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## FOREWORD

Dear riders,

It is my great pleasure to present to you the new issue of the Institute's international scientific 2019 Annual.

Each new number of the Annual represents a certain enrichment of the domestic and international scientific literature in the field of social science. In this edition, the Institute for Sociological Political and Juridical Research has chosen to present six papers, which has been positively evaluate by the reviewers. These papers analyze topics from different research and social interest (aspects) as: EU myth vs. Balkan identity talking about Balkanophobe and Balkanophile paradigm, the state responsibilities in the maintaining peace in the framework of international organizations, legal issues in terms of prevention of corruption, effects of employee training and development on firm performance taking the evidence from successful companies in North Macedonia, sociology and urban planning and the processes of actual desecularization.

I hope you will find this Annual informative and interesting and that it will give you a greater understanding of the themes which have been elaborated by our contributors. Our goal is to attract readers who have interest on these areas and to instigate academic exchange of thoughts and vigorous debate.

**Editor-in-chief**

**Bojana Naumovska PhD**

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REINVENTING THE ILLUSION OR GETTING BACK TO THE REALITY: EU MYTH VS. BALKAN IDENTITY

**Abstract**

Despite prevailing perceptions, the Balkans has been a region with the longest periods of peace and prosperity in recorded history. For centuries, the Balkans has been a crossroad of civilizations paved by empires, commerce, culture and religion, where civilizations did not clash, but communicated, interacted, and merged, producing fertile ground for dialogue and exchange. This great potential was overshadowed by developments in recent history. The first and last armed conflicts in Europe during the short 20th century (1914-1991) took place in the Balkans. The bloodshed gave birth to a new term – Balkanization that became a synonym for a reversion to the tribal, backward, primitive and even barbarian habits and practices. This term echoed some earlier metaphors that tried to capture the innate instability of the region. These metaphors are a part of a Balkanophobe paradigm that consists of oversimplified and shallow interpretations and conceptual frames about the Balkans. At the beginning of the third millennia, marked by geopolitical shifts, migrations, and multiple global and regional crises, we need a fresh, authentic understanding of the Balkans, its role, position, capacity and potentials. We need a shift from a Balkanophobe to a Balkanophile paradigm. In a complex and contradictory world, the Balkan region should not be seen as a buffer zone, but an open, inclusive and connected region, capable of creating conditions that would benefit its countries and peoples, providing them with opportunities to share its positive experiences with one another and the rest of Europe.

**Key words:** Balkans, paradigm, international relations, clash of civilizations, Balkanization, European Union

## INTRODUCTION: PARADIGMS IN INTERNATIONAL RELATIONS

According to Thomas S. Kuhn, a paradigm has two basic functions: cognitive and normative.<sup>1</sup> While the cognitive function defines our perception of reality, the normative function enables the paradigm to regulate and influence reality.<sup>2</sup> Although Kuhn originally had in mind natural and exact sciences, the concept was soon recognized as applicable in social sciences, including international relations.<sup>3</sup> According to Kegley and Blanton, the various theories of international relations rest “on different assumptions about the nature of international politics, each advances different claims about causes, and each offers a different set of foreign policy recommendations.”<sup>4</sup> A paradigm-shift occurs once a dominant paradigm fails to provide a sustainable explanation of international relations. Major historical events, such as the World War I, World War II, the Cold War, and the 9/11 terrorist attacks provided the ground for paradigm shift. Two such paradigms have influenced the perception of and attitude towards the Balkans.

