thomas Aquinas was talking about the »fall of man into sinfulness« (1972). Hobbes was the first who explicitly rejected Aristotelian view that man is by nature a social being; instead he argues that human is an individual. The representatives of the contractual theory of the creation of state comes from the natural state, where the »man...is presumed to be corrupted from nature« (Hobbes, 1651, p. xix) where »the individual takes care only for himself« (Locke, 1988). That was the reason for the government to be trusted into the hands of more people who can control and restrict one another.

43 James Madison emphasized that »the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny« (1788). See also Montesquieu (1989, p. 157).

of omnipotent sovereignty with an essential mission to coerce citizens to become good (Aquinas, 1964). Despite the prevailing ideas of agentification⁴⁴ or rolling back the state⁴⁵ in our time, the actual state of affairs can be opposite: even in more democratic forms of government citizens still lack the access to information (if they do not know there is one), the technical and/or special knowledge or lack the time and experiences. Weber still has right and even though formal decision-making powers rest on citizens, this does not accurately reflect the balance of power.

People must be guided even in the democratic forms of decision-making, if we want the peaceful sessions, equality of voice and time to debate about issues and needed corrections if propositions would be illegal or impossible (remember on the mentioned Plato's guided dialog with a slave of *Meno*). And the public servants are still the ones that mainly implement or lead making the decisions with previously established directions:

Our analysis of mini-publics, PB [participatory budgeting] and internet discussion forums, in particular, highlights the fundamental role that active facilitation plays in realising such rights, principles and dispositions. Citizens do not necessarily come fully formed in a deliberative sense: facilitators [the public officials] continually shape and reshape the conditions for deliberation (Smith, 2009, pp. 197–198).

States still largely operate within the framework of the classical constitutional mechanisms of checks and balances, where the executive branches are in front of the legislative or judicial one and Lane's idea about outdated administration (2009, p. 154)⁴⁶ is premature. States include civil society with the concept of the »individual as a citizen, not as a consumer« (Feintuck, 2010) mostly in the field of environmental regulation (under the Aarhus convention) and media regulation (corporative structure of administration bodies and radio or television broadcasting), while otherwise they still operate within organisations that are hardly and slowly open to their surroundings. We cannot overlook also the findings of Fishkin who had in experiencing with deliberative pooling (deliberative pool as a large number of citizen who complete a questionnaire with the same questions before and after the event) established that »the most systematic evidence of opinion change

44 Despite the ideas of agentification we are witness also to the integration and pooling of administrative bodies and integration of forms in achieving common goals. »There are common trends as regards administrative reforms, but these trends are subject to highly differentiated forms of surprising 'acclimatizations', non-anticipated hybridizations and paradoxical real outcomes« (Cole & Douzans, 2010, p. 404).

45 »Paradoxically [despite criticism of regulatory agencies, regulatory failure and crisis] during the late 1980s and 1990s there were more new regulatory authorities created around the world than ever before« (Christenseb & Laegred, 2005, p. 11).

46 »The idea of development administration appears outdated. It smacks of planning and its rigidities as well as government mistakes. Public policies promoting economic and social development are not, first and foremost, an administrative task, as it involves the coordination of the efforts of people trained in different professions. A long-run process of development seems more likely to come about when a country offers a stable institutional framework, which allows for individuals to pursue their projects without impediments from bureaucrats« (Lane, 2009, p. 154).

comes from deliberative polling« (Fishkin, 1997, p. 214): if citizens are more acknowledged with some matter their opinions change and they remind us of the civil servants with more knowledge and experiences. The latter ones can be Sunstein's »the predeliberation median« that is »the best predictor of the direction of the shift. When group members are disposed toward risk taking, a risky shift is observed. When members are disposed toward caution, a cautious shift is observed« (Sunstein, 2009, p. 17). »An isolated person can easily change the opinion because it is not stabilised by any strong loyalties. Ideas and values only become strongly entrenched when they are embedded in institutions« (Douglas, 2012).

How could we then make a new form of coexistence between the market, state and people, where not only the economic interests, but also the management of public affairs along the existing and powerful state's administration will prevail? The answer could lie in direction in which »the institution works when it acquires a support from the harnessed moral energy of its members« (Douglas, 2001, p. 72). The new solutions can be therefore also in the old institutions, not only in increasing peoples' rights, but in broadening opportunities for the independent co-operation of persons and groups with the government and between themselves, where persons could better realize their own, but also in to the community oriented potentials. This form can be established if officials would look through the publics' eyes, while the latter should look through the public institutions' eyes. One of such ideas is presented in »libertarian paternalism« that is »a relatively weak, soft, and nonintrusive type of paternalism because choices are not blocked, fenced off, or significantly burdened« (Thaler & Sunstein, 2008, p. 5). Within this concept the states and other institutions are allowed to nudge people to make decisions that serve their own long-term interest; bureaucracies can be therefore the choice architects, because they organize the context in which people make decisions. There is no neutral decision.

4 Representative Public Administration and Its Limitations

Today's interdisciplinarity and multidisciplinary of fields and conditions require from states to enable effective means for evolving the human nature that is a more important factor than constitutional arrangement itself,⁴⁷ but without sacrificing transparency, control and accountability, i.e. the rule of law. The latter, with the combination with the merit system as the process of hiring public employees based on their ability to perform a job, rather than on their political connections (on the basis of open competition) that includes also equality before the law – forbids passive representation by which officials could reflect the composition of society. Within the frame

⁴⁷ Among the most competitive countries in the world in 2010 were Switzerland and Singapore that have a different constitutional arrangement, but nevertheless they have the best public institutions in the world. Result shows that what matters is the commitment, values, energy and personal contribution, no matter in what environment or circumstances the states operate. See *The Global Competitiveness Report 2010–2011* (2010).

of active representation the bureaucracy should reflect in its outcomes only the public values; active officials should look on the society as a whole, not only at particular group, unless there is a positive statutory exception. If we limit our view from the second part of the 20th century onwards, there were different movements (new public administration, new public management or reinventing government, new public service) that want, at their core, to re-install the self-referential, self-renewing public culture of public administrations⁴⁸; they depended more on individual's attitude than on states' actions, more on values than on rules. A possibility to rethink the classic hierarchic model and the separation of powers (that »heal« human defects) doctrine with today's complexity of more complementary, pluralistic and net-centric government of all for all (where comes at the hierarchic top also confidence in a man and care for coexistence of the people, nature and environment) can be one of the paths by which we can find new solutions. In doing this we could start with Hobbes: against the original spoilage of man he presents a *Civitas*, a commonwealth that emerges when »a multitude of men do agree ... that to whatsoever man, or assembly of men, shall be given by the major part the right to present the person of them all ... to be their representative« (Hobbes, 1904, p. 120). Representation is a relationship of rights and responsibilities, which he calls »in divers occasions diversely; as a representer, or representative, a lieutenant, a vicar, a deputy, a procurator, an actor and the like« (*ibid.*, p. 110). Hobbes's representative cannot do injury or injustice to other people (because it is presumed that every subject is author of all the actions and judgements, like they were his own); Pitkin under the drawbacks of such thinking presents representation »as acting for«:

»A man represents what (or whom) he looks after or concerns himself with, the interest that he furthers ... [where a challenge is] to construct institutions and train individuals in such a way that they engage in the pursuit of the public interest, the genuine representation of the public ... to remain critical of those institutions and that training, so that they are always open to further interpretation and reform« (Pitkin, 1972, p. 116, 240).

The sense of representation is by this definition and its number present at large within the appointed officials rather than within the elected ones, in the administration, more than in legislation. Legal instruments *per se* are imperfect in achieving their aims; they can be achieved in »the cultivation of persons capable of looking after the interests of others in a responsive manner« (*ibid.*, p. 239), where persons with the official powers can have their role: if leaders wish to institute positive norms or to reduce the impact of negative behaviours, the tremendous influence of modelling behaviour cannot be overlooked. »Well motivated executives send credible signals by

⁴⁸ It is culture that is self-referential or autopoietic (Teubner, 1988), self-demanding and irrelevant of goals: '[r]einventing government is about creating public organizations that constantly look for ways to become more efficient. ... It is about creating public organizations and systems that habitually innovate, that *continually improve their quality, without having to be pushed from outside. It is about creating a public sector that has a built-in drive to improve – what some call a "self-renewing system"*' (Osborne & Plastrik, 1998, p. 14; 2000, p. 4, *emphasis added*).

taking actions that are more costly for ill-motivated actors than for well-motivated ones» (Posner & Vermeule, 2006, p. 894). In an ever-present absence of some unique and universal social order, there can be at least a common vision that could in every state start from the values of cooperation and participation, from the active role of all actors in the public field, from trust and development of possibilities for enhancement of human personality. Despite the apparent democratic need for a wider public participation (at least at the important public matters) in the current position of society a political citizen is consummated in the role of public servants who on average with performing of their official powers and duties have greater effect on the state's operations than citizens. As it was with the above-mentioned difficulties for the public participation at large, there are also difficulties with the public servants. »Laws and regulations are often ineffective guides for administrators trying to determine what to do. However trite this observation may seem, laws and regulations are better at telling administrators what not to do than what to do« (Fredericson, 2010, p. xiv). How could they know »what to do«? A general recipe against impartiality of the public servant would be an oblivion of his own situation: oblivion of the self interest and presentation of arguments for which he believes to be accepted because of their content, which is or can be shared with other people. The public official can depart from the citizen's role and *à la* Rawls or Habermas accept and/or reject proposals of others according to better rationally discussed arguments. It is she/he who largely produces the political legitimacy of public decisions. Political legitimacy is not created in the way where citizens are placed in the role of public servant, but where the latter one is put in the role of the first ones. If they approve reasoning of the public servant then legitimacy of his decision is established. This is the value of transparency or what Rawls (1971) calls the publicity principle that orders the basic structure to be publicly known and the justifications for these principles must be also acceptable to citizens.

Although bigger emphasis about influencing is placed on the public officials than on people, we must not overlook the mistakes that they do as all ordinary people. People are complaining on bureaucracy all over the world and if we could just replace the public officials with people that work outside of it, it would be probably the same as it is now. At regulation it is therefore necessary in addition to the expected-utility model to take into account the range of psychological factors that relate to the cognitive illusions and framing, unrealistic optimism, self-control, self-serving bias, overconfidence, anchoring and calculations that are present in human mind regardless of the people's location or position. »Behavioral decision theory that studies how people actually behave in situations of choice« (Jones, 1999, p. 307) must not be overlooked; it distinguishes intuition from reasoning because »people are not accustomed to thinking hard and are more often content to trust a plausible argument that quickly comes to mind« (Kahneman, 2003, p. 699). These psychological limitations have never been really (to a sufficient level) studied at proposing the draft rules. Although lawyers are usually the ones

who prepare bills, they sometimes do not know about reasons, which have led even them in preparation of legal texts and about the probable responses of addressees of norms. The principles of justice and fairness are in open opposition to such stance; one of the »excuses« for such behaviour can be the loss and blame aversion: people are more (twice as much) averse to losses⁴⁹ than for gains, and administration is more averse to avoiding blame than seeking new niches.⁵⁰ The public administrations should in the future have more people that are experts in problem solving, decision-making, communication, human behaviour, and social relationships. How could we overcome the psychological limitations if the public officials still have the major role in addressing the public problems? They should be more aware of these limitations with the help of people trained in psychology as the science of human mental functioning and behaviour.

4.1 Effects of Representative Public Administration

Different public and legal culture can emerge by revolution, through small changes and deviations and by the rare tectonic changes of opinions; since the latter two are preferable from the time perspective and desired goals, we should look at the largest public institutions where *de facto* values are »formally installed« and can be as such also changed. We must be also aware of the practical factors that can cause a real change: at the core of the administrative science and the civil-service reform there is »a moral preparation for what is to follow. It is clearing the moral atmosphere of official life by establishing the sanctity of public office as a public trust« (Wilson, 1887, p. 358)⁵¹. Trust is a reciprocal function between what is promised and what is delivered. If we want a better representative bureaucracy (it represents the public interest in its daily activities) the latter should look on things from a positive stance, or simply urges »to do good«. Good of society was already the ancient ideal (Aristotle's virtues of prudence, justice, temperance and courage) and it seems that this (ambiguous) idea does not change with time; it can be also understood as the complementary part⁵² of justice. With this in mind careful *ex ante* preparation and *ex post* implementation of decisions and operations can unite hope and trust; with such stance we can overcome also the psychological limitations if they will be shown as such from

49 »The value function is...steeper for losses than for gains by a factor of about 2–2,5« (Kahneman, 2003, p. 705).

50 »Organizational structures will go on being crafted in baroque complexity to ensure that no one turns out to be responsible for anything when bad things happen. ... it is mostly to politics—the social process of naming, shaming, and claiming—that we need to look for controlling this [blame avoidance] phenomenon« (Hood, 2011).

51 Political trust is the »judgment of the citizenry that the system and the political incumbents are responsive, and will do what is right even in the absence of constant scrutiny« (Miller & Listhaug, 1990, p. 358).

52 »Justice draws the limit the good shows the point. The right and the good are complementary, and the priority of right does not deny this... although... a political conception of justice must leave adequate room for forms of life citizens can affirm, the ideas of the good it draws upon must fit within the limits drawn – the space allowed – by that political conception itself« (Rawls, 1988, p. 252).

the experts. Despite the rather empirically unsuccessful theory of representative bureaucracy in its classical way (with passive and active representation) we could focus our attention only on active representation that could give better results: Andrews et al. (2005) based on the survey of eighty English local authorities with 846 informants conclude that

»the results reported here suggest that public management matters, and it matters in shaping the ways that representativeness in the bureaucracy itself has its impact. The findings strongly indicate that a reactor strategy on the part of public organizations impedes authorities' performance, at least when performance is measured via the perspectives of consumers. Prospector strategy may help, at least via its impact on actual audited performance, if not on consumer perspectives directly. It may be that a prospector stance pays its dividends in ways that are relatively invisible to the general public, at least initially« (*ibid.*, p. 502).

A further development in the literature is also to incorporate the concept of symbolic representation, which works cognitively on the public. When the public servants share the identification, experience, and characteristics of a portion of the public, that audience will perceive the actions of those bureaucrats as legitimate, even if the bureaucrats are not purposefully representing that group. Nick Theobald & Donald Haider-Markel (2009), by examining citizen attitudes about actions by police officers, show that actions by bureaucrats are more likely to be perceived as legitimate if citizens and bureaucrats share demographic characteristics. This goes hand in hand with Lipsky's Street-Level Bureaucracy: Dilemmas of the Individuals in Public Services (1980).⁵³

We can ensure an impact at effectiveness and efficiency of the public administration with values because they have their foundations in honesty, credibility, communication and in a sense for community. Values are glue to society and law.⁵⁴ A regulator must of course respect the impact analysis, cost-benefit analysis or better regulation tools as the decision making techniques, but he must be aware also of the dispersive effects of regulation, of overlapping effects and of mutual interactions of different parts. A decision of what to measure, by what means, to what we should give our attention and for how long, is at first in the hand of bureaucracy. These effects are the real representatives of values that serve as filters through which the decision-making techniques must go. If we want for the normative system to be realized in life as the balanced system of rights and duties, there must be a counter

53 Lipsky's central premise is that street-level bureaucrats (policemen, teachers etc.) daily have to make decisions that are not dictated by the mission of the organizations they work for, or the rules they are supposed to enforce. Street-level bureaucrats thus make policy as a result of their behavior, they directly represent their institutions.

54 Values are similar to standards. »When lawmakers lack current information about the regulated issue, they adopt standards because they expect information to be revealed through implementation and enforcement of legislation. Standards are useful to cope with legislative uncertainty about future events. Standards are more adaptable [than rules] to surprises, since judges can more easily cope with unexpected shocks in the regulative environment through adaptive adjudication« (Parisi & Fon, 2009, p. 21–22).

system of the inner weight, distributed power and possibility to influence other and change our work under the guidance of values. There are many laws that include the principles of honesty, legality, impartiality, equality, professionalism, integrity etc., while in practice they are never tested *per se*. A legal norm should have its content given through values, not *vice versa*. In highly interdependent and rapidly intertwining world of relations between individuals, groups and states concretisation of rules is out-dated almost upon their admission;⁵⁵ directions can be established with more general concepts and rules, but they have to be run by values, followed by *trust* and built by assistance. Only then they can be the cure for the bureaucratic »diseases«.

5 Conclusion

Societies are faced with the decline of representative democracy, of voter participation, which can *a contrario* even further reinforce the classical idea of the need for the elected political representatives and professional administration. On the other hand there are non-stop present questions about legitimacy of their decisions. Social and natural conditions indicate that state cannot alone solve all problems and classical representative democracy cannot be the only answer. There is no single recipe that would fit to each country; there is only a sincere commitment to do things right. An answer to this depends on the different objective conditions and environments; what can be confirmed as the subjective idea for public management, depends very much on a personal action – be it of a politician, public servant or citizen. On these premises can be based a different social vision of governmental action that should at first begin to promote values »in house« i.e. in the state's administration (it could start e.g. with tackling corruption) that should path the ways for the public participation at large.

A next generation of the public administration should be more focused on collaboration with »citizens as partners« (Vigoda, 2002), because people are all that the states have beside their public apparatus. And what people have other than their public apparatus? If deliberation can be extended outside the Parliament, it is also clear that democratic representation can take place wherever occurs; Kingsley, Mosher, Long, Kristov, Nachmias, Rosenbloom and others have already stated the importance of the representative bureaucracy decades ago.⁵⁶ Regardless of centuries long negative connotation

55 »In my own view, the proper explanation of this requirement [that a political community extend to everyone the same regime of principle] fixes on how the community actually uses its powers to intervene in citizens' lives, not on the reasons that different officials have given for such intervention in the past« (Dworkin, 2006, p. 16).

56 The main parts are assembled in Dolan & Rosenbloom (2003). Already Long stated that »the Civil Service as a body is a better sample of the mass of the people than the Congress...[and] likely to be more responsive to the desires and needs of the broad public« (1952).

of bureaucracy⁵⁷ the basic human characteristic of hope implies impartial, in the public interest oriented bureaucracy. Since particular officials still have the best chances of influencing at specific fields, they must not establish dialogue only with politicians, but also with people; by this way an expert would in his mind represent its field also from the view of majority of citizens. Despite of empirical and/or scientific failure to clearly demonstrate impacts of the theory of representative bureaucracy, we should not forget that the public administration is as much a science as it is also an art: there are many things in the world that cannot be tested, measured, predicted or even said, but we nevertheless almost on a daily basis submit to them.