## THE BALKANS BETWEEN FUKUYAMA AND HUNTINGTON

Following the unexpected end of the Cold War, many authors were inspired by the liberal momentum. Building upon Alexandre Kojève’s interpretation of Hegel, Francis Fukuyama famously declared the end of history of ideas, arguing that after the Cold War, liberal democracy is the last idea standing.<sup>5</sup> In other words, liberal democracy is the ultimate form of government for nations. In the Balkans, Fukuyama’s liberal democracy paradigm was somewhat epitomized by the idea of the European and Euro-Atlantic integration of the countries. The Copenhagen Criteria (democracy, rule of law, human rights, respect for and protection of minorities and a functioning market economy)<sup>6</sup> would become the new creed of Balkan nations aspiring for membership in the EU and NATO. However, this process was somewhat jeopardized by an equally unexpected influx of nationalism and ethno-religious conflicts in the Balkans during the breakup of former Yugoslavia.

In order to explain the new conflicts in the Balkans and other regions around the world, a different paradigm was needed. In his famous response to Fukuyama, Huntington claimed that following the Cold War, the cultural and religious identities would replace the ideological identities as a primary source of conflict. While the identity of the Cold War was metaphorically summarized in the question “Which side are you on?” the new, post-

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1 Rueschemeyer, D. (2006). *Why and How Ideas Matter*. The Oxford Handbook of Contextual Political Science. Goodin, R. and Tilly C. (eds.). Oxford University Press. 227-252

2 Kuhn, T. S. (1996). *The Structure of Scientific Revolutions*. Third edition. Chicago and London: The University of Chicago Press.

3 Lijphart, A. (1974). *International relations theory: great debates and lesser debates*. International Social Science Journal. Vol. XXVI. No. 1. pp. 12

4 Kegley, C. W. and Blanton, S. L. (2010). *World Politics: Trend and Transformation*. Cengage Learning.

5 Fukuyama, F. (1992). *The End of History and the Last Man*. The Free Press. New York.

6 European Union. *Conclusions of the Presidency. Copenhagen European Council - 21-22 June 1993*. Last accessed: 21 May 2017. URL: <[http://www.europarl.europa.eu/enlargement/ec/pdf/cop\\_en.pdf](http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf)>.



Cold War period would have a new essential question: “Who are you?” In other words, the cultural and religious identity “would define a country’s place in world politics, its friends and its enemies”.<sup>7</sup> Likewise, Huntington argued that “the fault lines between civilizations are to replace the political and ideological boundaries of the Cold War as the flash points for crisis and bloodshed.”<sup>8</sup> The concept of civilization was at the center of his theory.<sup>9</sup> As Tucker notes, Huntington sees the identification with a civilization is the broadest level of identification.<sup>10</sup>

In the post-Cold War period, “Who are you?” became a quintessential question for the Balkans. Huntington’s clash of civilizations paradigm sees the Balkans as a region deeply divided by the fault lines of three civilizations – Western, Orthodox and Islamic. These fault lines correspond with previous empires. For instance, the Western civilization in the Balkans spans along the borders of the former Austro-Hungarian Habsburg Empire. Pockets of Islamic civilization are located in Bosnia and Albania. Finally, the rest of the countries fall in the so-called Orthodox civilization, previously part of the Byzantine and Ottoman Empires. The fault lines that constantly shifted with the imperial borders, have settled with the breakup of the empires following World War I. Frozen during the Cold War era, these fault lines re-emerged with the spring of identities. As Ivanov notes, “the end of the Cold War [...] was followed by a spring of identities. The fall of the Berlin Wall and democratization of societies unfroze pending conflicts.”<sup>11</sup>

Similarities in the Balkans have often been a pretext for confrontation, on at least two levels. On the level of national identity, similarities have been seen as threats to distinctiveness. “*We dislike our neighbors...because we resemble them,*” says Nikos Dimou.<sup>12</sup> On the level of nation-building, similarities have been used as a basis for confrontation in order to claim monopoly on shared material and non-material values. Conventional history shows that the Balkan nations were successful in recognizing their enemies among their own neighbors. 19 and 20<sup>th</sup> century interventions of great powers have contributed to these self-fulfilling prophecies by stirring nationalism and great state projects among different nations. This is partly due to the constructed national myths and identities.<sup>13</sup>

7 Huntington, S. P. (1996). *The Clash of Civilizations and the Remaking of World Order*. Simon & Schuster.

8 Huntington, op cit.

9 Bieber, F. (1999). *The Conflict in former Yugoslavia as a “Fault Line War”?* Balkanologie. Vol. III, No.1.

10 Tucker, T (2013). *Huntington and Post-Cold War Paradigms: If Not the Clash of Civilizations, What?* E-International Relations. <<http://www.e-ir.info/2013/09/23/huntington-and-post-cold-war-paradigms-if-not-the-clash-of-civilizations-what/>>.

11 Ivanov, G. (March 2016). *Balkans, Caucasus and Middle East: the Bermuda Triangle of Europe*. Lecture delivered on the occasion of the Doctor Honoris Causa award ceremony at the Academy of Public Administration. Baku. 11<sup>th</sup> March 2016.

12 Dimou, N. (2013). *On the Unhappiness of Being Greek*. Zero Books. p. 14

13 If, following Benedict Anderson, we accept that the modern nation as a socio-political phenomenon developed since the French Revolution, then, this would mean that imposing this concept of modernity to interpret pre-modern concepts and events is a methodological problem.

## THE BALKANOPHOBE PARADIGM

The first and last armed conflicts in Europe during the short 20th century (1914-1991) took place in the Balkans. While the first Balkan conflict was a prelude to the Great War (1914-1918), the last armed conflict in the Balkans coincided with the end of the Cold War (1947-1991). The bloodshed gave birth to a new term – Balkanization that became a synonym for a reversion to the tribal, backward, primitive and even barbarian habits and practices.

Encyclopedia Britannica defines Balkanization as the “division of a multinational state into smaller ethnically homogeneous entities. The term also is used to refer to ethnic conflict within multiethnic states”.<sup>14</sup> According to the Merriam-Webster Dictionary, to Balkanize means “to break up (as a region or group) into smaller and often hostile units”.<sup>15</sup> As Todorova notes, the term “Balkanization” was first used by American journalist Paul Scott Mowrer in the following sense: “the creation, in a region of hopelessly mixed races, of a medley of small states with more or less backward populations, economically and financially weak, covetous, intriguing, afraid, a continual prey to the machinations of the great powers, and to the violent promptings of their own passions.”<sup>16</sup> Todorova also notes “that “Balkanization” not only had come to denote the parcelization of large and viable political units but also had become a synonym for a reversion to the tribal, the backward, the primitive, the barbarian.”<sup>17</sup> In this line, Ivanov points out that “Balkanization” has become a “measurement unit for proneness to conflict” that is being used even today for perceiving the politically and security wise unstable regions in the world.<sup>18</sup> In the past two centuries, we became recognizable as an inherently unstable area, where divisions and conflicts are a rule, and relations and peace are an exception to this rule.

This term echoed some earlier metaphors that tried to capture the innate instability of the region. For some, it describes the Balkans as a space where the irrational *Homo Balcanicus*<sup>19</sup> lives.<sup>20</sup> For the British, the Balkans were “The Powder Keg of Europe”; for the French “*Balkanique et Volcanique*”; for the Turkish “Bal-Kan” or “Blood and Honey”. These metaphors are a part of a Balkanophobe paradigm that consists of oversimplified and shallow interpretations and conceptual frames about the Balkans. This balkanophobe paradigm has been used to describe other regions.<sup>21</sup> We have heard of Balkanization of the

14 “Balkanization,” [Britannica.com](http://www.britannica.com/topic/Balkanization). Last accessed: 21 May 2017. URL: <<https://www.britannica.com/topic/Balkanization>>.

15 “Balkanize,” [Merriam-Webster.com](http://www.merriam-webster.com/dictionary/balkanize). Last accessed: 21 May 2017. URL: <<https://www.merriam-webster.com/dictionary/balkanize>>.