A slow aftermath of the economic crisis can be enhanced through an apparent paradox of emphasizing the community values in the public administration, in education, training and examining knowledge of the public officials, on the fields where financial drawback are now the most eminent. Who else will implement the public goals if not the public officials in today's arrangement of states? In different conditions and surroundings there is no single recipe for any kind of new government arrangement that would fit to all of them; only the laws of logic are apparently universal and even they can be sometimes confusing to us; in the current state they tell us that a new public strategy is needed, that states should establish what people really need and want, that states should be transparent in forming their contexts in which decisions are made and that states cannot be liberal neither paternalistic, but somewhere in between. Managing of human resources by words is the crucial first element, while energy, trust, confidence, and awareness for the non-stop improvement of quality of life, without having to be pushed from outside, are beyond them. They »grow« as virtues through implementation. A real success of all procedures exists only in a psychological change of mind, in »open-mindedness«, honesty and other values that through the modelling behaviour affect people inside and outside of the public administration. To do this we should at first educate and reward value-driven individuals that could »pull« with their modelling behaviour also others on a path of values, justice and equality. It seems that we should restore the knowledge about importance of values given by the ancient philosophy.

57 Hart-Dworkin debate and the separation thesis of legal positivism is focused on the relation moral – law mainly from the view of the judges and not of the public servants, although they are not excluded from the wider point of view as legal officials. The propositions of law in the light of the values identified at the jurisprudential stage speak for Dworkin, because they are closer to people's (not only judges') reality: »[a] proposition of law is true, if it flows from the principles of personal and political morality that provide the best interpretation of the other propositions of law generally treated as true in contemporary legal practice« (Dworkin, 2006, p. 14).

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POVZETEK

PREDSTAVNIŠKA JAVNA UPRAVA KOT ZGLED RAVNANJA NOVE BIROKRACIJE

Ključne besede: pozitivni posameznik, javna participacija, javne vrednote in aktivna predstavniška birokracija

Vse bolj velja prepričanje, da tako države kot trgi niso vsemogočne institucije. Na videz nekoliko paradokсно, a tudi sam koncept socialne države, ki naj bi odpravljala stiske in zagate državljanov – k čemur je prispevalo svoj del tudi novo javno upravljanje s poudarkom posameznika kot potrošnika, ki samo pričakuje (»value for money«), in nič (ali ni dovolj), ne daje v zameno – doprinesel k brezbržnosti do drugega in samovšečnega ravnanja. V kriznih časih je potrebna višja udeležba vsakega posameznika, saj sta demokracija in samoizražanje prisotna v čisti obliki šele, ko so izpolnjene osnovne fiziološke in varnostne potrebe (hierarhija potreb po Maslowu). Z naraščanjem vse večje razdrobljenosti, soodvisnosti in kompleksnosti bi moralo naraščati tudi zavedanje, da država ne more vsega storiti, kot »eden za vse«, kot je to lahko v času utilitaristične ekonomije blaginje, pač pa da potrebuje pri tem dobršen del pomoči. Čeprav sodelovanje javnosti pri upravljanju javnih zadev postaja vse bolj pomembno, članek izhaja iz predpostavke, da se da svobodne in demokratične elemente v danih okoliščinah najhitreje doseči s promocijo vrednot v javni upravi. Predpostavka izhaja iz predstavniške birokracije, tj. iz aktivnega predstavljanja, medtem ko naj bi klasično pasivno zastopanje družbe še vedno temeljilo na ideji pravne države oz. strokovnega sistema zaposlovanja javnih uslužbencev. Kljub temu, da smo priča vse večji diferenciaciji mednarodnih institucij in povezav, iz katerih je zelo težko izluščiti nekatere skupne vzorce, se zdi, da bo v tej mešanici klasičnih in neoliberalnih idej ter različnih upravnih modelov država še vedno dosegala cilje prek sistema javne uprave.

Soočeni smo z dvema nasprotjema: kljub dejstvu, da bi radi imeli več neposredne demokracije, se slednja z vse bolj nujnim povezovanjem in sodelovanjem med državami na globalni ravni umika (demokratični deficit), hkrati pa bi radi bili priča strokovno izvršenim demokratičnim odločitvam vse manjšega in varčnega birokratskega aparata (upravni deficit). Ali bi lahko rešitev iskali v križanju teh delov, tj. v demokratični upravi? Namesto da bi reformirali celotno državno organizacijo, bi lahko v državah s parlamentarno demokracijo, kjer danes prevladuje – izvršilna veja oblasti – »vgradili« več demokracije v samo javno upravo. Ta ideja je blizu »reprezentativni birokraciji«, ki zavrača dihotomijo med politiko in upravo in nakazuje idejo, da organizacije opravljajo delo bolje, če delovna sila v njih odraža značilnosti samega prebivalstva. Ali lahko na javne uslužbenke gledamo kot na državljane, tj. ali bi slednji delovali kako drugače, če bi delovali v javni upravi? Praksa kaže, da državljani izkazujejo enake lastnosti, kot jih pripisujemo javnim uslužbencem, če bi bili ali so postavljeni

v birokratski model upravljanja. Predstavniško birokracijo so preučevali številni avtorji (Long, 1952; Meier, 1975; Mosher, 1982, Selden, 1997, Meier et al, 2001; Keiser et al., 2002), vendar doslej niso bili uspešni pri vzpostavitvi kakršnegakoli celovitega, znanstvenega okvira. Ali je razlog v tem, da večinoma ne gre za znanost, pač pa za etična in moralna izhodišča, za človeštvo?

Članek izhaja iz predpostavke, da javna uprava ne deluje brez vrednot. Javna uprava ni nikoli bila in ne bo nevtralna dejavnost; čeprav je zelo blizu politiki, lahko deluje v okviru demokratičnih vrednot, in je lahko – in celo mora – biti občutljiva za javne potrebe in cilje. Članek dokazuje, da je uprava tako uspešna in učinkovita, kolikor so javni uslužbenci psihološko usmerjeni v doseganje zelenih rezultatov v spreminjajočem se okolju, seveda s pomočjo javnih institucij, v katerih delujejo. Prispevek v nadaljevanju zato izhaja iz posameznika, ki ga usmerjajo vrednote v personalizem kot zmes posameznika, ki ima pred očmi skupnost kot celoto, in nato podaja nekatera sredstva, prek katerih se lahko te, aktivne, vrednotno usmerjene posameznike »zbudi«: ankete javnega mnenja z uporabo sodobne tehnologije bi bile lahko najbolj obetajoča sredstva. Nasproti egoizmu in sebičnosti na srečo stojita solidarnost in kolektivizem. Racionalna teorija izbire (angl. *public choice theory*), ki temelji na egoizmu, sebičnosti posameznika in samo lastnih koristih, se sreča z nepremostljivimi ovirami, ko se sooči z idejo solidarnosti in medsebojne pomoči. Posameznik ni le sebično bitje, pač pa je tudi altruist, prostovoljec, ki ni le zaverovan sam vase, temveč tudi v druge, v skupnost, v pomoč sočloveku (to bi vedel povedati vsak, ki je rešil sočloveka iz nesreče). Ko bi bili ljudje res le sebični in v iskanju lastnih koristi, ljudje ne bi glasovali na volitvah, ne bi pomagali tujcem, ne bi se borili za varnost države, plačevali davkov in podobno. Ideja pomoči je močno prisotna v vseh posameznikih – tako tudi v javnem sektorju. Tretje poglavje v članku se osredotoča na ovire za upravljanje ljudi z javnimi zadevami in je precej pesimistično, saj iz vrste podanih dejstev izhaja, da ljudje navadno tudi v primerih, ko jim je dana možnost participacije, le-tega ne izkoristijo v dovolj veliki meri (kar se s potekom časa celo zmanjšuje). Ta del sicer navaja številne teorije o sodelovanju javnosti, a vendar *a contrario* trdi, da države še vedno večinoma delujejo v okviru praktičnega ali klasičnega upravljanja javnih zadev prek javnih institucij. Upravni aparat bo v ne tako daljni prihodnosti še vedno prevladujoča oblika delovanja države; ljudje s svojimi vsakdanjimi življenjskimi težavami ne bodo zmogli opravljati nalog uprave, katere postajajo tudi vse bolj zapletene. Četrty del članka naredi zmes med demokracijo in javno upravo v pojmu reprezentativne javne uprave in nakazuje potencialno smer aktivne, tj. predstavniške javne uprave. Čeprav obstajajo oz. bomo tudi v prihodnje priča napakam v javnem sektorju, ne smemo nikoli spustiti izpred oči dejstva, da morajo pravna pravila temeljiti na vrednotah in ne obratno. Rawlsova »tančica nevednosti« in zlato pravilo oz. etika vzajemnosti so pravzaprav vse, kar javna uprava potrebuje na začetku v smeri skrbnega upravljanja in izvrševanja javnih nalog.

Predlagana strategija dajanja poudarka na javne uslužbenke je v času varčevanja na videz nelogična, a vendar bi bila lahko učinkovita: več javnih sredstev bi bilo treba nameniti za izobraževanje, usposabljanje in praktične implikacije dobrih praks iz drugih držav. Čeprav je v našem času, ko so znižanja javnih sredstev in odpuščanje vsakdanji jezik, to težko doseči, ne smemo pozabiti, da človečnost ni nikoli odvisna od financ – zaupanje javnosti, pripravljenost, upanje in druge vrednote so toliko bolj potrebne prav v kriznih časih. Začeti bi moral vsak pri sebi kot posameznik, usmerjajoč se proti koristim skupnosti kot celote. Upravljanje človeških virov z besedami, z motivacijo je prvi ključni element, medtem ko so energija, zaupanje in zavedanje za nenehno izboljševanje kakovosti življenja (ne da bi pri tem bili v to prisiljeni od drugih) izven njih. Ti elementi »rastejo« kot vrline med izvajanjem in se kažejo kot upoštevanja vredne vrednote. Pravi uspeh vseh postopkov obstaja le v psihološki spremembi miselnosti, v odprtosti, poštenosti in drugih vrednotah, ki s posnemanjem drugih vplivajo na ljudi znotraj in zunaj javne uprave. Prvi pristop je v izobraževanju in nagrajevanju posameznikov, ki bi lahko bili s svojim vedenjem zgled drugim na poti vrednot in enakosti. Vse bolj se zdi, da bi morali obnoviti znanje o pomenu vrlin in vrednot, ki jih je poznala že antična filozofija.

Neučinkovitosti upravnih sistemov v čezmejnem sodelovanju

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IZVLEČEK

Programi čezmejnega sodelovanja, ki so del evropskega teritorialnega sodelovanja (ETS) imajo za cilj integracijo obmejnih območij, vendar pa je dejanski učinek teh programov vprašljiv. Vzroki so v ekonomski neučinkovitosti evropskih institucij in evropske kohezijske politike, dodatno k temu pa nacionalni upravni sistemi za izvajanje teh programov vzpostavljajo vedno nove administrativne ovire in bremena, ki prispevajo k neučinkoviti porabi evropskih sredstev. Do katere točke so lahko ukrepi evropskih institucij in upravnih sistemov držav članic na področju izvajanja programov optimalno učinkoviti, lahko pokažejo instrumenti ekonomske analize.

Ključne besede: evropska kohezijska politika, instrumenti kohezijske politike, čezmejno sodelovanje, upravni sistemi, poraba evropskih sredstev, birokratsko obnašanje, tekma za rento

JEL: K23

1 Uvod

Osrednji del članka je namenjen (ne)učinkovitemu izvajanju programov čezmejnega sodelovanja v okviru Evropskega teritorialnega sodelovanja (ETS), kjer sodeluje tudi Slovenija. ETS je eden izmed ciljev Evropske kohezijske politike (EKP), ki ima za cilj integracijo obmejnih območij. Kot ugotavljajo nekateri upravičenci do teh sredstev, se vedno bolj uveljavljajo veliki in zahtevni projekti teh programov ter vedno večja birokracija. To še posebej občutijo manjše organizacije in društva, ki v kadrovske in organizacijskem pogledu niso kos profesionalnim agencijam, ki pripravljajo projekte, iščejo projektne partnerje in jih potem po zelo visoki ceni prodajajo projektnim nosilcem.

Ta neučinkovitost izhaja iz neustreznih nacionalnih upravnih sistemov, ki upravljajo programe čezmejnega sodelovanja. Kar izhaja tudi iz neučinkovitosti

kohezijske politike nasploh, ki so jo pokazali rezultati ekonomske analize. Tej trditvi pa je prilagojena tudi vsebina članka.

Cilj tega članka je najprej pokazati na neučinkovitost evropske kohezijske politike. Na začetku so predstavljeni instrumenti kohezijske politike in cilji financiranja, v te pa je umeščeno tudi čezmejno sodelovanje. V tretjem poglavju je opredeljena ekonomska neučinkovitost evropske kohezijske politike. Dokazovali bomo hipotezo, da je izvajanje evropskih skladov zelo zapleteno in zahteva veliko usklajevanja znotraj evropskega in nacionalnih upravnih sistemov, vse to pa pripomore k ekonomski neučinkovitosti EKP oz. neučinkoviti porabi evropskih sredstev.

Osrednji del članka predstavlja četrto poglavje o upravljanju programov čezmejnega sodelovanja v okviru cilja ETS, v katerih sodeluje tudi Slovenija. Predstavljeni bosta evropska raven upravljanja in nacionalna raven, da bi prikazali zapletenost upravnih sistemov, ki vplivajo na (ne)učinkovito porabo evropskih sredstev. Prav tako bodo v tem poglavju s pomočjo kazalnikov neučinkovitosti EKP, kot sta npr. kazalnika birokratskega in neracionalnega obnašanja ter zapletenih postopkov, ki so bili ponazorjeni v 3. poglavju, analizirani konkretni primeri neučinkovitosti slovenskega upravnega sistema pri izvajanju teh programov, ki vplivajo na porabo evropskih sredstev. Peto poglavje je namenjeno primerjavi ureditev v nekaterih drugih evropskih državah (Avstriji in Italiji). Članek se zaključi z nekaterimi predlogi Evropske komisije o ETS, v katerega uvrščamo tudi čezmejno sodelovanje v novi finančni perspektivi 2014–2021, in s predlogi za večjo učinkovitost.

2 Instrumenti evropske kohezijske politike in ETS

Cilj evropske kohezijske politike EU (EKP) je razvoj regij oz. držav, ki so ekonomsko in socialno v slabšem položaju kot povprečje EU. EU uresničuje ta cilj s pomočjo strukturnih skladov in kohezijskega sklada. V finančnem obdobju 2007–2013 so to Evropski sklad za regionalni razvoj (ESRR), Evropski socialni sklad (ESS) in Kohezijski sklad. Javne uprave v državah članicah EU s pomočjo instrumentov EKP izvajajo svojo pospeševalno funkcijo, ki spada poleg regulativne in servisne funkcije med temeljne funkcije uprave.

ESS je bil kot prvi izmed današnjih strukturnih skladov ustanovljen leta 1958. Njegova naloga je spodbujati nastanek skupnega trga s povečevanjem socialne kohezije, saj med državami članicami še vedno obstajajo razlike pri razdelitvi prihodka. Po Mraku (2004) se na ta način prepreči, da bi ljudje izgubili stik s trgom dela, ustvarjajo se nova in boljša delovna mesta, izboljšajo se možnosti posameznika, hkrati pa se ohranja konkurenčnost evropskega gospodarstva¹.

¹ Kljub temu pa nekateri tuji avtorji opozarjajo na neučinkovitosti tega instrumenta. Po njihovem mnenju naj bi ESS prispeval h krepitvi človeških virov v manj razvitih regijah, kjer obstaja pomanjkanje ustrezno usposobljene delovne sile, ter s tem pomagal regijam razviti svoj prvotni (endogen) potencial. Učinek je pogosto drugačen od zelenega, saj povzroči, da tisti, ki so uspešno zaključili usposabljanje, iščejo poslovne priložnosti v bolj razvitih regijah (po Cuadrado-Roura et al., 2004).

ESRR je bil ustanovljen leta 1975 kot odziv na neenakosti življenjskega standarda med posameznimi regijami znotraj EGS (Mrak et al., 2004, str. 38). Zaradi pomembnosti nastalih problemov je v njihovo reševanje posegla Evropska komisija, ki je prevzela vlogo pri reševanju nastalih nesorazmerij ter zagotavljanju solidarnosti. Zaradi pomanjkljivosti tega instrumenta je bilo izvedenih več reform ESRR, ki naj bi pomagale komisiji podrediti sredstva doseganju skupnih ciljev in ne ciljev posameznih držav članic (Halpin, 1996). Najmlajši izmed instrumentov pa je Kohezijski sklad, ustanovljen leta 1994², ki zagotavlja finančna sredstva za izvajanje intervencij na področju okolja, obnovljivih virov energije in prometne infrastrukture vseevropskih omrežij. Pripomogel naj bi k približevanju držav članic in najmanj razvitih regij s pomočjo finančne udeležbe v operativnih programih, ki se izvajajo v okviru cilja »Konvergenca«³. Področja, ki jih kohezijski sklad podpira, so večinoma javne dobrine. S financiranjem javnih dobrin se vzpostavlja infrastruktura, ki je pogoj za vsestranski razvoj.⁴

Cilji financiranja s pomočjo navedenih instrumentov so določeni v splošni uredbi ES o Strukturnih skladih in Kohezijskem skladu⁵. V sedanjem finančnem obdobju je na voljo 308,041 mrd EUR kohezijskih sredstev za celotno EU, ki so razdeljena po treh ciljih: že omenjen cilj Konvergenca, kjer je na voljo kar 81,54 % vseh kohezijskih sredstev in je namenjen najmanj razvitim regijam⁶, cilj Regionalna konkurenčnost in zaposlovanje, ki mu je namenjenih 15,95 % vseh kohezijskih sredstev⁷, ter cilj ETS, s skupno 2,52 % vseh kohezijskih sredstev (<http://www.mgrt.gov.si/>). V okviru cilja Evropsko teritorialno sodelovanje potekajo različne vrste sodelovanja: čezmejno sodelovanje⁸, ki bo predmet naše analize, transnacionalno sodelovanje⁹, medregionalno sodelovanje¹⁰

2 Glej uredbo Sveta (ES) št. 1164/94 z dne 16. maja 1994 o ustanovitvi kohezijskega sklada.

3 Uredba (ES) št. 1083/2006.

4 Pa vendar, kot opozarjajo nekateri avtorji, lahko vseevropska transportna omrežja poglobijo razvojne neenakosti med nerazvitimi in razvitimi regijami, saj omogočajo podjetjem v razvitejših regijah, da v večjem obsegu oskrbujejo s svojimi dobrinami oddaljene manj razvite regije, s čemer preprečujejo njihovo industrializacijo (Puga, 2001, str. 29).