16 Mowrer, P. S. (1921). *Balkanized Europe: A Study in Political Analysis and Reconstruction*. E. P. Dutton & Company. New York.

17 Todorova, M. (2009). *Imagining the Balkans*. Oxford University Press.

18 Ivanov, G. (January 2013). *The Balkans and the Gulf: The Crossroads of Civilizations*, Lecture delivered at Georgetown University, Center for International and Regional Studies, Doha, January 29<sup>th</sup> 2013

19 Bechev, D. (2011). *Constructing South East Europe: The Politics of Balkan Regional Cooperation*. Palgrave Macmillan.

20 Bardos, G. N. (Fall 2003), *Davos Man Meets Homo Balcanicus*” *The National Interest* No. 73 (Fall 2003), pp. 128-133 <<http://nationalinterest.org/bookreview/davos-man-meets-homo-balcanicus-1126>>.

21 Hill, F. (May 2001). *The Caucasus and Central Asia: How the United States and Its Allies Can Stave Off a Crisis*. Brookings Policy Brief. No. 8. The Brookings Institution. Last accessed: 21 May 2017. URL: <<https://>

Caucasus<sup>22</sup>, the Middle East, Syria, Iraq, Pakistan, Sudan, Nigeria, Congo, etc.

The cure for Balkanization was sought in the Europeization of the Balkans. In other words, there was an attempt to resolve a Huntingtonian dilemma with a Fukuyamian answer. The fault lines between the religions and civilizations would be erased by the European peace project. However, this proved difficult, due to several factors. The European Union was indecisive to open the doors for all countries in the region to join in. Instead, it applied double standards, letting some countries in while leaving other countries out of the club. This resulted with a “Balkanization of EU”, since the Balkan countries that were part of the club started using the consensus mechanism in order to blackmail and block the integration of their neighbors. The Greek blockade of the Republic of Macedonia proves the case. Furthermore, EU faced several diverse challenges, such as the 2008 economic crisis, the ongoing migrant crisis and the rising security crisis, which surpass the abilities of the Union. These growing challenges prompted the Junker Commission to postpone any enlargement before 2019.<sup>23</sup>

Some, like R. Craig Nation, criticize Huntington’s paradigm, since it tends to impose “fixed and arbitrary geographical contours onto what are actually complex patterns of cultural interaction.” While agreeing that religion in the Balkans has been conflicting factor, he points out that different religions also provided contexts for promotion of solidarity and mutual understanding.<sup>24</sup>

When the Balkan peoples start accepting this paradigm and identify themselves with the imposed caricature, then the paradigm becomes a self-fulfilling prophecy. Not only that this balkanophobe paradigm is not sustainable, but it also mixes the causes with the effects. Commenting on the metaphor of the Balkans as the powder keg of Europe, one Macedonian public intellectual adds that, if that is the case, then the fuse of this powder keg is always outside of the Balkans.<sup>25</sup> Namely, whenever the Balkan people and nations waited for others to solve their problems, divisions and enmities were inevitable. So, the following dilemma arises: is there inherent Balkan antagonism, or are antagonisms projected by other interests?

## BALKANOPHILE PARADIGM

Despite prevailing perceptions, the Balkans has been a region with the longest periods of peace and prosperity in recorded history. According to Prof. Dr. Gjorge Ivanov, President of the Republic of Macedonia, out of 3.100 years of written world history, 2.700 years are

[www.brookings.edu/wp-content/uploads/2016/06/pb80.pdf](http://www.brookings.edu/wp-content/uploads/2016/06/pb80.pdf)>.

22 Dzutsati, V. (March 2013). *Signs of Balkanization Emerge in the North Caucasus*. North Caucasus Weekly. Volume: 14 Issue: 5. Last accessed: 21 April 2017. URL: <<https://jamestown.org/program/signs-of-balkanization-emerge-in-the-north-caucasus/>>.

23 Jean-Claude Juncker. *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission*. Strasbourg, 15 July 2014 <[https://ec.europa.eu/commission/sites/beta-political/files/juncker-political-guidelines-speech\\_en\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/juncker-political-guidelines-speech_en_0.pdf)>.

24 Nation, R. C. (2004). *War in the Balkans, 1991-2002*. University Press of the Pacific.

25 BGNES. Георге Иванов: Балканите са буре с барут, но фитилът винаги идва отвън. BGNES.com. 14 April 2016. Last accessed: 21 April 2017. URL: <<http://www.bgn.es.com/sviat/balkani/4423588/>>.

marked with wars, and only 300 years with peace. Paradoxically, he points out that the longest periods of peace were in the Balkans - namely *Pax Romana* and *Pax Ottomana*.<sup>26</sup> For centuries, the Balkans has been a crossroad of civilizations paved by empires, commerce, culture and religion. The Balkans is a place where civilizations did not clash, but communicated, interacted, and merged, producing fertile ground for dialogue and exchange. In such contexts, the Balkans gave birth to over 20 Roman Emperors including Constantine the Great and Justinian I. It was the birthplace of church fathers such as St. John Chrysostom, Ss. Cyril and Methodius, St. Clement of Ohrid, humanists that changed people's hearts like Mother Teresa, philosophers and scientist who changed the world, composers, writers, cineastes, painters and sculptors. The common denominator for these contexts is the presence of a neutral power (empire), a common language (*lingua franca*) and a common market of currency and ideas. The Millet System, understood as religious autonomy of the Ottoman Empire and the cultural autonomies of the Austro-Hungarian Habsburg empires provided the right balance between unity and diversity, with respecting the differences, while pursuing shared interests of the neighborhood, community, nation, or region.<sup>27</sup> This philosophy was metaphorically summarized in a Macedonian Jewish proverb attributed to General Beno Isak Ruso (1920-2006): "Separated ("bashka") lives (of different religious, ethnic and linguistic communities) leads to ghettoization. United ("barabar") lives (of different religious, ethnic and linguistic communities) leads to assimilation. The answer lies in separated yet united lives ("*em bashka em barabar*")." This model enables balancing the animosities by satisfying the needs for distinctiveness.

Applied to the Balkans as a whole, this approach would allow the countries to pursue common security, economic and political interests, while respecting their uniqueness. At the beginning of the third millennium, marked by geopolitical shifts, migrations, and multiple global and regional crises, we need a fresh, authentic understanding of the Balkans, its role, position, capacity and potentials. We need a shift from a Balkanophobe to a Balkanophile paradigm. But, in order to achieve this, the Balkan region should not be seen as a buffer zone, but an open, inclusive and connected region, capable of creating conditions that would benefit its countries and peoples, providing them with opportunities to share its positive experiences with one another and the rest of Europe.

## CONCLUSION

A paradigm-shift in international relations occurs once a dominant paradigm fails to provide a sustainable explanation of events, processes and trends. Major historical events provide the ground for paradigm shift, both defining perception and influencing the reality.

As it was pointed at the very beginning, despite prevailing perceptions, the Balkans, a crossroad of civilizations, has been a region with the longest periods of peace and prosperity in recorded history. In order to explain the new conflicts in the Balkans (and other regions

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26 Ivanov, G. (August 2014). *Address at the 6<sup>th</sup> Global Forum of the United Nations Alliance of Civilizations*. Bali.

27 Ivanov, G. (September 2014), *Macedonian Model of Coexistence: Tradition of Respect for Diversity*. Lecture delivered at the Yale Divinity School, New Haven, 22 September 2014.

around the world), a different paradigm was needed, explaining that the cultural and religious identities are replacing the ideological identities as a primary source of conflict (Huntington's response to Fukuyama), or, "the end of the Cold War [...] was followed by a spring of identities" unfreezing the pending conflicts.