5 Uredba (ES) št. 1083/2006.

6 Namenjen je tistim regijam, kjer bruto domači proizvod (BDP) na prebivalca merjeno v obdobju 2000–2002 ni presegal 75 % povprečja EU in kohezijskim državam: kjer države članice v obdobju 2001–2003 niso dosegle 90 % bruto nacionalnega dohodka EU. Predhodno pa je ta cilj namenjen tudi statistično prizadetim regijam in dotedanjam kohezijskim regijam, ki niso presegle 90 % BNP EU 25.

7 Ta cilj je namenjen regijam, ki so presegle 75 % BDP na prebivalca EU 25, merjeno v obdobju 2000–2002 in niso statistično prizadete regije.

8 Programi čezmejnega sodelovanja se izvajajo na manjših geografskih območjih. Obsegajo programe sodelovanja s sosednjimi državami in čezmejne IPA programe, v katerih sodelujejo tudi države kandidatke za vstop v EU (npr. Čezmejno sodelovanje Jadranska pobuda in sodelovanje s Hrvaško). Razpon vrednosti projektov je širok (od 50.000 EUR do 5 MIO EUR), primerni pa naj bi bili tudi za manjše organizacije.

9 Programi Evropskega transnacionalnega teritorialnega sodelovanja so nadaljevanje programov, ki so se v obdobju 2000–2006 izvajali pod skupnim imenom Interreg IIIb. Takšna programa sta bila npr. programa pobude skupnosti Interreg IIIb, program CADSES in program Območje Alp. Programi transnacionalnega sodelovanja pokrivajo veliko območje Evrope (območje Alp, Srednje Evrope, Jugovzhodne Evrope in Mediterana), kar omogoča partnerjem raznolike možnosti sodelovanja.

10 V okviru Evropskega medregionalnega sodelovanja gre za projekte s širšim partnerstvom iz več držav in večje vrednosti (od 1 mio do 3 mio EUR). Projekti, ki se izvajajo, so bolj strateške narave, zaradi svoje kompleksnosti pa zahtevajo še posebej usposobljene partnerje.

in mrežni programi, kot sta ESPON¹¹ in URBACT¹². S ciljem ETS naj bi se okrepilo sodelovanje na različnih ravneh, deluje pa kot dopolnitev drugih dveh ciljev, saj so opravičene regije opravičene tudi z vidika ciljev Konvergenca ter Regionalna konkurenčnost in zaposlenost. Financira se iz ESRR. Sodelovanje se osredotoča na raziskovanje, razvoj, na znanju temelječo družbo, preprečevanje tveganj in integrirano upravljanje vod (http://ec.europa.eu/regional_policy/cooperate/cooperation/index_en.cfm).

Države članice so podrobneje opredelile ETS v operativnih programih, s pomočjo katerih naj bi se uresničevali lisbonski in götenburški cilji kot so rast, delovna mesta in trajnostni razvoj, operativni programi pa morajo biti skladni s nacionalnim strateškim referenčnim okvirom, ki opredeljuje generalno strategijo države članice.

3 Ekonomska (ne)učinkovitost evropske kohezijske politike

Namen tega poglavja je opozoriti na nekatere vidike ekonomske neučinkovitosti evropske kohezijske politike. Kasneje, v četrtem poglavju, bomo poskušali s pomočjo nekaterih kazalnikov ekonomske neučinkovitosti EKP, pokazati neučinkovitost tudi na njenem posamičnem segmentu, to je na področju izvajanja projektov čezmejnega sodelovanja, v katerem sodeluje tudi Slovenija.

Osnovno vprašanje je torej, ali so evropska finančna sredstva, ki so posamezni državi v določenem časovnem obdobju dodeljena, tudi ekonomsko učinkovito oz. racionalno porabljena. Ne sprašujemo se o učinkovitem črpanju, ki pomeni zgolj povrnitev sredstev za že izvedene projekte iz evropskega proračuna nazaj v državni proračun – in to na osnovi predhodno dodeljenih pravic porabe – ampak o tem, ali so bila ta sredstva racionalno in ekonomsko opravičeno tudi porabljena.

Hipoteza, ki jo v tem poglavju dokazujemo, je, da je izvajanje evropskih skladov zelo zapleteno in zahteva veliko usklajevanja znotraj evropskega in nacionalnih upravnih sistemov, vse to pa pripomore k ekonomski neučinkovitosti EKP oz. neučinkoviti porabi evropskih sredstev. Vprašanje je, ali ne bi bilo mogoče istih ciljev kohezijske politike doseči s prepustitvijo področja trgu. Večina ekonomskih študij in analiz namreč poroča o zanemarljivem vplivu strukturne politike na razvoj. Kohezijska politika ima negativen vpliv na rast BDP (–0,35 %), ali pa je njen vpliv minimalen (0,7 %) (Ederveen et al., 2003, str. 62).

Sklepamo, da je ekonomska neučinkovitost posledica kompleksnega načina financiranja in izvajanja kohezijske politike, ki ga določa zakonodaja EU. To se kaže tudi v ekonomski neučinkovitosti kompleksnih upravnih sistemov, ki jih morajo na osnovi zakonodaje EU vzpostaviti države članice EU za črpanje

¹¹ Evropsko omrežje za spremljanje prostorskega razvoja.

¹² Tematsko omrežje mest

evropskih sredstev.¹³ Poleg tega morajo države izpolnjevati številne pogoje na področjih regionalizacije, politike zaposlovanja, državnega proračuna in drugih področjih, da bi lahko črpale evropska sredstva. Prav tako morajo države ustrezno usposobiti kadre in urediti razmerja med dejavniki v upravnem sistemu ter faze v postopku črpanja. Vse to povzroča visoke stroške¹⁴, krepí se birokracija in neracionalno obnašanje birokratov¹⁵. V takih pogojih pa ne morejo biti evropska finančna sredstva učinkovito porabljena, saj prihaja do absurdnih situacij, ko so deležni finančne podpore projekti tistih podjetij, ki niso konkurenčna in njihovi projekti ne sledijo potrebam trga ali javnemu interesu, se pa podjetja učinkoviteje soočajo z obsežno dokumentacijo in birokracijo. Če k temu dodamo še njihovo moč pri lobiranju, tako zadostijo formalnim pogojem za pridobitev finančnih sredstev, kar je neke vrste tekma za rente.

To lahko podkrepimo z analizami in študijami nekaterih tujih avtorjev¹⁶. Vpliv EU na ekonomsko neučinkovitost kohezijske politike v nacionalnih državah članicah se kaže na dveh ravneh. Prvi se kaže že v iracionalnem obnašanju evropskih birokratov, drugi pa v samih zahtevah evropske kohezijske zakonodaje. Brandt in Svendsen opozarjata na neučinkovit administrativni ustroj in birokratsko vodenje že v samih institucijah ES ter tako opozarjata na birokratsko obnašanje, ki vodi do neracionalnega izida za družbo (Brandt & Svendsen, 2006, tako tudi Niskanen, 1971, 1994, 2001; Mueller, D.C., 1989). Centralizacija moči v določenih institucijah ES omogoča, da so ekonomski dejavniki omejeni z institucijami, ki so ustanovljene za njihovo delovanje. Konkurenca med birokrati, ki vsak na svojem področju težijo k maksimiranju svojega proračuna, povzroča, da velik obseg sredstev ni porabljen racionalno in skladno z javnim interesom (Brandt & Svendsen, 2006, str. 332). Njune teze potrjujejo stališča Tullocka (1967) in Mc Kenzija (1981). Evropske politike niso učinkovite tudi zaradi prisotnosti »tekme za rente«. To je koncept, ki sta ga razvila Tullock in Kruegerjeva in se nanaša na pridobitev vladnih privilegijev. Posamezniki pridejo do finančnih sredstev na osnovi manipulacij ekonomskega okolja (Tullock, 2003, str. 5). Leibstein navaja problem monopola neučinkovitih podjetij, ki preživijo le, če so zaščitene z vladnimi privilegiji in niso pod pritiski konkurenčnega boja (Leibenstein, 1966). Prav tako podjetja, ki imajo monopol, investirajo sredstva v vzdrževanje ovir, ki drugim preprečujejo dostop (Tullock, 2003, str. 4). Privilegirani monopolisti zadržujejo privilegije s pomočjo podkupnin (Krueger, 1974). Res pa je, da prinaša ukinitvev privilegijev dodatne stroške (Buchanan & Tullock, 1968).

13 Države članice EU morajo torej vzpostaviti ustrezne strukture za črpanje evropskih sredstev, nihče pa se ne sprašuje tudi o vzpostavitvi sistema, ki bi pripomogel k njihovi racionalni porabi.

14 Visoki stroški so kazalnik ekonomske neučinkovitosti. Višji so, manjši je delež pridobljenih koristi in večja je neučinkovitost.

15 Iracionalno obnašanje birokratov se npr. kaže v pretiranih administrativnih kontrolah opravičenih stroškov, ne pa vsebinske in ekonomske upravičenosti posameznega projekta.

16 Do podobnih ugotovitev je mogoče priti na osnovi različnih pogovorov z udeleženci v procesu in javnih debat.

Zapleten in birokratski je tudi celoten postopek pridobivanja kohezijskih sredstev, s katerim lahko upravičenci zaprosijo za evropska sredstva in ki temelji na velikem številu vmesnih faz. Obsežna evropska zakonodaja vzpostavlja birokratske strukture (tako tudi Bollen, 1997). Resne težave pri postavljanju učinkovitih administrativnih struktur – upravnih sistemov – imajo še vedno stare države članice, toliko bolj pa imajo pri tem resne težave tudi nove države članice¹⁷ (Ederveen et al., 2003, str. 15). Postavitev takšnih struktur povzroča velike stroške (Nahuis & Mooij, 2001, str. 374), kar močno vpliva na neučinkovitost kohezijske politike. Da se preprečijo zlorabe evropskega denarja, je namreč EU določila kompleksna pravila nadzora. Procesi so zato togi in ne spodbujajo nujno razvojno naravnanih projektov, temveč predvsem tekmo za rente, v kolikor posamezni subjekti izpolnjujejo pogoje za prijavo (več o tem tudi Garcia-Milà & McGuire, 2001; Boldrin & Canova, 2001). Učinkovitost delovanja ES po različnih področjih so Alesina, Angeloni in Schuknecht (2002) presojali z vidika osnovnega namena njene ustanovitve in ugotovili, da je na nekaterih področjih preveč dejavna. Tudi kohezijska politika vsaj deloma nasprotuje osnovnemu namenu ustanovitve ES, saj promovira evropska integracija konkurenčnost in učinkovitost s prostim pretokom blaga, storitev, ljudi in kapitala, medtem ko kohezijska politika ES temelji na prepričanju, da mora biti delovna sila nemobilna in mora ostati na območjih, ki prejemajo kohezijska sredstva (tako tudi Boldrin & Canova, 2001; Ederveen et al., str. 12).

4 Čezmejni vidiki ETS s poudarkom na slovenski izkušnji pri upravljanju

V tem poglavju bomo predstavili upravljanje posameznega segmenta EKP, to je tistih programov čezmejnega sodelovanja v okviru ETS, v katerih sodeluje Slovenija¹⁸. Prikaz bo služil lažjemu razumevanju zapletenih struktur upravljanja – upravnih sistemov, ki lahko vplivajo na neučinkovito porabo evropskih sredstev, ta pa je na konkretnih primerih predstavljena v podpoglavju 4.3.

4.1 Evropska ureditev upravljanja

Evropska zakonodaja določa večfazni postopek pridobivanja oziroma črpanja evropskih sredstev. Države članice se najprej pogajajo o obsegu finančnih sredstev, ki naj jim pripada za izvajanje projektov v finančnem in programskem obdobju. V fazi programiranja pripravi Evropska komisija predloge evropske zakonodaje (splošne in posebne uredbe o kohezijskem in strukturnih skladih) ter referenčni okvir skupnosti (npr. Strateške smernice skupnosti na področju čezmejnega sodelovanja). Države članice na tej osnovi pripravijo svoje nacionalne strateške referenčne okvire in programske dokumente (operativne programe), ki jih odobri Evropska komisija. Ti dokumenti so podlaga za izvajanje projektov čezmejnega sodelovanja.

¹⁷ V tem kontekstu se presoja vprašanje, ali niso stroški večji od pridobljenih koristi.

¹⁸ Slovenija ima v sedanjem finančnem in programskem obdobju za 13 programov, ki se izvajajo znotraj cilja ETS, na voljo 104 milijonov EUR.

Pridobljene pravice pa pogosto niso učinkovito porabljene zaradi zapletenega sistema upravljanja, finančnega poslovedenja in nadzora v fazi izvajanja projektov, ki se na tej osnovi vzpostavi na čezmejni in nacionalni ravni ter je ponazorjen v nadaljevanju. Programi čezmejnega sodelovanja se izvajajo s podporo skupnih organov upravljanja¹⁹, skupnih tehničnih sekretariatov²⁰ in nacionalnih organov v programih čezmejnega sodelovanja²¹. V procesu izvajanja sodelujeta tudi skupni organ za potrjevanje, ki je odgovoren zlasti za potrditev, da je izkaz o izdatkih točen in ustrezen za posredovanje zahtevka Evropski komisiji²² ter skupni revizijski organ, ki zagotavlja izvajanje revizij tako, da se preveri učinkovitost sistema upravljanja in nadzora operativnega programa. Nacionalni in skupni nadzorni odbori obravnavajo in potrjujejo vloge, prispele na osnovi javnih razpisov. Pred odločanjem nadzornega odbora ocenjujejo vloge ocenjevalci znotraj posameznih vladnih resorjev in zunanji ocenjevalci. Skupni nadzorni odbori so sestavljeni iz predstavnikov sodelujočih držav posameznega operativnega programa in predstavnika Evropske komisije. Nadzor nad izvajanjem programov izvaja Evropska komisija. V primeru odkritih nepravilnosti lahko izvede finančni popravek EK oziroma sankcijo državi članici skladno z 99. členom Uredbe Sveta (ES) št. 1083/2006, ki določa preklic celotnemu prispevku ali del prispevka Skupnosti operativnemu programu ob morebitni ugotovitvi sistemske ali posamezne nepravilnosti pri izvajanju projektov.

4.2 Slovenski upravni sistem

Če to ponazorimo na programih čezmejnega sodelovanja s Slovenijo, konkretno to pomeni, da je na primer v operativnem programu čezmejnega sodelovanja Italija – Slovenija 2007–2013 skupni organ upravljanja Avtonomna dežela Furlanija – Julijska krajina in sicer Deželna direkcija za kulturo, šport in evropske integracije. Slovensko info točko, ki jo gosti Regionalna pisarna Ministrstva za gospodarski razvoj in tehnologijo v Štanjelu, podpira organ upravljanja pri širjenju informacij o stopnjah izvajanja programa na slovenskem ozemlju. Osebe Info točke tesno sodeluje s skupnim tehničnim sekretariatom pri izvrševanju svojih nalog (http://www.italo.eu/temeljni_dokumenti/programski_dokumenti/). Posebne organizacijske enote na Ministrstvu za gospodarski razvoj in tehnologijo so organi upravljanja v treh čezmejnih programih s sosednjimi državami Avstrijo, Hrvaško in Madžarsko. Posebna organizacijska enota na Ministrstvu za gospodarski razvoj in tehnologijo izvaja finančno kontrolo projektov, v okviru katere se opravi administrativna kontrola in kontrola na kraju samem. Kontrola zajemata preverjanje skladnosti projektnih aktivnosti in izdatkov s pravno podlago. Preverjanje naj bi

¹⁹ Organ upravljanja je odgovoren za upravljanje in izvajanje operativnega programa, zlasti pa zagotavlja, da so projekti izbrani za financiranje v skladu z merili, ki veljajo za operativni program, in da za celotno obdobje izvajanja spoštujejo ustrezna pravila Skupnosti in nacionalna pravila.

²⁰ Skupni tehnični sekretariat pomaga enotnemu organu upravljanja, enotnemu revizijskemu organu in nadzornemu odboru pri opravljanju njihovih nalog.

²¹ Ti izvajajo na nacionalni ravni naloge upravljanja, revizije in finančne kontrole ter nadzora.

²² Prvostopenjsko kontrolo pa izvajajo nacionalni kontrolorji.

zagotovilo, da so zahtevki za izplačilo pravilni, da ne prihaja do dvojnega financiranja in da so skladni s pravili Skupnosti ter nacionalnimi pravili. Skupni tehnični sekretariati so sestavljeni iz predstavnikov Slovenije in v primeru programov čezmejnega sodelovanja s Hrvaško in Madžarsko, tudi njihovih predstavnikov. V procesu izvajanja sodelujeta tudi Organ za potrjevanje – Slovenski regionalni sklad in revizijski organ (Ministrstvo za finance oziroma Urad za nadzor proračuna) ter že omenjeni nacionalni in skupni nadzorni odbori, ki potrjujejo vloge.

Posamezne faze pridobivanja evropskih sredstev zahtevajo od upravičencev do sredstev vrsto dejanj. Slovenija ima svojevrsten upravni sistem z zahtevami, ki celo presegajo evropske, saj je učinkovito porabo evropskih sredstev onemogočila z zapletenejšimi postopki še posebej v fazah poročanja in potrjevanja zahtevkov (več o tem v pod poglavju 4.3).

4.3 Konkretni primeri neučinkovitosti – slovenska izkušnja

Vpliv upravnih sistemov na porabo evropskih sredstev v okviru programov čezmejnega sodelovanja bomo na slovenskem primeru ponazorili s pomočjo kazalnikov neučinkovitosti EKP, ki so bili predstavljeni v 3. poglavju, pri čemer bomo izpostavili kazalnik birokratskega in neracionalnega obnašanja ter zapletenih postopkov, ki povzročajo stroške v procesu.