Similarities in the Balkans have often been a pretext for confrontation in order to claim monopoly on shared material and non-material values, recognizing the enemies among the neighbors, due to "support" of great powers and constructed national myths and identities. Balkanization became a synonym for a reversion to the tribal, backward, primitive and even barbarian habits and practices, a "measurement unit for proneness to conflict" and the Balkans became recognizable as an inherently unstable area, where divisions and conflicts are a rule, and good relations and peace are an exception to this rule.

The cure for "Balkanization" was an attempt to resolve a Huntingtonian dilemma with a Fukuyamian answer, erasing the fault lines between the religions and civilizations by European integration as a peace project. Instead, this resulted with a "Balkanization of EU", since the Balkan countries that were part of the club started using the consensus mechanism in order to blackmail and block the integration of their neighbors.

When the Balkan peoples start accepting "balkanophobe" paradigm, mixing the causes with the outcomes, and identify themselves with the imposed caricature, then the paradigm becomes a self-fulfilling prophecy.

If it is true that divisions and enmities were inevitable whenever the Balkan people and nations waited for others to solve their problems, the following dilemma arises: is there inherent Balkan antagonism, or are antagonisms projected by other interests?

At the beginning of the third millennia, we need a shift from a "Balkanophobe" to a "Balkanophile" paradigm. Paradigm that is based on pursuing of common (regional) security, economic and political interests, while respecting uniqueness of all Balkan nations. Paradigm that avoids the perception of the Balkans as a buffer zone, but an prosperous and resourceful region, open, inclusive and connected, capable of sharing its positive experiences with the rest of the world.

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## THE UNITED NATIONS AND STATE RESPONSIBILITIES IN MAINTAINING PEACE

### Abstract

To undertake military intervention or not, is a question that affects all countries in the world in situations of mass violations of human rights and the rules of international humanitarian law, especially the states that have resources and means for direct engagement in the resolution of such situations. For many countries, the answer is simply negative. Their justification is that these crimes do not occur on their territory and it is not worthy that their soldiers die trying to restore peace and security in other countries.

The most powerful countries should actively be involved in the prevention and ending of situations of gross human rights violations, which at the same time represent a shame for the whole civilized world. The most powerful countries should intervene because they have the necessary capacity to maintain the peace and security in the world.

**Key words:** UN, Security Council; humanitarian intervention; military actions.

## INTRODUCTION

Safeguarding international peace and security was the primary reason for the establishment of the United Nations in 1945. The aspiration “to save succeeding generations from the scourge of war” is enshrined in the opening lines of the UN Charter. Maintaining peace and security appears first in the Charter’s statement of purposes and principles. Peace and security figure prominently in Articles 73(c) and 76(a) for dependent territories and peoples.

The great frequency of armed conflict since 1945 testifies that the UN security system has not worked as intended.

Security is still the central concern of all states, but the UN has been less central to the security of its members than the Charter might indicate. States rely primarily on their own might and that of their allies to deter aggression against themselves and should peace fail, to vindicate their interests by force of arms.

The UN war prevention role has often been called as collective security although in practice the United Nations has been largely an adjunct to the operations of local and global balances of power.

## PRIMARY RESPONSIBILITY FOR PEACE KEEPING AND SECURITY AND THE NEED TO TAKE ON HUMANITARIAN INTERVENTIONS

The United Nations Security Council has the authority to declare a situation a threat to or breach of the peace. When the council so declares it can invoke Chapter VII of the Charter and reach a decision binding on all states. These decisions can entail military action. On several occasions the Security Council has linked human rights situations to a threat to or breach of the peace or it has otherwise reached a legally binding decision declaring that military steps are needed to correct a human rights problem.