Upravičenci do finančnih sredstev opozarjajo na preveč zapletene postopke in zavlačevanje pri izvajanju programov, kar kaže na to, da ima Slovenija vzpostavljen kompleksen in zapleten sistem za črpanje evropskih skladov²³. Menijo, da tak sistem povzroča velike stroške, kar močno vpliva na ekonomsko (ne)učinkovitost in (ne)racionalno ter (ne)razvojno usmerjeno porabo sredstev. To se kaže v finančni in kadrovski nezmožnosti manjših institucij in organizacij, da sodelujejo pri velikih projektih, ki posegajo na preširoka upravičena območja in se izvajajo v zbirokratiziranih procesih. Pri izvajanju operativnih programov nastajajo velike zamude. Delovanje nadzornih odborov je neučinkovito in prepočasno, saj sta potrebni za odobritev vloge skoraj dve leti. Pri nekaterih programih čezmejnega sodelovanja so bili javni razpisi za izvajanje projektov šele potrjeni, in to kljub temu, da naj bi se trenutno programsko obdobje zaključilo leta 2013. Zamude so prispevale k temu, da nekatere pobude, ki bi bile zaradi enostavnejših postopkov še posebej zanimive za majhne subjekte, niso bile realizirane (npr. javni razpis za majhne projekte). Zamude nastajajo tudi pri potrjevanju stroškov (namesto treh mesecev traja potrjevanje tudi po leto dni ali več). Kadrovska usposobljenost administrativnega ustroja ni zadostna, načrtovane dodatne zaposlitve v kontrolnih in drugih enotah v organu upravljanja pa po mnenju upravičencev ne bodo prispevale k učinkovitejšim postopkom porabe sredstev. Vsak od zaposlenih mora opravičiti svojo delovno mesto in naloge, ki so mu dodeljene. Tako neracionalno birokratsko

²³ Na te neučinkovitosti so opozorili na posvetu na temo »Program evropskega teritorialnega sodelovanja – Slovenija in sosednje države: razlike v poročanju na konkretnih primerih«, ki je potekal 9. junija 2012, v Državnem svetu. <http://www.uszs.gov.si/>.

obnašanje ne bo vzpostavilo vzorčnega pregleda zahtevkov na osnovi analize tveganja in prispevalo k spreminjanju funkcije kontrole, ki naj v okviru celotnega upravnega sistema deluje tudi kot svetovalno telo za racionalnejšo porabo sredstev na svojem teritoriju.

Določene neučinkovitosti so sistemske narave. Tako so npr. evropska pravila glede izvajanja kohezijske politike kompleksna in obsegajo različne faze: programiranje, uvajanje, nadzor, finančno upravljanje in podobno, nacionalna pravila pa pogosto ne sledijo zgolj zahtevam evropske zakonodaje, ampak vsebujejo dodatne zahteve. Postopki potrjevanja poročil so dolgotrajni in izhajajo iz neenotnih pravil na slovenski strani in v sosednji državi. Prav tako zahteva slovenska stran veliko bolj obsežno pripravo poročil, kar zahteva dodatno birokracijo. Obsežna navodila povzročajo med udeleženci zmedo ter zmanjšujejo preglednost in odgovornost posameznih dejavnikov. Kontrole se podvajajo in uvajajo se nove zahteve, temu pa težko sledijo tudi partnerji v tujini. Enostavnejša in enotna pravila bi po mnenju upravičencev do sredstev lahko prispevala k učinkovitejši porabi sredstev. Večja pozornost bi morala biti na prenosu dobrih praks, s katerimi bi lahko izboljšali črpanje evropskih sredstev. V ta namen je nastal čezmejni projekt, ki naj bi ustanovil mrežo dejavnikov na področju državne in lokalne samouprave, ki sodelujejo v čezmejnem povezovanju. Posebni informacijski center pa bi omogočil dostop do informacij, kdo je vključen v čezmejne procese, pod kakšnimi pogoji, kakšni so pogoji za morebitno vključitev v projekte in podobno ter bi obsegal Slovenijo in sosednje države. Slovenija k projektu do sedaj še ni pristopila (več o tem tudi Setnikar Cankar & Petkovšek, 2012). Dodali bi še, da je slovenski upravni sistem ekonomsko neučinkovit zaradi prepletenosti različnih ravni, ki sodelujejo v čezmejnih procesih, saj Slovenija ni izvedla regionalizacije in v čezmejnih stikih nastopa kot celota, torej kot država. Javni uslužbenci, ki imajo specifična znanja v konkretnih projektih, zaradi strogih pravil v nacionalni zakonodaji o njihovem financiranju ne morejo sodelovati (prav tam).

5 Primerjalna ureditev v Avstriji in Italiji

Tako kot Slovenija imajo tudi druge države članice programske dokumente za čezmejno sodelovanje, ki jih določa evropska zakonodaja. Italijanski Nacionalni strateški referenčni okvir, ki je podlaga priprave operativnih programov čezmejnega sodelovanja, za razliko od slovenskega Nacionalnega strateškega referenčnega okvira, daje prednost teritorialnemu sodelovanju, ki se osredotoča na vse posebne prioritete programa, kot so npr. izboljšanje in razvoj človeških virov; promocija, razvoj in razširjanje raziskav in inovacij za dvig konkurenčnosti; energija in okolje; konkurenčnost poslovnih sistemov in zaposlovanje; mednarodna dostopnost in privabljanje tujih investicij in sredstev ter podobno²⁴ (http://www.italaslo.eu/temeljni_dokumenti/programski_dokumenti/). Italija ima v okviru cilja ETS v sedanjem finančnem

²⁴ Slovenski Nacionalni referenčni okvir opredeljuje teritorialno sodelovanje le kot del prioritete Povezovanje ukrepov za doseganje trajnostnega razvoja.

in programskem obdobju na voljo 85 milijonov EUR, ki se izvajajo v sedmih programih čezmejnega sodelovanja (Italija – Francija (Alcotra), Italija – Francija (Maritime), Italija – Švica, Italija – Avstrija, Italija – Grčija, Italija – Malta in Italija – Slovenija; v štirih programih transnacionalnega sodelovanja in štirih programih medregionalnega sodelovanja (http://ec.europa.eu/regional_policy/sources/docgener/informat/country2009/it_en.pdf). Tudi Avstrija sodeluje v sedmih programih čezmejnega sodelovanja z Nemčijo, Švico in Liechtensteinom in Bavarsko, Češko Republiko, Slovaško, Madžarsko, Italijo in Slovenijo, v treh programih transnacionalnega sodelovanja (Jugovzhodna, Vzhodna in Centralna Evropa) in štirih programih medregionalnega sodelovanja (npr. URBACT II in ESPON). Skupaj ima za cilj ETS na voljo 257 milijonov EUR. (http://ec.europa.eu/regional_policy/sources/docgener/informat/country2009/at_en.pdf). Prav tako imata tako Italija, kot Avstrija organizacijsko strukturo upravljanja s programi, primerljivo s preostalimi državami članicami EU. Tako je npr. organ upravljanja operativnih programov čezmejnega sodelovanja Italije s Slovenijo Direkcija za kulturo, šport in evropske integracije Avtonomne dežele Furlanije – Julijske krajine (FJK). Za razliko od slovenske rešitve, ki ne pozna pokrajin, je direkcija decentralizirana enota, odgovorna Ministrstvu za gospodarstvo in razvoj v Rimu. V deželno strukturo FJK je organizacijsko umeščena tudi kontrolna enota t.i. Glavna direkcija za načrtovanje, ekonomske in finančne vire. Tako kot v Sloveniji se tudi v Italiji udeleženci pri izvajanju projektov srečujejo z zapletenimi birokratskimi strukturami in neracionalnim birokratskim obnašanjem, ki sta temeljna kazalnika neučinkovite porabe sredstev, kar kaže na vpliv evropske ureditve. Kljub temu pa sta, kot poročajo udeleženci v procesih, ki poznajo slovenski in italijanski upravni sistem, ta kazalnika nekoliko manj prisotna v italijanskem upravnem sistemu. Kot poročajo, si birokrati poskušajo bolj poenostaviti življenje, kontrole so nekoliko enostavnejše, saj se ne spuščajo v prevelike podrobnosti in ne iščejo stvari, ki jih ni, ampak dajejo pozornost bistvenim stvarim ter ne izgubljajo časa s tehničnimi vprašanji²⁵. Ne glede na zapleteni upravni sistem v Avstriji, udeleženci v procesih poročajo o manjši stopnji neracionalnega obnašanja, večji fleksibilnosti upravnega sistema, manjših zamudah pri potrjevanju projektov, poročanju in o prožnejših kontrolah.

6 ETS v novi finančni perspektivi 2014–2020

Evropska komisija je pričelaz izvajanjem aktivnosti za novo finančno perspektivo 2014–2020. V pripravi so nova zakonodaja in programski dokumenti. Sredstva, namenjena teritorialnemu sodelovanju, v katerega se uvršča tudi čezmejno sodelovanje, se bodo povečala. Okoli 11 % vseh finančnih sredstev bo tudi v novi finančni perspektivi namenjenih ETS. Poseben poudarek bo na poenostavitvah izvajanja evropskih projektov, večanju absorpcijskih sposobnosti in učinkovitosti v javni upravi, ki sta v novi finančni perspektivi temeljna cilja. Po mnenju Evropske komisije sta bistveni tudi večja administrativna sposobnost

²⁵ Tako npr. slovenska stran ponovno preverja zaklenjene časovnice v Excelu, ki se kalkulirajo same, s kalkulatorjem in podobno.

in zmanjševanje administrativnih ovir nasploh. Teritorialno sodelovanje naj bi povečali s poenostavljenim upravljanjem programov, saj bosta združena organ upravljanja in organ potrjevanja projektov. Financiranje projektov naj bi bilo bolj učinkovito tudi s pomočjo načela koncentracije, ki bo omogočilo financiranje največ štirih tematskih sklopov. Dodatno nagrajeni pa naj bi bili tudi v tej finančni perspektivi uspešno izvedeni projekti (več o tem v predlogih Evropske komisije (<http://www.eu-skladi.si/ostalo/download/prezentacije-prihodnost-ekp/view?searchterm=prihodnost>)).

7 Zaključek

Na osnovi študij in analiz o učinkovitosti EKP, ki so jo izvedli nekateri tuji avtorji, ter celovite presoje konkretnih primerov neučinkovitosti slovenskega upravnega sistema ugotovimo naslednje:

- evropska sredstva za izvajanje projektov čezmejnega sodelovanja niso dovolj učinkovito porabljena, kar pomeni, da bistveno ne doprinašajo k dvigu BDP in trajnostnemu razvoju;
- poraba sredstev je pogojena z neučinkovitim delovanjem evropskih institucij ter nacionalnih upravnih sistemov, ki upravljajo s programi ETS. Izvajanje teh programov je zapleteno, in zahteva veliko usklajevanja znotraj evropskega in nacionalnih upravnih sistemov; do teh zaključkov smo prišli upoštevajoč naslednje glavne kazalnike neučinkovitosti: birokracijo in neracionalno obnašanje birokratov. Na primeru slovenske izkušnje lahko zaključimo, da je ekonomska neučinkovitost najprej posledica kompleksnega načina financiranja in izvajanja kohezijske politike, ki ju določa zakonodaja EU. Države članice morajo namreč vzpostaviti kompleksne upravne sisteme za izvajanje teh programov. Analizirali smo slovenski upravni sistem in ugotovili visoko stopnjo birokracije in neracionalnega obnašanja birokratov. Na osnovi študij o neučinkovitosti EKP, ki jih omenjamo v tretjem poglavju, smo sklepali, da v takih pogojih ne morejo biti evropska finančna sredstva učinkovito porabljena (tudi če bi bila učinkovito počrpana), saj lahko zaradi omenjenih dveh kazalnikov prihaja do financiranja projektov tistih podjetij, ki niso konkurenčna, njihovi projekti pa nujno ne sledijo potrebam trga ali javnemu interesu, se pa podjetja učinkoviteje soočajo z obsežno dokumentacijo in birokracijo. To pa lahko pomeni le tekmo za rento, ne pa za razvojne projekte. Oba kazalnika smo zasledili tudi v avstrijskem in italijanskem upravnem sistemu, vendar na osnovi pogovorov z deležniki v procesu v nekoliko manjši obliki, kar kaže na to, da je slovenski upravni sistem pogojen tudi s togo javno upravo;
- glede na to, da se sedanja finančna perspektiva zaključuje in so se že pričele priprave na novo finančno perspektivo 2014–2021, v okviru katere bi naj bi bil za izvajanje cilja ETS namenjen celo večji obseg finančnih sredstev, so nujne poenostavitve postopkov znotraj slovenskega upravnega sistema za izvajanje čezmejnih programov.

K poenostavitvam pa se mora pristopiti sistemsko. Pozornost naj bo dana le tistim projektom, ki jih trg ne more zagotoviti dovolj učinkovito. Upravljanje in izvajanje čezmejnih programov v okviru ETS naj obsega le tiste faze v postopku, ki so nujno potrebne in ne ustvarjajo administrativnih ovir in bremen. Predvsem pa je pomembno ustrezno pristopiti k odpravljanju birokratskega neracionalnega obnašanja, kar vključuje tudi izobraževanje, saj je problem v »ljudeh-birokratih«;

- pod koordinacijo ministrstva, pristojnega za javno upravo, se mora dosledneje izvajati analiza oziroma nadzor nad učinki novih ukrepov in predpisov v okviru vladnih naporov za boljšo regulacijo. Kot smo ugotovili, pa se v slovenskem upravnem sistemu ustvarjajo vedno nova pravila in ukrepi, ki celo presegajo zahteve evropske zakonodaje o kohezijski politiki.

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SUMMARY

INEFFICIENT ADMINISTRATIVE SYSTEMS IN CROSS-BORDER COOPERATION

Keywords: European Union Cohesion Policy, instrument of cohesion policy, cross-border cooperation, administrative systems, efficient use of European funds, bureaucratic and irrational behaviour, rent-seeking

The central part of this article refers to the (in)effective implementation of cross-border cooperation programmes in the framework of the European Territorial Cooperation (ETC), in which Slovenia also participates. The ETC is one of the objectives of the European Union Cohesion Policy, which aims at the integration of border areas. Some beneficiaries of these funds are complaining that the trend is oriented towards increasingly large and complex projects of such programmes and a growing bureaucracy. This is a particularly issue of small organizations and societies, which are in personnel and organizational respect unable to cope with the professional agencies. The professional agencies are preparing projects, looking for project partners and then, at a very high price, sell them to the project holders.

These inefficiencies arise from the inadequate national administrative systems that manage the CBC programmes. These inefficiencies also derive from the ineffectiveness of the European Union Cohesion Policy in general, as the results of the economic analysis show.

Our hypothesis is that »the implementation of EU funds is complex and requires a lot of coordination within the European and national regulatory systems, which contribute to economic inefficiency of the European Union Cohesion Policy or the inefficient spending of EU funds«.

This article refers to the European level of governance and the national level, in order to show the complexity of the administrative systems that affect the (in)efficient use of European funds. Specific examples of inefficiency are presented with reference to the Slovenian administrative system in the implementation of these programmes, which affect the use of European funds. The examples are analysed with the help of indicators of the European Union Cohesion Policy inefficiency, such as the indicator of irrational bureaucratic behaviour and complex procedures.

The main objective of European Union Cohesion Policy is the development of regions or countries that are economically and socially disadvantaged compared to the EU average. The EU exercises this objective through the Structural Funds and the Cohesion Fund. In the financial period 2007–2013, the structural funds and the cohesion fund are the European Regional Development Fund (ERDF), European Social Fund (ESF) and the Cohesion Fund. Public administrations in the EU Member States with the help of the

instruments of the European Union Cohesion Policy perform their accelerating function, which is in addition to the regulatory and service functions, the fundamental one.

The basic question is therefore, whether the European funds, allocated to the respective country in a certain period of time have been efficiently or rationally used. The effective absorption of funds, which means only the reimbursement of funds for the projects already implemented from the European budget back into the state budget – based on the preliminary allocation of consumption – has not been in question, but the main issue is, whether the funds have also been used rationally and are economically justified.

Most economic studies and analyses report on the negligible impact of structural policies on development. The cohesion policy has a negative impact on GDP growth (-0.35%), or its influence is minimal (0.7%) (Ederveen et al, 2003, p.62).

The economic inefficiency arises due to the complex method of funding and the implementation of the cohesion policy, as determined by the EU legislation. This is also reflected in the economic inefficiencies of the complex administrative systems for the EU funds absorption, which must be established in the EU Member States according to the EU cohesion legislation. In addition, countries need to accomplish a number of conditions in the areas of regionalization, employment policy, the state budget and other areas in order to absorb European funds. States should also provide adequately trained personnel and regulate the relationship between the factors in the administrative system and define the levels in the absorption process. All this leads to high costs: the bureaucracy and irrational behaviour of bureaucrats are reinforced. In such circumstances the European funding cannot be effectively used (even if it is officially absorbed!). It is an absurdity, when the projects those companies that are not competitive and their projects do not follow the needs of the market or the public interest receive financial support. However, those companies are effectively faced with extensive documentation and bureaucracy. In addition, most of them are successful lobbyists and therefore meet the formal requirements to gain financial support (rent-seeking).

This can be confirmed by analysis and studies by some foreign authors:

- The EU's influence on the economic inefficiency of the cohesion policy in the national Member States is manifested at two levels: in the irrational behaviour of European bureaucrats and in the European Union's cohesion legislation requirements. Brandt and Svendsen, for example, draw attention to the inefficient administrative system and bureaucratic management of the EU institutions, and so highlight the bureaucratic behaviour that leads to an irrational outcome for the whole of society (Brandt & Svendsen, 2006, as well as Niskanen, 1971, 1994, 2001; Mueller, DC, 1989).

- The entire process of obtaining cohesion funds, which shall be provided, so that the beneficiaries may apply for European funds, has been based on a large number of intermediate phases. Therefore this is complex and bureaucratic. Extensive European legislation has established a bureaucratic structure (also Bollen, 1997). The establishment of these structures represents a significant cost (Nahuis & Mooij, 2001, p. 374), which strongly affects the inefficiency of the cohesion policy. In order to prevent the misuse of EU money, the EU has established a complex set of control rules. The processes are so rigid and do not necessarily promote development-oriented projects, but rather rent-seeking, whether the respective entities meet the eligibility criteria (see more in Garcia-Milà & McGuire, 2001; Boldrini & Canova, 2001).