Considering the fact that the Security Council is the most important body in the process of decision-making for undertaking humanitarian intervention, it is necessary to list its competences. The Security Council is a political body. It consists of representatives of countries with different interests. Its rules and decisions are contained in Article 27 (3) and reflect the power of states, allowing the most powerful states (permanent members) to veto any important decision that concerns keeping peace and security in the world (Evans and Sahnoun 2001: 49-53). This body adopts and executes its decisions in accordance with the goals and principles of the UN<sup>1</sup>. But whenever it acts, there is a presumption that it has the authority to do so.

The Security Council is competent to determine the existence of a threat to peace, disturbance of the peace or act of aggression, to make recommendations and to decide which measures are needed to be taken in order to keep and re-establishment of the international peace and security.

The Security Council in exercising its powers before using the measures of forced

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<sup>1</sup> Article 24 paragraph 2 of UN Charter.

character uses and adopts non military measures such as economic sanctions, abolition/termination of diplomatic relations, cutting of communication means, including subway, air, radio and phone traffic, etc (Frčkovski i Ortakovski 1995: 259). Only in the case when these measures are to be shown inadequate<sup>2</sup>, Security Council can authorize actions in which the use of military force will be used<sup>3</sup>.

This means that the Council has the exclusive competence to apply forced measures or to use military force, and accordingly it is authorized to undertake all types of military actions, such as land, air or maritime character (Frčkovski i Ortakovski 1995: 259).

The greatest disadvantage of the collective security system is that the Security Council does not have its own military forces. There are no specific (special) agreements between Security Council and Member States on this issue, which means that none of the member states is legally bound to make available its own resources if that is required by the Security Council. However, the special arrangements are not a condition that can prevent the Security Council to undertake action. Hence, although the Security Council according to Chapter VII is competent to authorize the undertaking of an action, including here also the use of force which should be exercised by member states, where the participation in the action should be on a voluntary basis (Henkin 1990:3).

The authority of the Security Council may be attributed to all member states, to a particular member state and to a particular regional organization or agency. Once the Security Council has been granted authorization, the undertaking of an action should be in close coordination and compliance with the rules of international humanitarian law, which refer to international military conflicts. The action is carried out on behalf of the UN and in principle lies under the responsibility and control of the Security Council.

States or regional organizations are not obliged to carry out tasks assigned by the Security Council. However, when they do it, all the conditions envisaged in the authorizations relating to the objectives of the action, the limitations in terms of time, and volume are enforced according to the authorizations and objectives of the intervention. Any use of force that exceeds the authorizations granted by the Council constitutes a violation of international law (unless an alternative legal basis is established).

Looking at another aspect, a very important question is raised - what happens when the Security Council undertakes an action that, according to the UN Charter itself, is debatable or unfounded? Does in this case some kind of court guarantees exist against the undertaken action or the whole situation will come down only to the conviction of such an action after a certain period of time from those who unreasonably overlooked it?! In any case, the limits of the competences of Security Council are protected by effective judicial guarantees. Although the Charter does not authorize the International Court of Justice to review decisions taken by the bodies of the UN, they may request the court to give a reasoned

2 The NICARAGUA vs USA case from 1986 and the International Court of Justice verdict that US intervention in Nicaragua can not be justified solely with the need of respecting human rights and that the use of force can not be the only method for control and compliance of those right, represents a clear signal that the armed humanitarian intervention is unfounded if it doesn't comply with the rules envisaged in the Charter of the UN, where the cases and means of use of force are foreseen and, consequently, undertaking it without arguing the widespread goals of its takeover can lead to violation of relations between the states, especially among the mightiest

3 Clan 42, Povelja Ujedinjenih Naroda, Beograd

opinion on the legality of a certain action of UN<sup>4</sup>.

According to UN Charter, the use of military means for humanitarian purposes can only be undertaken if the Security Council determines that there is a threat for the international peace, violation of peace or acts of aggression. At the moment, the intervention by the member states with the authorization of Security Council is the only available option. Since the term *threat for the international peace and order* is not clear, the UN Charter leaves to Security Council to assess freely when one situation represents a threat to international peace. Finally, there is no option that allows the Court of Justice to review the decisions made by the Council (Slomanson 2003:278).