The acquired rights of spending are often not used effectively due to the complex system of management, financial management and the control of the implementation of projects, at both, »cross-border« and national levels, as illustrated below. The programmes of cross-border cooperation are implemented through managing authorities, joint technical secretariats and national authorities. Also participating in the implementation process is the Certifying Authority, which is responsible for the confirmation that the statement of expenditure is correct and for sending the request to the European Commission. The Audit Authority has to ensure the verification of the efficiency of the management and the control system of the operational programme. National and joint monitoring committees discuss and confirm the applications received on the basis of public tenders. The applications have been preliminary assessed by evaluators within the ministries and by external evaluators. The Joint Monitoring Committees consist of representatives of the participating countries in the operational programme and the representative of the European Commission. The European Commission is responsible for the supervision of the implementation of the programmes.

Concrete Examples of Inefficiency – Slovenian Experience

The impact of the systems on the use of European funds in the context of cross-border cooperation is illustrated by means of indicators of European Union Cohesion Policy inefficiencies in the Slovenian case. The indicators of irrational bureaucratic behaviour and complex procedures, which generate costs in the process have been exposed, as follows:

Beneficiaries of funds point to the complex implementation process and delays, which shows that Slovenia has established a complex and complicated system of EU funds absorption. The complex system represents a significant cost, which greatly affects the economic (in)efficiency and (non-)rational and (none) development-oriented spending. This is reflected in the lack of financial and human resources of the smaller institutions and organizations, which are unable to participate in large projects. The implementation of the operational programmes is performed with considerable delays. The

monitoring Committees are inefficient and slow, because they need almost two years the approval of the applications. In some cross-border cooperation programmes a few tenders for the implementation of the projects have been recently approved, despite the fact that the current programming period ended in 2013. The delays have contributed to the fact that some of the initiatives with simpler procedures were not realized, although they were in particular of interest to small entities (e.g. public tender for small projects). Delays also occur in the certification of the costs (the certification takes one year or more, rather than three months). The qualifications of administrative structure's personnel are not sufficient, according to the beneficiaries, however, additional employment in the Monitoring Committees, will not contribute to a more efficient process of spending. Each of the employees must justify his job and the tasks assigned – irrational bureaucratic behaviour.

Certain inefficiencies are systemic inefficiencies. Thus, for example, European rules concerning the implementation of the cohesion policy are complex and define different phases: programming, implementation, and monitoring, and financial management. In addition, national rules often do not follow the requirements of the European legislation only, but even contain additional requirements. Certification procedures and reporting are long-term and are defined differently in Slovenia and the neighbouring country that is partnering Slovenia in the programme. The Slovenian side also requires much more extensive preparation of reports, which causes additional bureaucracy. Comprehensive instructions cause confusion among participants of the process and reduce the transparency and responsibility of the individual factors. The controls and monitoring are duplicated. New requirements are frequently introduced, so it is difficult for the partners abroad to follow up the process. According to the beneficiaries of the funds, simpler and more uniform rules could contribute to a more efficient use of the financial resources. Greater attention should be given to the best practices transfer, which could improve the use of EU funds. For example, the cross-border project which would contribute to a more efficient best practices transfer has been already established. It aims to set up a network of factors in the state's institutions and local governments, which are already involved in cross-border co-operation. A specific information centre would provide access to information about partners in cross-border processes, conditions of participation, and conditions for subsequent inclusion in the projects within the whole programme eligible area. Slovenia does not participate in the project (more in Setnikar Cankar & Petkovšek, 2012). According to the beneficiaries, the Slovenian administrative system is economically inefficient due to the interpenetration of the different levels involved in cross-border processes, as Slovenia has not become regionalized (the problem of the lack of regions). Civil servants, who have specific knowledge in specific projects, cannot participate due to the strict rules in the national legislation on their funding (*ibid.*).

Based on the Slovenian experience we can conclude that economic inefficiency is the result of a complex method of funding and the implementation of the cohesion policy, as defined by EU legislation. Member States are obliged to establish complex administrative systems to implement these programmes. In this article, the Slovenian administrative system in which has been found a high level of bureaucracy and bureaucrats' irrational behaviour was discussed. In such circumstances the European funding cannot be used effectively (even if it were effectively absorbed), since with the presence of these two indicators the funding of uncompetitive companies appears, and the projects which do not necessarily follow the needs of the market or nor the public interest, but are more effectively faced with extensive documentation and bureaucracy. This means only rent-seeking, which does not correspond with development oriented projects.

Učinkovitost pobiranja prispevkov za socialno zavarovanje v Republiki Sloveniji

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IZVLEČEK

Slovenski sistem socialnega zavarovanja se ne srečuje le s problemom čedalje slabšega razmerja med številom zavarovancev, za katere se plačujejo prispevki, in upravičencev, ki so prejemniki dajatev iz naslova socialnega zavarovanja, temveč tudi s problemom učinkovitega pobiranja in evidentiranja prispevkov za socialno zavarovanje. Na stabilnost financiranja namreč poleg neugodnih demografskih dejavnikov in gospodarskih razmer vplivajo tudi različne možnosti ne vključenosti v sistem, ki omogočajo, da se v obvezno socialno zavarovanje ne vključi del sicer delovno aktivne populacije ter da zavezanci s prehodi med različnimi kategorijami zavarovanja ali pa s prirejanjem formalno izplačanih prejemkov lahko znižujejo osnovo za obračun in plačilo prispevkov. Čeprav uspešnosti delovanja sistema socialnega zavarovanja zaradi njegove zapletenosti in pogostega spreminjanja ni mogoče v celoti izmeriti s kazalniki učinkovitosti delovanja državnih organov ter statističnih podatkov, pa pričujoči članek utemeljuje, da je mogoče identificirati nekaj ključnih dejavnikov, ki vplivajo na učinkovitost pobiranja prispevkov. Ti dejavniki so različni in izvirajo tako iz sfere zavarovancev oziroma zavezancev za plačilo prispevkov, kot tudi državnih organov, širšega družbenega okolja in aktualnih gospodarskih razmer.

Ključne besede: socialno zavarovanje, prispevki za socialno zavarovanje, učinkovitost pobiranja prispevkov v Republiki Sloveniji, pravice iz socialnega zavarovanja

JEL: H21, H26, H27

1 Uvod

Slovenski sistem socialne varnosti uvrščamo v tako imenovani Bismarckov model, za katerega je značilen skromen obseg državnega intervencionizma in velik obseg zagotovljenih pravic. V pretežni meri se financira s prispevki. V primerjavi s sistemi večine drugih držav članic Evropske unije se ne srečuje le s problemom čedalje slabšega razmerja med številom zavarovancev,

ki so zavezanci za plačilo prispevkov, in upravičencev, ki so prejemniki dajatev iz naslova socialnega zavarovanja¹, temveč tudi s problemom učinkovitega pobiranja in evidentiranja plačanih prispevkov. Različni avtorji² pod pojmom učinkovitost pobiranja prispevkov obravnavajo predvsem kakovost pobiranja prispevkov, ne pa odnosa med pobranimi prispevki in sredstvi, potrebnimi za njihovo pobiranje (na primer stroški pri zavezancih za plačilo, državnih institucijah in podobno).

Namen članka je prikazati nekaj osnovnih kazalnikov za vrednotenje kakovosti pobiranja prispevkov in opisati nekatere dejavnike, ki omogočajo različne načine ne vključenosti v sistem obveznega socialnega zavarovanja, in to ne vedno po sili razmer, temveč tudi po lastni izbiri. Uvodoma so na kratko opisani načini merjenja učinkovitosti pobiranja prispevkov in izpostavljeni ključni kazalniki za vrednotenje kakovosti pobiranja prispevkov. Sledi opis nekaterih dejavnikov, ki vplivajo na učinkovitost pobiranja prispevkov in zaključek.

Kljub omejenosti obsega je cilj članka utemeljiti, da sta ustrezno spremljanje obveznosti in plačil prispevkov ter nadzor nad obračunavanjem in plačevanjem prispevkov za socialno zavarovanje pomembna tako za državo kot prejemnico sredstev kot tudi za zavarovance, ki so jim na podlagi plačanih prispevkov priznane pravice iz socialnega zavarovanja.

2 Učinkovitost pobiranja prispevkov za obvezno socialno zavarovanje

2.1 Načini merjenja učinkovitosti pobiranja prispevkov

Obstajajo različni kazalniki za vrednotenje kakovosti pobiranja prispevkov za socialno zavarovanje, ki jih podrobneje opisujeta tudi Stanovnik in Fultzeva (Stanovnik & Fultz, 2004). Predstavljata *Covered Wage Bill* (CWB), ki pomeni izračunani delež s prispevki pokritih bruto plač v BDP-ju. Omenjeni kazalnik odgovarja na vprašanje, kakšna je »izračunana« masa bruto plač, ki ob dani prispevni stopnji daje dejanske prihodke od prispevkov delavcev.

Naslednji od kazalnikov, ki ga opisujeta, je dolg iz naslova neplačanih prispevkov. Ocenjujeta, da je ta kazalnik, primerjalno gledano, najmanj primeren za merjenje učinkovitosti pobiranja prispevkov, in sicer zaradi različnih dejavnikov (na primer visokih zamudnih obresti, ki jih lahko vključuje znesek dolga, možnosti odpisov prispevkov v posameznih državah, možnosti konverzije dolga v kapitalske naložbe), ki v vsaki od držav vplivajo na dejansko višino dolga.

Na neprimernost ocenjevanja učinkovitosti z zneskom neplačanih prispevkov in nezmožnost njihove primerjave po državah vpliva tudi struktura samega

1 Medtem ko je bilo leta 1970 povprečno 3,32 zavarovancev na enega upokojenca (Stanovnik, 2002), je leta 2011 povprečje padlo na 1,53 zavarovanca na enega upokojenca (ZPIZ, 2012).

2 Glej, na primer, Stanovnik & Fultz, 2004; Chlon-Dominczak, 2004; Wiktorov, 2004; Strban, 2007; Stanovnik et. al., 2011.

dolga. Različne obveznosti posameznih kategorij zavarovancev in/ali zavezancev se odražajo tudi v višini neplačanih prispevkov. Tako je v Sloveniji za plačilo prispevkov samozaposlenih zakonsko določen datum, plačilo prispevkov za zaposlene pa je obvezno le v primeru, če so jim plače dejansko izplačane. Ker so za neplačevanje prispevkov predpisane sankcije različne ne le po posameznih kategorijah zavarovancev, temveč tudi po posameznih vrstah prispevkov, velja pozorneje analizirati tudi ta vidik.

Medtem ko v nekaterih državah odpis, obročno plačilo in odlog plačila prispevkov za socialno zavarovanje niso dovoljeni, pa drugod so, in sicer pod različnimi, načeloma strogimi pogoji za posamezne vrste prispevkov. Z vidika ocene učinkovitosti delovanja sistema socialnega zavarovanja velja preveriti načine in pogoje odpisa, zlasti pa ugotoviti, kolikšen je znesek odpisanih prispevkov in ali pomembneje vpliva na javnofinančne prihodke.

Nadalje je z vidika učinkovitosti samega sistema smiselno preveriti, ali in kako lahko neplačani prispevki vplivajo na upravičenja zavarovancev, za katere bi morali biti plačani. Čeprav so si v teoriji strokovnjaki enotni v stališču, da delavec ne sme trpeti posledic delodajalčevega neplačevanja prispevkov (na primer Máté, 2004; Stanovnik et al., 2011), v Sloveniji, kot bo opisano v nadaljevanju, navedeno v nekaterih primerih ne velja.

Na učinkovitost sistema socialnega zavarovanja lahko vpliva tudi sama zapletenost sistema pobiranja. Ugotovimo lahko, da so pri nas izplačevalcem prejemkov naložene številne obveznosti v zvezi s poročanjem o prejemkih in prispevkih za socialno zavarovanje. Ne glede na to pa morajo zavarovanci – upravičenci do dajatev iz socialnega zavarovanja, ob uveljavljanju pravic državnim organom podatke o izplačanih prejemkih dostavljati ponovno.

Vprašani, na kateri bi veljalo odgovoriti v zvezi s stalnim izpopolnjevanjem sistema, sta tudi, ali ima izpopolnjevanje samega sistema dejansko vedno pričakovan pozitiven učinek³, in to v takšnem obsegu, kot je bil predviden, ali pa ima prav sama dinamika spreminjanja in generiranje stalnih sprememb celo negativne učinke.

Ne nazadnje je treba kot dejavnike, ki vplivajo na pobiranje prispevkov za socialno zavarovanje, omeniti tudi samo delovanje udeležencev, zlasti pa stopnjo gospodarskega in socialnega razvoja ter stabilnost gospodarstva.

³ Ob tem je zanimivo, da na primer Klunova (Klun, 2004) v povzemanju rezultatov raziskave iz leta 1996 navaja, da so zavezanci kot enega najenostavnejših opravil ocenili prav izpolnjevanje obveznosti iz naslova prispevkov za socialno zavarovanje, medtem ko je DURS (DURS, 2011) v letu 2010 ugotavljal, da je prav na področju izpolnjevanje obveznosti iz naslova prispevkov za socialno zavarovanje odkritih največ nepravilnosti, da je sistem zapleten in potreben poenostavitve, pri čemer pa do kakšnih pomembnejših sprememb v opisanem obdobju ni prišlo.

2.2 Ocena učinkovitosti pobiranja prispevkov s kazalnikom izračunanega deleža s prispevki pokritih bruto plač v BDP-ju

2.2.1 Izračunani delež s prispevki za obvezno pokojninsko in invalidsko zavarovanje pokritih bruto plač v BDP-ju (CWBPIZ)

Medtem ko so v Sloveniji prispevne bruto plače, izračunane na podlagi podatkov o pobranih prispevkih za obvezno pokojninsko in invalidsko zavarovanje zaposlenih (v nadaljnjem besedilu: CWBPIZ), leta 1992 znašale 41,4 % BDP-ja in v letih 1995 do 1998 približno 39 % BDP-ja, so začele od leta 1999 dalje intenzivneje padati (Vežjak, 2003).

Načeloma lahko, kot navaja Stanovnik (Stanovnik et al., 2011), »nizke vrednosti prispevnih bruto plač v % BDP-ju pomenijo, da bruto plače dejansko predstavljajo nizek delež BDP-ja in so zato tudi prispevne bruto plače nizke«. Navedeno je mogoče zaradi visokega deleža neformalnega sektorja in samozaposlenih. Pomemben pa je trend – trendno zmanjševanje tega kazalnika dejansko pomeni slabitev formalnega sektorja in/ali večje utajevanje prispevkov. Obratno rastoči trend načeloma pomeni krepitev formalnega sektorja in/ali manjše utajevanje prispevkov (Stanovnik et al., 2011).

Kot je razvidno iz tabele 1, so s prispevki pokrite bruto plače leta 2005 presegle 34 % BDP-ja, v letu 2007 pa upadle celo pod 33 % BDP-ja, v letih 2009 in 2010 pa se znova povzpele nad 35 % BDP-ja.

Tabela 1: Prispevne bruto plače (kot odstotek BDP-ja), izračunane glede na prispevke za obvezno pokojninsko in invalidsko zavarovanje zaposlenih, v letih od 2001 do 2010

Leto	CWBPIZ
2001	34,50 %
2002	34,09 %
2003	34,09 %
2004	34,09 %
2005	34,09 %
2006	33,26 %
2007	32,44 %
2008	33,26 %
2009	35,32 %
2010	35,32 %

Vir: Izračun na podlagi Letnih poročil ZPIZ-a za leto 2008, 2009, 2010, Biltenov javnih financ št. 6/2009, 4/2010, 6/2011; SURS, 2009; SURS, 2009a; SURS, 2012.

Nihanja kazalnika je mogoče v manjši meri pripisati tudi vrednosti in strukturi BDP-ja po posameznih letih in rasti samih plač, nekaj tudi spremembam deleža prispevkov v BDP-ju. Tako so višje prispevne bruto plače v letih 2009 in 2010 zagotovo posledica ne le boljše izterjave prispevkov, temveč tudi nižjega BDP-ja in višjega deleža prispevkov v BDP-ju v primerjavi s preteklimi leti, preveriti pa bi veljalo tudi morebiten vpliv drugih oblik formalnega zaposlovanja,

od katerih se plačujejo pavšalni prispevki, in rast števila delovno aktivnih zavarovancev socialnega zavarovanja v primerjavi s preteklimi leti.

2.2.2 Izračunani delež s prispevki za obvezno zdravstveno zavarovanje pokritih bruto plač v BDP-ju (CWBZZ)

Z vidika presoje učinkovitosti sistema pobiranja prispevkov za obvezno socialno zavarovanje je smiselno preveriti tudi, ali je izračunani delež s prispevki pokritih bruto plač v BDP-ju, izračunan na podlagi ene vrste prispevkov, primerljiv tudi z deležem, izračunanim na podlagi drugih vrst prispevkov. Na podlagi podatkov o zbranih prispevkih za obvezno zdravstveno zavarovanje zaposlenih lahko izračunamo prispevne bruto plače glede na prispevke za obvezno zdravstveno zavarovanje zaposlenih (CWBZZ), ter jih primerjamo s prispevnimi bruto plačami, izračunanimi glede na prispevke za obvezno pokojninsko in invalidsko zavarovanje, kot je razvidno iz tabele 2.

Tabela 2: Prispevne bruto plače (kot odstotek BDP-ja), izračunane glede na prispevke za obvezno zdravstveno zavarovanje zaposlenih, v letih od 2003 do 2010

Leto	CWBZZ
2003	33,46 %
2004	33,46 %
2005	33,46 %
2006	33,46 %
2007	32,71 %
2008	33,46 %
2009	34,94 %
2010	34,94 %

Vir: Izračun na podlagi Biltenov javnih financ št. 6/2009, 4/2010, 6/2011; SURS, 2009; SURS, 2009a; SURS, 2012.

Primerjava obeh vrst prispevnih bruto plač pokaže, da razlike obstajajo, a niso bistvene, saj ne presežejo niti ene odstotne točke. Po drugi strani je sam obstoj razlik logična posledica različnih najnižjih predpisanih osnov za obračun in plačilo prispevkov zaposlenih v opazovanem obdobju – medtem ko se prispevki za obvezno pokojninsko in invalidsko zavarovanje v skladu z Zakonom o pokojninskem in invalidskem zavarovanju (ZPIZ-1) plačujejo najmanj od minimalne plače⁴. Najnižja osnova za plačilo prispevkov za obvezno zdravstveno zavarovanje z Zakonom o zdravstvenem varstvu in zdravstvenem zavarovanju (ZZVZZ) ni predpisana, kar pomeni, da se lahko prispevki v primeru, ko plača ne dosega minimalne plače, obračunajo in plačajo od dejansko izplačane plače.

Dodatno je lahko razlog za razliko med obema vrstama prispevnih bruto plač v opazovanem obdobju tudi različna ureditev, kot tudi različne možnosti odloga plačila, obročnega plačila in odpisa prispevkov.

4 Do izteka prehodnega obdobja tudi po novem ZPIZ-2.

Morebitni razlog večjega interesa za plačilo ene vrste prispevkov v kategoriji zaposlenih ni relevanten; po eni strani je s predpisanim načinom poravnavanja dajatev skorajda onemogočen, po drugi strani je z vidika interesa zavarovancev zanemarljiv. Zaposleni in njihovi družinski člani imajo enake pravice iz obveznega zdravstvenega zavarovanja, ne glede na (ne)plačilo prispevkov; ali so njihovi prispevki za pokojninsko in invalidsko zavarovanje plačani ali ne, pa jih praviloma do upokojitve niti ne zanima.

2.2.3 Primerjava kazalnikov CWBPIZ in CWBZZ z dejanskimi vrednostmi bruto plač (v razmerju do BDP-ja)

S primerjavo prispevnih bruto plač z dejanskimi vrednostmi bruto plač (v razmerju do BDP-ja) lahko ocenimo, kolikšen delež bruto plač je obremenjen s prispevki za obvezno pokojninsko in invalidsko zavarovanje (Stanovnik et al., 2011) oziroma zdravstveno zavarovanje, kot je prikazano v tabeli 3.

Tabela 3: Primerjava prispevnih bruto plač glede na zdravstvene in pokojninske prispevke z dejanskimi bruto plačami (vse kot odstotek BDP-ja) v letih 2003 do 2010

Leto	CWBZZ	CWBPIZ	Dejanske bruto plače (DBP)	Razmerje CWBZZ: DBP	Razmerje CWBPIZ : DBP
2003	33,5	34,1	43,9	0,76	0,78
2004	33,5	34,1	43,9	0,76	0,78
2005	33,5	34,1	43,7	0,77	0,78
2006	33,5	33,3	43,3	0,77	0,77
2007	32,7	32,4	42,8	0,76	0,76
2008	33,5	33,3	43,7	0,77	0,76
2009	35,0	35,3	45,6	0,77	0,77
2010	35,0	35,3	46,0	0,76	0,77

Vir: tabeli 1 in 2; SURS, 2009; SURS, 2009a; SURS, 2012

Iz zgornje primerjave izhaja, da pri nas s prispevki za obvezno zdravstveno zavarovanje ni obremenjenih med 23 in 24 % izplačanih plač in podobnih dohodkov od dela, oziroma s prispevki za obvezno pokojninsko in invalidsko zavarovanje ni obremenjenih med 22 in 24 % izplačanih plač in podobnih dohodkov od dela. Navedeno zaradi različnih izplačil dohodkov od dela, od katerih nekateri v celoti ali delno niso obremenjeni s prispevki (kot so na primer povračila stroškov prehrane, prevoza na in z dela, regres za letni dopust), ne pomeni, da gre za tako velik obseg davčnega oziroma prispevnega izogibanja⁵.

Ker iz primerjave ni mogoče razbrati trenda izboljševanja ali slabšanja razmerja med maso prispevnih bruto plač in maso dejanskih bruto plač, ni mogoče trditi, da se je kakovost pobiranja prispevkov v opazovanem obdobju izboljševala ali poslabševala. Poleg tega lahko ta kazalnik uporabimo le za analiziranje pobiranja prispevkov od plač in podobnih prejemkov iz zaposlitve, torej le

⁵ Tako tudi Stanovnik et. al., 2011.

za eno kategorijo zavarovancev obveznega socialnega zavarovanja, pa še to le iz naslova formalno izplačanih prejemkov. Zato je smiselno podrobneje analizirati različne dejavnike, ki – tudi v odvisnosti kategorije zavarovancev – lahko vplivajo na učinkovitost pobiranja prispevkov.

3 Opis nekaterih ključnih dejavnikov, ki vplivajo na učinkovitost pobiranja prispevkov

Pomanjkljivosti na področju pobiranja prispevkov za socialno zavarovanje je mogoče identificirati ne le zgolj s podrobno analizo pravnih podlag za vključitev v socialno zavarovanje in plačevanje prispevkov, temveč tudi z analizo značilnosti kategorij zavarovancev, z ugotavljanjem obstoja zavarovalnega razmerja in razlogov za prehod med kategorijami zavarovancev ter preferenc, ki vodijo v samo odločitev za vključitev v socialno zavarovanje. Dejavniki, ki dejansko ali zgolj potencialno lahko vplivajo na učinkovitost pobiranja prispevkov, so številni – izvirajo tako iz sfere zavarovancev oziroma zavezancev za plačilo prispevkov, kot tudi državnih organov, širšega družbenega okolja in aktualnih gospodarskih razmer. Opis vseh bi terjal poglobljeno in obširno raziskavo, zato velja v okviru predmetnega članka na kratko opisati le nekatere.

3.1 Možnost optimiranja obveznih dajatev in drugih obveznosti v odvisnosti od podlage za vključitev v socialno zavarovanje

Za različne kategorije zavarovancev, četudi z enako visokimi dohodki, obstajajo različne osnove in prispevne stopnje za plačilo prispevkov za socialno zavarovanje, kar lahko vpliva na samo odločitev o podlagi za vključitev v obvezno socialno zavarovanje, s tem pa tudi na višino obveznosti iz tega naslova. Najbolj očitne razlike so:

- razlika v obveznosti obračuna in plačila prispevkov v odvisnosti od vrste zavarovalne podlage,
- omejena najvišja osnova za plačilo prispevkov samozaposlenih in neomejena za zaposlene,
- razlika v obveznostih delodajalcev v odvisnosti od statusa osebe, ki delo opravlja.

3.1.1 Razlike v obveznosti obračuna in plačila prispevkov v odvisnosti od vrste zavarovalne podlage

Za osebe, ki so v socialno zavarovanje vključene na podlagi pogodbe o zaposlitvi, Zakon o delovnih razmerjih (ZDR) sicer neodvisno od vrste pogodbe o zaposlitvi določa, da se plača delavcu izplača do 18. dne v mesecu za pretekli mesec. Kljub temu veljavna zakonska ureditev delovnih razmerij v povezavi s predpisi s področja plačevanja prispevkov za socialno zavarovanje še vedno ne ureja obveznosti predložitve obračuna plač in prispevkov tudi v primeru, če delodajalec plače ne more izplačati v zakonskem roku. ZDR sicer določa, da se delavcu plača izplača do 18. dne v mesecu za pretekli mesec,

da je delodajalec delavcu dolžan izročiti ustrezen obračun plače, in podobno. Prav tako ZDR določa globe za primer, če delodajalec pri določitvi plače ne upošteva minimuma, določenega s posebnim zakonom ali kolektivno pogodbo, ki neposredno zavezuje delodajalca, res pa je, da sama določitev plače ne pomeni, da bo ta tudi izplačana. Četudi ZDR določa globe tudi za primer, če delodajalec delavcu ne izplača plače, izrek globe delavcu izplačila plače ne zagotavlja – svojo terjatev do delodajalca mora namreč sodno izterjati. Pogosto se delodajalcem, ki zaposlujejo večje število delavcev in plač ne izplačujejo, bolj izplača plačati globo, kot izplačati plače⁶.

Za zaposlene je najnižja spodnja meja za plačilo prispevkov minimalna plača, razen v primeru prispevka za obvezno zdravstveno zavarovanje, kateri se obračuna in plača od dejansko izplačane plače, ki je lahko celo nižja od minimalne plače, vendar nastane obveznost obračuna in plačila prispevkov šele z dejanskim izplačilom plače⁷. Za zaposlene tečejo vsi roki za obračun in plačilo prispevkov šele od izplačila osebnih prejemkov dalje. Navedeno pomeni, da če uradno do izplačila prejemka ne pride, delodajalec prispevkov ni dolžan obračunati, posledično pa tudi ne plačati.

Dodatno je najnižja spodnja meja za plačilo prispevkov zaposlenih enaka za vse zaposlene, ne glede na izobrazbo, delo, ki ga opravljajo in druge dejavnike. Za samozaposlene pa je zavarovalna osnova odvisna predvsem od dobička, ki so ga ustvarili v preteklem letu, spodnja meja za plačilo prispevkov je predpisana in znaša najmanj toliko kot minimalna plača⁸, obveznost obračuna in plačila prispevkov od zavarovalne osnove pa je vsakega 15. v mesecu za pretekli mesec⁹.

3.1.2 Omejena najvišja osnova za plačilo prispevkov za samozaposlene in neomejena za zaposlene

Samozaposleni plačujejo prispevke za socialno zavarovanje od zavarovalne osnove, ki se določi kot doseženi dobiček zavarovanca, v katerem niso upoštevani prispevki za obvezno zavarovanje ter znižanje in povečanje davčne osnove, razen razlike v obrestih, skladno z Zakonom o dohodnini (ZDoh-2). Če tako dosežena davčna osnova ne preseže minimalne letne plače zaposlenih v RS, se prispevki plačujejo od osnove, ki znaša najmanj toliko kot minimalna plača. Če dosežena davčna osnova znaša več kot triinpolkratnik povprečne letne plače zaposlenih v RS, znaša zavarovalna osnova 2,4 povprečne plače za predzadnji mesec pred mesecem, v katerem se določa zavarovalna osnova¹⁰. Po drugi strani pa ni omejena najvišja osnova, od katere se plačujejo prispevki

6 Glej tudi Poročilo o delu Inšpektorata RS za delo za leto 2011, 2012, str. 43-48.

7 Glej 353. člen Zakona o davčnem postopku (ZDavP-2).

8 Oziroma v primeru lastnikov zasebnih podjetij in zavodov, zavarovanih po drugem odstavku 15. člena ZPIZ-1, najmanj znesek najnižje pokojninske osnove, podobno razlikovanje določa tudi novi ZPIZ-2.

9 Glej 353. člen ZDavP-2.

10 Podrobneje glej 209. člen ZPIZ-1, po preteku prehodnega obdobja pa 145. člen novega ZPIZ-2.

zaposlenih. Ta je v primeru zaposlenih celotna plača oziroma nadomestilo plače kot tudi številni drugi prejemki iz delovnega razmerja.

Dodatno je treba upoštevati, da lahko veliko samozaposlenih s prirejanjem formalnih dohodkov dejansko vpliva na dobiček in posledično na zavarovalno osnovo. Kot je razvidno iz primerjave zneskov povprečnih mesečnih plačanih prispevkov za pokojninsko in invalidsko zavarovanje (PIZ) iz tabele 4, plačujejo samozaposleni povprečno precej manj prispevkov kot zaposleni, razmerje med povprečnim zneskom plačanega mesečnega prispevka na zaposlenega in povprečnim zneskom plačanega mesečnega prispevka na samozaposlenega pa se poslabšuje.

Tabela 4: Primerjava zneskov povprečnih mesečnih plačanih prispevkov za pokojninsko in invalidsko zavarovanje zaposlenih in samozaposlenih v letih 2007–2011¹¹

Kategorija	Povprečni mesečni plačani prispevek PIZ				
	leto 2007	leto 2008	leto 2009	leto 2010	leto 2010
Zaposleni	291,41 €	317,26 €	334,50 €	339,91 €	348,86 €
Samozaposleni	202,30 €	214,88 €	218,88 €	221,73 €	221,05 €
Razmerje plačanih prispevkov zaposleni/samozaposleni	1,44	1,48	1,53	1,53	1,58

Vir: Izračun na podlagi podatkov o povprečnem številu zavarovancev in o sestavi prihodkov ZPIZ iz letnih poročil ZPIZ za leta 2007, 2008, 2009, 2010 in 2011.

3.1.3 Razlike v obveznostih delodajalcev v odvisnosti od statusa osebe, ki delo opravlja

Spodbujanje formaliziranja opravljanja podjetniške aktivnosti se samo po sebi ne odrazi v občutnejši rasti samozaposlovanja iz tega naslova, saj sta na samozaposlovanje v zadnjih letih pomembno vplivala predvsem dva dejavnika. Prvi je neznanost tistih redno zaposlenih, ki so se na podlagi zahtev delodajalcev prisiljeni prijaviti kot samostojni podjetniki posamezniki, pogodba o zaposlitvi se prekine, odgovornost za plačevanje prispevkov in socialno zavarovanje pa se prevali nanje. Tudi sicer iz naslova sklenjene pogodbe o sodelovanju s svojim bivšim delodajalcem nimajo zagotovljenih nobenih pravic, ki so jih imeli prej kot zaposleni (na primer letni dopust, regres, nadomestila za primer odsotnosti z dela in podobno).

Drugi dejavnik je možnost subvencioniranja samozaposlitve. Gre za ukrep, ki se po podatkih Zavoda RS za zaposlovanje (ZRSZ) izvaja že od leta 2005, vendar se je zanimanje zanj izrazito povečalo leta 2009, ko so se začele kazati posledice gospodarske krize (ZRSZ, 2012). Večinoma delujejo samozaposleni kot samostojni podjetniki posamezniki. O odločitvi za začetek opravljanja

¹¹ Primerjani so zneski plačanih prispevkov zaposlenih in samozaposlenih (brez lastnikov kmetijskih zemljišč). Zaradi neznanega podatka o tem, kolikšen je delež prispevkov zaposlenih in kolikšen delež prispevkov samozaposlenih v nadomestilih, ki se s strani izplačevalcev starševskih nadomestil, bolniških nadomestil neposredno izplačujejo upravičencem, znesek teh prispevkov ni upoštevan.

dejavnosti v statusni obliki podjetnik ali gospodarska družba – najpogosteje služi za primerjavo družba z omejeno odgovornostjo – pa vsaj v primeru mikro-družb oziroma mikro podjetij odloča tudi razpoložljivost osnovnega kapitala, ki za registracijo podjetnika ni potrebna, za ustanovitev družbe z omejeno odgovornostjo pa je potrebnih vsaj 7.500 evrov.

V manjšem obsegu se po drugi strani dogajajo tudi preoblikovanja samostojnih podjetnikov v gospodarske družbe. Podjetnikom z večjim obsegom poslovanja in večjim številom zaposlenih, ki so temu primerno bolje poučeni, kot tisti, ki si s tovrstnim statusom zgolj zagotavljajo formalizacijo statusa za opravljanje dela, je namreč z Zakonom o gospodarskih družbah (ZGD-1) omogočeno delno preoblikovanje v kapitalsko družbo, kar je smiselno predvsem z vidika davčne optimizacije. Dodaten razlog za preoblikovanje v gospodarsko družbo je pogosto tudi dejstvo, da podjetnik odgovarja za obveznosti z vsem svojim premoženjem, medtem ko družbeniki gospodarskih družb za obveznost gospodarskih družb načeloma ne odgovarjajo s svojim premoženjem¹².

Ne glede na rast števila podjetnikov, pa lahko ugotovimo, da ti zaposlujejo čedalje manj delavcev. Razlog za to kaže iskati v tudi dejstvu, da vodijo številne spodbude in odprava administrativnih ovir na področju pridobitve statusa zasebnika k ustanavljanju zasebnih obratov, a takšnih, ki poleg zaposlitve nosilcu dejavnosti (pa še to ne nujno) ne nudijo novih zaposlitev. Od 73.072 mikro- in malih podjetnikov, ki so AJ PES-u predložili letna poročila za leto 2011, jih namreč 64.211, kar je skoraj 88 % vseh, zaposluje od 0 do 1 zaposlenega. Po drugi strani upada število podjetnikov, ki zaposlujejo večje število delavcev, tudi iz razloga preoblikovanja v gospodarsko družbo. Navedeno je razvidno tudi iz primerjave števila mikro- in malih podjetnikov po številu zaposlenih iz tabele 5.

Tabela 5: Primerjava števila mikro- in malih podjetnikov po številu zaposlenih v letih 2008 –2010

Število zaposlenih	Leto 2008		Leto 2009		Leto 2010		Leto 2011	
	Podjetniki	Zaposleni	Podjetniki	Zaposleni	Podjetniki	Zaposleni	Podjetniki	Zaposleni
Od 0 do 1	56.376	9.637	59.614	9.274	61.919	8.914	64.211	8.860
Od 2 do 9	9.785	33.905	9.440	32.671	8.553	29.242	8.175	27.931
Od 10 do 49	1.021	16.650	912	14.378	748	11.451	680	10.620
Od 50 do 250	28	2.193	16	1.181	11	729	6	463
SKUPAJ	67.210	62.385	69.982	57.504	71.231	50.336	73.072	47.874

Vir: AJ PES, Informacije o poslovanju samostojnih podjetnikov posameznikov v RS v letu 2008, 2009, 2010 in 2011.

¹² ZGD-1 sicer določa izjeme, ko poleg družbe odgovarjajo tudi družbeniki – glej na primer 8. člen, ki ureja tako imenovani spregled pravne osebnosti, prvi odstavek 76. člena, ki definira pojem družbe z neomejeno odgovornostjo, prvi odstavek 135. člena, ki definira pojem komanditne družbe, odgovornost tihega družbenika v primeru kršitve 163. člena.

3.2 Različna raven in nabor pravic, ki jih iz naslova vključenosti v socialno zavarovanje uveljavljajo zavarovanci

3.2.1 Omejitev najvišjih zneskov posameznih pravic

Kljub temu, da je za samozaposlene omejena najvišja osnova za plačilo prispevkov za socialno zavarovanje, za zaposlene ni omejena. Ne glede na navedeno pa so za vse zavarovance navzgor omejeni zneski večine prejemkov, ki se izplačujejo iz naslova socialnega zavarovanja. Tako je na največ štirikratnik najnižje pokojninske osnove omejena najvišja pokojninska osnova¹³. Denarno nadomestilo za primer brezposelnosti znaša prve tri mesece prejemanja 80 %, naslednjih devetih mesecev 60 %, nato pa 50 % od osnove za odmero denarnega nadomestila ter lahko znaša največ 892,50 evrov¹⁴. Starševsko nadomestilo v času dopusta za nego in varstvo otroka¹⁵ je omejeno na največ 90 % osnove¹⁶ in največ dvakratnik povprečne mesečne plače v RS, ni pa navzgor omejena višina porodniškega nadomestila za čas porodniškega dopusta. Prav tako ni omejen znesek najvišjega bolniškega nadomestila, katerega višina je sicer odvisna od vzroka za začasno zadržanost od dela¹⁷ ter znaša od 70 % osnove (ob zadržanosti z dela zaradi poškodb izven dela, nege družinskega člana in spremstva ter v primeru odsotnosti zaradi določenih razlogov) do 100 % osnove ob zadržanosti od dela zaradi poklicne bolezni in poškodbe pri delu.

3.2.2 Omejitev upravičenosti do posameznih pravic

V povezavi z izvajanjem socialnega zavarovanja in s pravicami, ki so pogojevane z vključitvijo vanj in posledičnim plačevanjem prispevkov, velja med nekaterimi razlikami, ki jih je mogoče zaslediti ob uresničevanju pravic posameznih kategorij zavarovancev, posebej izpostaviti manj pravic samozaposlenih in diskriminacijo dela tujcev, ki na podlagi pogodb o zaposlitvah s slovenskimi delodajalci delajo in plačujejo vse prispevke za socialno zavarovanje v RS, vseh pravic pa ne morejo uveljavljati.

Manjši obseg pravic samozaposlenih iz socialnega zavarovanja

V primeru, da samozaposleni ali drug zavarovanec, ki je sam zavezanec za plačilo prispevkov za obvezno zdravstveno zavarovanje, nima poravnanih svojih prispevkov za obvezno zdravstveno zavarovanje, njemu in njegovim družinskim članom, razen otrokom¹⁸, v času, ko nima poravnanih omenjenih

13 Znaša 2.204,64 evrov – glej Sklep o najvišji pokojninski osnovi (Uradni list RS, št. 12/11).

14 Glej 62. člen Zakona o urejanju trga dela (ZUTD).

15 To načeloma traja 260 dni po izteku porodniškega dopusta, več v primeru rojstva nedonošenega otroka, več živorojenih otrok ali podaljšanja zaradi posebne nege in varstva otroka.

16 Kadar osnova ne presega 763,06 evrov, znaša po 146. členu Zakona za uravnoteženje javnih financ (ZUJF) starševsko nadomestilo 100 % osnove.

17 Glej 139. člen Pravil obveznega zdravstvenega zavarovanja in ZUJF.

18 Izjema, ki se nanaša na otroke, velja šele od uveljavitve Zakona o spremembi in dopolnitvi Zakona o zdravstvenem varstvu in zdravstvenem zavarovanju (Uradni list RS, 87/11) dne 17. 11. 2011 dalje.

obveznosti, Zavod za zdravstveno zavarovanje (ZZZS) zadrži pravice do zdravstvenih storitev in denarnih dajatev iz naslova obveznega zdravstvenega zavarovanja, razen nujnega zdravljenja. Poleg opisanega zadržanja pravic samozaposlenim in njihovim družinskim članom, ki v primeru zaposlenih delavcev, ki nimajo poravnanih prispevkov za obvezno zdravstveno zavarovanje, ni uvedeno, se samozaposlenim denarno nadomestilo v primeručasne zadržanosti z dela zaradi bolezni v breme ZZZS dejansko začne izplačevati 31. dančasne zadržanosti z dela. Navedeno pomeni, da samozaposleni, ki na primer ne zaposluje delavcev in je odvisen zgolj od svoje zmožnosti ustvarjanja prihodkov, v primeru bolezni nima takojšnje pravice do denarnega nadomestila – torej od prvega dnečasne zadržanosti z dela dalje, kot jo ima na primer zaposleni delavec, čeprav Konvencija Mednarodne organizacije dela št. 102 o minimalnih normah socialne varnosti dopušča največ tri čakalne dni.

Osebi, vključeni v obvezno zdravstveno zavarovanje iz naslova delovnega razmerja, ki ji med trajanjem zadržanosti od dela zaradičasne nezmožnosti za delo preneha delovno razmerje, pripada nadomestilo še za največ 30 dničasne nezmožnosti za delo po prenehanju delovnega razmerja. Če je zadržanost od dela posledica poškodbe pri delu ali poklicne bolezni, omenjenemu zavarovancu pripada nadomestilo tudi po prenehanju delovnega razmerja, in sicer vse dokler ni spet zmožen za delo. Samozaposleni teh pravic nima.

Stališče, da naj bi bilo razlikovanje v upravičenosti do nadomestila zaposlenemu delavcu in neupravičenosti samozaposlenega v opisanih primerih primerno, saj naj bi opravljanje dejavnosti samozaposlenega sestavljal skupek del in aktivnosti, ki jih lahko opravi samozaposleni sam in s pomočjo svojih zaposlenih, torej na nadaljevanje svoje dejavnosti lahko vpliva, zaposleni pa na prenehanje delovnega razmerja ne more vplivati, je povsem zmotno v primeru samozaposlenih, ki svojo dejavnost opravljajo sami, brez pomoči zaposlenih ali drugače najete delovne sile.

Če naj bi bila odločitve o opravljanju dejavnosti samozaposlene osebe odvisna zgolj in samo od nje same, bi posledično moraloveljati, dasamozaposlena oseba, če je opravljanje dejavnosti odvisno zgolj od njene osebne volje in odločitve, tudi sama nosi riziko izgube zaposlitve. Posledično torej samozaposleni ne bi smeli biti vključeni v zavarovanje za primer brezposelnosti, vendar praviloma so. Posledično plačujejo predpisane prispevke po enaki stopnji, kot velja za zaposlene osebe, od osnove, ki je enaka osnovi za plačilo prispevkov za pokojninsko in invalidsko zavarovanje. Ne glede na slednje pa zavarovanci, ki niso bili zavarovani na podlagi delovnega razmerja, ne morejo uveljavljati pravice do denarnega nadomestila za primer brezposelnosti, če odjava iz vseh socialnih zavarovanj ni bila posledica objektivnih razlogov.

3.3 Možnost koriščenja pravic iz socialnega zavarovanja kljub neplačanim prispevkom

Ker izhajajo obveznosti iz naslova obračunanih prispevkov v prvi vrsti iz obračuna davčnih odtegljajev in drugih davčnih obračunov (na primer za samozaposlene), se zastavlja vprašanje, koliko je zaposlenih, za katere delodajalec uradno prispevkov sploh ne obračuna in davčnemu organu ne odda obračuna davčnih odtegljajev ter posledično nima evidentiranih obračunanih in neplačanih prispevkov za socialno zavarovanje.

Slednje je z vidika presoje učinkovitosti sistema socialnega zavarovanja in ocene izpada javnofinančnih prihodkov še posebej pomembno v povezavi z uveljavljanjem pravic iz naslova socialnega zavarovanja. V primeru neoddaje obračuna davčnih odtegljajev ali neplačila obračunanih prispevkov veljajo namreč bistveno drugačne posledice za zavarovance, ki so v socialno zavarovanje vključeni kot zaposleni, kot za zavarovance, ki so v socialno zavarovanje vključeni kot samozaposleni ali na podobnih podlagah. DURS razpolaga za samozaposlene z zneski vsakomesečno obračunanih in plačanih prispevkov za socialno zavarovanje, medtem ko ima za zaposlene le podatke na osnovi dejansko izplačanih plač obračunanih in plačanih prispevkov za socialno zavarovanje. ZZSZS-ju mora mesečno posredovati podatke o obračunanih in plačanih prispevkih za obvezno zdravstveno zavarovanje le za samozaposlene. ZZSZS v primeru, da samozaposleni ali drug zavarovanec, ki je sam zavezanec za plačilo prispevkov za obvezno zdravstveno zavarovanje, nima poravnanih svojih prispevkov za obvezno zdravstveno zavarovanje, njemu in njegovim družinskim članom, razen otrokom, v času, ko nima poravnanih omenjenih obveznosti, zadrži pravice do zdravstvenih storitev in denarnih dajatev iz naslova obveznega zdravstvenega zavarovanja, razen nujnega zdravljenja. Kljub načeloma enaki obveznosti za plačilo prispevkov za obvezno zdravstveno zavarovanje za uveljavljanje pravic iz naslova obveznega zdravstvenega zavarovanja zaposlenih zavarovancev in njihovih družinskih članov torej ni pomembno, ali je delodajalec obračunal in plačal prispevke. Omenjeni zavarovanci in njihovi družinski člani lahko, za razliko od samozaposlenih in njihovih družinskih članov, uveljavljajo vse pravice iz obveznega zdravstvenega zavarovanja, četudi prispevki niso plačani.

Čeprav je rešitev, da se zavarovancem obveznega zdravstvenega zavarovanja iz naslova zaposlitve (in njihovim družinskim članom) v primeru, ko njihov delodajalec zanje ni poravnal prispevkov za obvezno zdravstveno zavarovanje, omogoči koriščenje vseh pravic iz naslova obveznega zdravstvenega zavarovanja, po eni strani sprejemljiva, saj zaposleni niso krivi za neizpolnjevanje obveznosti svojega delodajalca, pa se zastavlja vprašanje, ali je pravična v primerjavi s kategorijo samozaposlenih zavarovancev, ki so prispevke dolžni plačevati po zakonsko določenih osnovah in po enakih prispevnih stopnjah, kot veljajo za zaposlene delavce. Ob tem velja upoštevati, da do nelikvidnosti samozaposlenih pogosto pride zaradi nelikvidnosti njihovih poslovnih partnerjev, začetih insolvenčnih postopkov in podobno.

Omogočanje koriščenja pravic iz obveznega zdravstvenega zavarovanja zavarovancem, za katere predpisani prispevki niso plačani, predstavlja različna zagotavljanja upravičenj iz naslova zdravstvenega zavarovanja, ne le v primerjavi s samozaposlenimi, temveč tudi v primerjavi z drugimi skupinami zavarovancev, ki jim je predpisani obseg pravic omogočen ne le na podlagi vključitve, temveč tudi plačila prispevkov za obvezno zdravstveno zavarovanje, kot so na primer zaposleni pri tujem delodajalcu, vrhunski športniki in šahisti, osebe, za katere vodi ZZS same evidence (kot na primer prejemniki pokojnin iz tujine; tujci, ki se izobražujejo ali izpopolnjujejo v RS in niso zavarovani iz drugega naslova; osebe, ki ZZS-ju same plačujejo prispevek).

Do pravic, ki izhajajo iz zavarovanja za starševsko varstvo, so po Zakonu o starševskem varstvu in družinskih prejemkih (ZSDP) upravičene osebe, ki so vključene v zavarovanje za starševsko varstvo. V primeru uveljavljanja starševskega nadomestila je osnova za starševsko nadomestilo povprečna osnova, od katere so bili obračunani prispevki za starševsko varstvo pred vložitvijo prve vloge za starševski dopust. Za zaposlene se kot osnova v posameznem mesecu šteje bruto plača oziroma nadomestilo plače, od katerega so bili obračunani prispevki, vendar pa je potrebno v prilogi vloge za uveljavljanje starševskega nadomestila navesti tudi datum izplačila plače za posamezni mesec. Če v zadnjih 12 mesecih pred vložitvijo prve vloge za starševski dopust plača ali nadomestilo plače ni bilo izplačano oziroma niso bili obračunani prispevki za starševsko varstvo, se podatek ne vpiše. Podatek vpiše center za socialno delo, pri čemer za manjkajoči mesec upošteva 55 % minimalne plače, ki velja v mesecu vložitve prve vloge za eno od vrst starševskega dopusta za istega otroka. Iz navedenega sledi, da je za samo uveljavljanje pravic iz starševskega varstva ključno, da so prejemki, od katerih se plačuje prispevek za zavarovanje za starševsko varstvo in ki se všttevajo v osnovo za izračun starševskega nadomestila, izplačani, pri čemer pa v primeru zaposlenih delavcev ni pomembno, ali so bili obračunani prispevki od izplačanih prejemkov s strani izplačevalca prejemkov tudi dejansko poravnani. Prav tako upravičenki oziroma upravičencu, ki je zavarovan za starševsko varstvo, starševsko nadomestilo pripada tudi, če do obračuna prispevkov v zadnjih 12 mesecih sploh ni prišlo¹⁹, vendar pa izračun nadomestila za manjkajoče mesece temelji na 55 % minimalne plače, ki velja v mesecu vložitve prve vloge.

V primeru upravičenosti do denarnega nadomestila za primer brezposelnosti je za zaposlene osnova za odmero denarnega nadomestila povprečna mesečna plača v osmih mesecih pred nastankom brezposelnosti, za samozaposlene pa je osnova zavarovalna osnova, od katere so se plačevali prispevki v posameznem mesecu. Če je upravičenec v obdobju zadnjih 8 mesecev prejemal nadomestila plače v skladu s predpisi o delovnih razmerjih, zdravstvenem zavarovanju ali pokojninskem in invalidskem zavarovanju ali če ni prejemal plače, se v osnovo za odmero denarnega nadomestila upošteva osnovna plača, povečana za

¹⁹ Tako tudi MDDSZ, 2012.

dodatek na delovno dobo, ki bi jo upravičenec prejel, če bi delal²⁰. Ob samem uveljavljanju pravic iz naslova zavarovanja za primer brezposelnosti je v primeru delavcev, vključenih v zavarovanje iz naslova delovnega razmerja, nepomembno, ali je delodajalec obračunane prispevke tudi plačal.

Drugače velja za samozaposlene in tiste zavarovance, ki so v zavarovanje za primer brezposelnosti vključeni prostovoljno. Osnova za odmero denarnega nadomestila samozaposlenih in prostovoljno vključenih v zavarovanje za primer brezposelnosti je povprečna osnova, od katere so bili v osmih mesecih pred mesecem nastanka brezposelnosti plačani prispevki oziroma pri prostovoljno vključenih v obdobju enajstih mesecev pred mesecem nastanka brezposelnosti²¹. Osnova za odmero nadomestila so torej v opisanih primerih plačani in ne zgolj obračunani prispevki.

Glede koriščenja pravic iz pokojninskega in invalidskega zavarovanja, zlasti pokojnine, velja v povezavi z neobračunanimi ali neplačanimi prispevki nekoliko drugačna ureditev. Zakon o pokojninskem in invalidskem zavarovanju²² določa, da se v zavarovalno dobo štejejo obdobja zavarovanja, če so bili za ta obdobja plačani predpisani prispevki. Če je za določeno obdobje zavarovanja plačan le del prispevkov, se posledično v pokojninsko dobo upošteva le sorazmeren del zavarovalne dobe.

V zvezi z upoštevanjem obdobji za zavarovalno dobo, za katere so bili obračunani prispevki, določa omenjeni zakon izjemo od pravil. Ne glede na navedeno se namreč v pokojninsko dobo štejejo obdobja, v katerih je glede na podatke nosilca obveznega zavarovanja delodajalec obračunal prispevke od zavarovančeve plače, vendar jih ni vplačal v pokojninsko in invalidsko zavarovanje, ne glede na uspeh ukrepov za izterjavo plačila prispevkov. Če je obstoj zavarovanja ali obstoj podatkov, ki se nanašajo na zavarovalno obdobje, mogoče ugotoviti na podlagi evidenc nosilca obveznega zavarovanja, se šteje, ne glede na možnost ugotovitve plačila prispevkov za obvezno zavarovanje ali če tega ni mogoče dokazati zaradi stečaja ali druge oblike prenehanja delodajalca, pri katerem je bil zavarovanec v delovnem razmerju, da so bili prispevki za obvezno zavarovanje plačani²³.

Izjema od pravil vštevanja le tistih obdobji, za katere se bili plačani prispevki, se torej nanaša le na eno kategorijo zavarovancev, in sicer tistih, ki so v pokojninsko in invalidsko zavarovanje vključeni na podlagi delovnega razmerja. Podobno kot v primeru neplačanih prispevkov za obvezno zdravstveno zavarovanje, ko so zaposlenim in njihovim družinskim članom tudi v primeru neplačevanja prispevkov zagotovljene vse pravice iz obveznega zdravstvenega zavarovanja, pa se opisana ureditev v zadnjem času medijsko predstavlja kot primerna rešitev za delavce številnih podjetij, ki obveznosti iz naslova obračunanih

²⁰ Prvi do četrty odstavka 61. člena ZUTD.

²¹ Peti odstavka 61. člena ZUTD.

²² Prej 191. člen ZPIZ-1, enako 133. člen ZPIZ-2.

²³ Prej 192. člen ZPIZ-1, podobno prvi odstavka 134. člena ZPIZ-2.

prispevkov niso poravnavala celo več let. Dejansko pa je takšna rešitev vprašljiva in jo je težko razumeti kot varovanje pravic delavcev, saj pomeni, da se obdobje vključenosti v zavarovanje delavcu šteje v zavarovalno dobo le pod pogojem, da so bili prispevki obračunani – torej omenjene določbe sploh ni mogoče uporabiti, če prispevki uradno niso bili obračunani²⁴. Poleg tega se plače za obdobje, ki se v pokojninsko dobo šteje na tej podlagi, ne upoštevajo pri izračunu pokojninske osnove, saj se za izračun pokojninske osnove upoštevajo le plače oziroma osnove, od katerih so bili plačani prispevki²⁵.

3.4 Razkrivanje podatkov o neplačanih prispevkih za posameznega zavarovanca

Možnost delavcev, da pri pristojnem davčnem uradu preverijo, ali njihov delodajalec zanje plačuje prispevke, ne more pomembneje vplivati na plačevanje prispevkov. Po drugi strani je zanesljivost tako pridobljenih podatkov vprašljiva: davčni organ mora vsaki fizični osebi na njeno zahtevo razkriti podatke o prispevkih za obvezno pokojninsko in invalidsko zavarovanje, prispevkih za obvezno zdravstveno zavarovanje, prispevkih za zaposlovanje oziroma prispevkih za starševsko varstvo, ki jih je zanj plačal oziroma jih je dolžan plačati njen delodajalec ali druga oseba (21. člen ZDavP-2). Tako je pridobitev podatkov mogoča le za posameznika na podlagi njegove individualne zahteve ali po njegovem pooblastilu.

Z vidika posameznega zavarovanca takšna ureditev ni povsem ustrezna, saj davčni organ zbira le podatke o obračunanih prispevkih, katere je delodajalec oziroma druga oseba dejansko obračunala od izplačanih prejemkov in o tem predložila obračun davčnih odtegljajev, oziroma je na podlagi ugotovitev postopkov davčnega nadzora za izplačane prejemke prispevke obračunal davčni organ. Posledično se torej zastavlja vprašanje, kako lahko davčni organ v primeru zahteve fizične osebe le-tej ustrezno ugodi zlasti v delu, ki se nanaša na prispevke, ki jih je za zavarovanca njegov delodajalec ali druga oseba dejansko »dolžna« plačati. Na podlagi veljavnega načina evidentiranja podatkov o obračunanih prispevkih od dejansko izplačanih prejemkov davčni organ namreč ne more ugotoviti, koliko prispevkov bi bil delodajalec ali druga oseba za posamezno fizično osebo, ki bi na podlagi povzete zakonske določbe ta podatek lahko zahtevala, dolžna plačati. Navedeno bi bilo mogoče zgolj v primeru, da bi delodajalec ali druga oseba, ki je zavezanec za obračun prispevkov za socialno zavarovanje, prejemke pravilno in pravočasno izplačala, prav tako pa pravilno in pravočasno obračunala vse obvezne dajatve, in to od ustrezne osnove. Zlasti je v primeru fizičnih oseb, ki so v socialno zavarovanje vključene na podlagi delovnega razmerja, za ugotovitev o tem, koliko prispevkov bi moral delodajalec ali druga oseba, ki je zavezanec za njihov obračun, dejansko obračunati, treba poznati pogodbo o zaposlitvi ali individualno pogodbo prav vsakega posameznika.

24 Tako tudi sodba Vrhovnega sodišča, opr. št. VIII Ips 529/2007 z dne 8. 6. 2009 ter sodba in sklep Višjega delovnega in socialnega sodišča Pdp 30/2009 z dne 12. 1. 2012.

25 Glej sodbo Višjega delovnega in socialnega sodišča Pdp 30/2009 z dne 12. 1. 2012.

4 Zaključek

Na učinkovitost sistema socialnega zavarovanja ter obseg prispevkov, ki bi morali biti poravnani iz naslova vključitve v socialno zavarovanje, vplivajo številni dejavniki - tudi različne možnosti in podlage za vključitev v socialno zavarovanje ter možnost optimiranja obveznih dajatev iz naslova vključitve. Ob tem je vprašljiva tudi sama verodostojnost in ustreznost evidenc o prispevkih, ki bi morali biti plačani za posameznega zavarovanca. Obstoječe evidence prispevkov za socialno zavarovanje namreč vsebujejo le prispevke, ki so bili dejansko obračunani od zavezancev za obračun oziroma davčnega organa, in vsaj v primeru zaposlenih temeljijo na uradno izplačanih plačah. Ob vsem tem je zanemarjeno dejstvo, da delodajalci za svoje delavce vse pogosteje ne plačujejo predpisanih prispevkov, ker uradno plač ne izplačajo. Prav tako se dogaja, da delodajalci prirejajo osnove za plačilo prispevkov in za potrebe obračuna in plačila prispevkov prikažejo le minimalna izplačila, razliko pa delavcem izplačajo v gotovini ali kot neobdavčena povračila stroškov.

Utajevanje prispevkov omogočajo tudi neizvajanje predpisanega sankcioniranja in prenizke zagrožene kazni. Gre za problem, ki ima več razsežnosti, saj mu je poleg izpada javnofinančnih prihodkov iz naslova neplačanih prispevkov treba dodati tudi razmah dela na črno in opravljanje dela v statusni obliki, ki ni združljiva z naravo opravljenega dela. Dodatno v povezavi z vključitvijo v socialno zavarovanje ne gre zanemariti vpliva na trg dela v obliki specifičnih oblik zaposlitev. Le-te pravzaprav ne omogočajo prave vključitve v socialno zavarovanje na način, da bi bilo iz tega naslova mogoče eventualno pridobivati prejemke (bolniška, starševska nadomestila, pokojnino). Po drugi strani specifične oblike zaposlovanja, zlasti prekerne zaposlitve, negativno vplivajo na tradicionalne oblike zaposlovanja.

Glede na nesporen obstoj zaposlenih, za katere prispevki iz različnih razlogov niso ustrezno obračunani in plačani, ter ob upoštevanju dejstva, da bo tudi določen del tistih, ki prispevke sicer obračunavajo, le-te težko poravnal zaradi likvidnostnih težav, je o finančni razsežnosti vseh posledic neplačevanja prispevkov težko ugibati. V zvezi s samim uveljavljanjem pravic iz socialnega zavarovanja je izpadu javnofinančnih prihodkov zaradi neplačanih prispevkov treba dodatno prišteti še individualna oškodovanja na račun manjše pokojninske osnove zaradi neplačanih prispevkov in posledično manjše pokojnine. Poleg navedenega so zaradi neplačevanja prispevkov za obvezno zdravstveno zavarovanje nekaterih zavarovancev oškodovani vsi zavarovanci obveznega zdravstvenega zavarovanja, saj je obseg zagotavljanja pravic pravzaprav omejen z obsegom razpoložljivih sredstev. Dodatno proračunsko zagotavljanje pokojninskega, zdravstvenega, starševskega varstva in ukrepov zaradi brezposelnosti gre namreč v delu, ki presega zbrane prispevke, v breme vseh davkoplačevalcev.

Karmen Vežjak Progar

Mag. Karmen Vežjak Progar je univerzitetna diplomirana pravnica. Z zagovorom magistrske naloge na temo analize plačevanja prispevkov za socialno varnost si je leta 2003 pridobila tudi naziv magistrice ekonomskih znanosti. S področjem prispevkov za socialno varnost se na operativni ravni ukvarjala v času zaposlitve v mednarodnem podjetju. V letih 2002 in 2003 je bila zaposlena pri takratnem Glavnem davčnemu uradu Davčne uprave Republike Slovenije, v oddelku za dohodnino in prispevke. Od leta 2003 dalje je zaposlena pri Službi Vlade RS za zakonodajo, v sektorju za javne finance in gospodarsko ureditev.

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SUMMARY

THE EFFICIENCY OF SOCIAL CONTRIBUTIONS COLLECTION IN THE REPUBLIC OF SLOVENIA

Keywords: social insurance, social insurance contributions, contribution compliance in the Republic of Slovenia, social insurance rights

Slovenian social security system is classified as the so-called Bismarck model. It is characterized by a modest range of government interventionism and a high extent of guaranteed rights. It is mainly financed by contributions. Compared with most other systems of EU Member States, it does not only face the problem of a smaller discrepancy between the number of insured persons, who are liable to pay contributions, and the number of beneficiaries, who receive social benefits, but also the problem of efficient collection and recording of the paid contributions.

Every person who by his status or employment activity fulfils the conditions stated in legal acts regulating social insurance is required to be included in social insurance. The purpose of this paper is to describe some basic indicators for measuring the quality of the contribution collection and to highlight some key indicators that influence the contribution compliance in Slovenia. The efficiency of the contribution collection is usually observed through contribution compliance rather than relationship between the collected contributions and resources needed for their collection (for example, the amount of the collected contributions compared to the number of taxpayers, the amount of the collected contributions compared to the costs of collection and the like).

Contribution compliance can be measured using various indicators. The main one that is described and compared in several country studies is the Covered Wage Bill, which is expressed as the percentage of GDP. As described by Stanovnik and Fultz (2004, pp. 46–49), this indicator shows the hypothetical wage bill of the economy that would have, given the known contribution rate (employer + employee), produced the actual (observed) contribution revenues collected on behalf of employees. As this indicator is applicable only for measuring the contribution compliance of one category of the insured (employees) and only for analysis of some contributions (in Slovenia for mandatory pension and disability insurance and for mandatory health insurance) other indicators should also be observed.

The next of the indicators is the contribution debt. This indicator is, comparatively speaking, less suitable for measuring the efficiency of contribution collection and international comparison due to various factors (such as high penalty interests included, the possibility of write-offs and conversion of debt into equity, etc.).

The structure of the contribution debt is also important, as various responsibilities of each category of the insured persons reflect differently in the amount of unpaid contributions. For instance, in Slovenia the self-employed must pay social contributions no later than of the fifteenth day of the month for the previous month, while the due date for the payment of the contributions for the employees is not prescribed – the employers have to pay the contributions only if they reimburse wages. Furthermore, the prescribed sanctions for non-calculation and/or non-payment of contributions vary not only due to the different categories of insured persons, but also due to the type of contributions.

Even if the write-offs and deferrals of the contributions are allowed under strict and limited conditions, their impact on the contribution debt should not be neglected. In terms of assessment, the contribution compliance, the conditions for write-offs and deferrals have to be considered. The extent of written-off amounts and their impact on public revenue (i.e. revenue loss) has to be determined.

The level of the protection of insured person's rights in the case of non-payment of contributions is also important. Although in theory experts are unanimous that employers' failure to pay contributions may not cause detriment to employees (see Máté, 2004; Stanovnik et al., 2011), in Slovenia that does not apply in some cases.

The efficiency of the contribution collection system may also be affected by the complexity of the collection system itself. Eventually, the role of the participants has to be mentioned, and in particular, the level of economic and social development as well as the economic stability of the country.

The efficiency of the social insurance system and the extent of the contributions that should be paid are affected by various options and bases for inclusion as well as the possibility to optimize the amount of obligatory levies deriving from it. Shortcomings in the collection of social security contributions can be identified not just with a detailed analysis of the legal basis for the inclusion into social insurance and the payment of contributions, but also by analyzing the characteristics of the categories of insured persons and the contribution evasion reasons. Factors that actually or merely potentially may affect the contribution compliance are numerous and come from different spheres – from the insured or the persons liable to pay contributions as well as from the government authorities, etc.

On the other hand, the existing records of social contributions in Slovenia include only contributions that were actually calculated by taxpayers and reported to the Tax Administration. As already mentioned above, in the case of employees they base on official earnings. The fact that employers often do not calculate and/or do not pay contributions for their workers because wages are officially not paid is often neglected. It also occurs that employers

report only minimal wages and calculate minimal social contributions. The difference is paid to workers in cash or as tax free reimbursement.

Non-implementation of the prescribed penalties and low penalties enable the alteration of contribution basis. The alteration problem is multidimensional. It also causes the growth of undeclared work and the work carried out in an inappropriate status.

Additionally, it should not be neglected that there are specific forms of employment that do not really allow social insurance compliance in the way which would assure proper benefits deriving from this title (sick leave benefit, parental benefit, pension). On the other hand, specific forms of employment, especially precarious employment, have negative impact on traditional forms of employment.

One of the main conclusions of the paper is that the extent of financial consequences of non-payment of social contributions in Slovenia is difficult to ascertain, as it is not possible to estimate the number of employees for whom contributions are not properly accounted and paid. It is also the fact that a certain amount of contributions that are calculated and recorded will not be paid at all, due to payment liquidity problems of the employers.

Furthermore, the non-payment of contributions causes the impairment of individual rights. The unpaid contributions result in lower pensions and the burden of the amount of non-paid mandatory health insurance contributions is allocated to all insured persons and tax payers. However, the extent of mandatory health insurance benefits is limited by the level of available resources. Additional state provision for pension and disability benefits, health care, parental and unemployment care, in the part which exceeds the collected contributions, burdens all tax payers.

Navodila avtorjem

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Članki niso honorirani.

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Uredniški postopek:

1. 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.
2. Članek naj bo lektoriran, v uredništvu se opravlja samo korektura. Izjemoma se po dogovoru z avtorjem besedilo tudi lektorira.
3. Vsi članki se recenzirajo in razvrstijo.¹ Med recenziranjem avtorji in recenzenti niso imenovani. Članki po 1.01, 1.02 morajo za objavo prejeti

¹ Članke razvrščamo po tipologiji COBISS:

1.01 Izvirni znanstveni članek. Izvirni znanstveni članek je samo prva objava originalnih raziskovalnih rezultatov v takšni obliki, da se raziskava lahko ponovi, ugotovitve pa preverijo. Praviloma je organiziran po shemi IMRAD (Introduction, Methods, Results And Discussion) za eksperimentalne raziskave ali na deskriptivni način za deskriptivna znanstvena področja.

1.02 Pregledni znanstveni članek. Pregledni znanstveni članek je pregled najnovejših del o določenem predmetnem področju, del posameznega raziskovalca ali skupine raziskovalcev z

dve pozitivni recenziji, od tega eno od tujega recenzenta. Če recenzenti razvrstijo članek različno, o končni razvrstitvi odloči uredniški odbor.

4. 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.
5. Avtor prejme rezultate recenziranja praviloma v treh mesecih od oddaje članka.

Oblikovanje članka:

1. Naslovu prispevka naj sledi: a) polno ime avtorja/avtorjev, b) naziv institucije/ institucij in c) elektronski naslov/naslovi.
2. Članek mora vsebovati še: a) *izvleček*, ki naj v 8 do 10 vrsticah opiše vsebino prispevka in dosežene rezultate raziskave; b) *ključne besede*: 1–5 ključnih besed ter c) *kodo iz klasifikacije po Journal of Economic Literature – JEL* (http://www.aeaweb.org/journal/jel_class_system.html).
3. Članek, ki je bil razvrščen po 1.04, 1.05 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.
4. Članek naj bo napisan v urejevalniku besedil Word (*.doc, *.docx) v enojnem razmiku, brez posebnih ali poudarjenih črk. Ne uporabljajte zamika pri odstavkih. Razdelki od Uvoda do Sklepnih ugotovitev naj bodo naslovljeni in oštevilčeni z arabskimi številkami.
5. 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.
6. Članek naj obsega največ 30.000 znakov.
7. Članku dodajte kratek življenjepis avtorja/avtorjev (do 8 vrstic).
8. V besedilu se sklicujte na navedeno literaturo na način: (Novak, 1999, str. 456).

namenom povzemat, analizirati, evalvirati ali sintetizirati informacije, ki so že bile objavljene. Prinaša nove sinteze, ki vključujejo tudi rezultate lastnega raziskovanja avtorja.

1.04 Strokovni članek. Strokovni članek je predstavitev že znanega, s poudarkom na uporabnosti rezultatov izvirnih raziskav in širjenju znanja, zahtevnost besedila pa prilagojena potrebam uporabnikov in bralcev strokovne ali znanstvene revije.

1.05 Poljudni članek. Poljudnoznanstveno delo podaja neko znanstveno ali strokovno vsebino tako, da jo lahko razumejo tudi preprosti, manj izobraženi ljudje.

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

1.19 Recenzija, prikaz knjige, kritika. Prispevek v znanstveni ali strokovni publikaciji (reviji, knjigi itd.), v katerem avtor ocenjuje ali dokazuje pravilnost/nepravilnost nekega znanstvenega ali strokovnega dela, kriterija, mnenja ali ugotovitve in/ali spodbija/podpira/ocenjuje ugotovitve, dela ali mnenja drugih avtorjev. Prikaz strokovnega mnenja, sodbe o znanstvenem, strokovnem ali umetniškem delu, zlasti glede na njegovo kakovost.

1.21 Polemika, diskusijski prispevek. Prispevek, v katerem avtor dokazuje pravilnost določenega kriterija, svojega mnenja ali ugotovitve in spodbija ugotovitve ali mnenja drugih avtorjev.

9. Na koncu članka navedite literaturo po abecednem redu avtorjev in vire, po naslednjem vzorcu:

Članek v reviji:

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

Knjiga:

- 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.

Internetni vir:

- Tax Administration of the Republic of Slovenia. (n.d.). Pridobljeno 8. 5. 2007, s <http://www.durs.gov.si/>

Uradna publikacija, poročilo:

- World Bank. (2001). *World Development Indicators*. Washington: World Bank.

Disertacija:

- Richmond, J. (2005). Customer expectations in the world of electronic banking: a case study of the Bank of Britain. *PhD*. Chelmsford: Anglia Ruskin University.

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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2. The article must also include: a) *an abstract* defining the content of the contribution and research results in 8 to 10 lines; b) *keywords*: 1–5 keywords; and c) *a JEL (Journal of Economic Literature) code* – (http://www.aeaweb.org/journal/jel_class_system.html).
3. An article classified as 1.04, 1.05 or 1.08 must also have a summary in English, 3 pages in length. The summary should offer a translation of the title and keywords and present the content of the article (define the argument and findings). For foreign authors, the translation of the article abstract into Slovene will be arranged by the editorial board.
4. An article must be supplied in MS Word (*.doc, *.docx) with single spacing, without special or highlighted characters. Do not indent paragraphs. Sections should be titled and numbered with Arabic numerals from the introduction to the conclusion.
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1 Articles are classified according to the COBISS typology:

1.01 Original scientific article – first publication of original research results in a form that allows the research to be repeated and the findings verified. In general it must be organised according to the IMRAD structure (Introduction, Methods, Results And Discussion) for experimental research or in a descriptive manner for descriptive academic areas.

1.02 Review article – an overview of the latest articles in a specific subject area, the works of an individual researcher or group of researchers with the purpose of summarising, analysing, evaluating or synthesising data that has already been published. It offers new syntheses, including the results of the author's own research.

1.04 Professional article – a presentation of what is already known, with an emphasis on the applicability of original research results and the dissemination of knowledge, with readability adapted to the needs of users and readers of the professional or scientific journal in which it appears.

1.05 Popular article – popular (science) articles offer professional or scientific content in a simpler form, making it accessible to people without higher education in the field.

1.08 Published scientific conference contribution – lecture, presentation, organised in principle as a scientific article.

1.19 Review, book review, critique – a contribution in a scientific or professional publication (journal, book, etc.) in which the author evaluates or demonstrates the validity or otherwise of a scientific or professional work, criterion, opinion or finding and/or disputes, supports or evaluates the finding, work or opinion of other authors. The presentation of an expert opinion, a critique of a scientific, professional or artistic work, particularly in terms of its quality.

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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.

Book with editor:

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

Conference contribution:

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

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