The secondary responsibility for keeping the world peace and security remains in the competence of other UN bodies, mainly to General Assembly and regional and international organizations (Cassese 2002: 298).

## SECONDARY RESPONSIBILITIES OF OTHER UN BODIES FOR PEACE KEEPING

If the Security Council, as competent body to make a decision to undertake a humanitarian intervention, is not in a position to decide, the alternative bodies that are obliged to do so are the General Assembly and the regional organizations.

### General Assembly

In 1950, the General Assembly adopted the Joint Resolution on Peace (Evans and Sahnoun 2001: 52), in which its additional secondary responsibility was established for keeping international peace and its competence to give recommendations regarding the measures that are necessary for keeping or establishing peace. The central part of the resolution provides the competence of General Assembly - to decide in situations where Security Council, due to the absence of the unanimous approval of the permanent members for a particular issue, fails to carry out its primary competence (keeping international peace and security) regardless of where the threat appears. The General Assembly should immediately analyze the given situation and in an extraordinary special session has to bring recommendations to the member states for undertaking collective measures, including the use of military force in order to establish or implement the international peace and security (Evans and Sahnoun 2001:53).

During the 1950's, at the time of stagnation (*cul de sac*) of the work of Security Council, the General Assembly, based on the Joint Peace Resolution, took the task of keeping the peace by convening special sessions, calling for the withdrawal of forces, etc. Despite that, no recommendations were adopted on the basis of the resolution on taking collective military measures. Today, this resolution has lost many of its significance.

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4 Article 96 of UN Charter

The Joint Peace Resolution does not, however, represent legal basis for authorizing a humanitarian intervention. In accordance with the practice of Security Council, the humanitarian danger may be a threat to peace, but the resolution foresees only the competence of the General Assembly to give recommendations for military action in the event of threats to peace or in the case of aggression. The General Assembly may give recommendations only for non military measures. According to the resolution, the recommendation of General Assembly does not constitute a legal basis which allows the use of force.

Although it is generally agreed among the UN bodies that Security Council has exclusive competence in undertaking or giving authorization to take action, meanwhile the authorizations of General Assembly are not strong enough in order to determine whether the action will be undertaken, the decision of this a body, if supported by a larger number of member states, nevertheless ensures a high degree of legitimacy of the decision to undertake humanitarian intervention and influences the position of Security Council, by which it forces it to review another possibility for making a different decision from the previous one (if it is made at all), for the same issue (Evans and Sahnoun 2001:55).

Although, according to the common Resolution for Peace (United for Peace), the decision-making process is complex because it requires approval of 2/3 of member states, which still represents an alternative mechanism that functions in case the Security Council cannot make a decision.

## **Regional Organizations**

The second alternative is undertaking a collective intervention (in case the Security Council and the General Assembly haven't made a decision on the same issue) by regional organizations.

The UN Charter recognizes the role of regional organizations in Chapter VII. It also points out that not a single action can be taken without prior authorization of Security Council with the exception of measures provided in Article 107 or in regional agreements that take place against the state<sup>5</sup>.

## HUMANITARIAN INTERVENTION WITHOUT THE AUTHORITY OF SECURITY COUNCIL

### **Humanity vs. the state sovereignty**

The dilemma either to uphold the principle of sovereignty and to leave states to act arbitrarily or to give priority to protection of human rights through undertaking of humanitarian intervention, regardless if it is authorized or not, is a subject of many discussions among legal experts.

Here we talk about the clash of ideas on humanity and the sovereignty of the states.

<sup>5</sup> Član 53, Povelja Ujedinjenih Naroda, Beograd

The undertaking of humanitarian interventions, independently of whether it was previously authorized by the Council, clearly indicates that today more importance is given to the protection of human rights than the sovereignty of the states.

Evidence of a decrease of significance of the sovereignty of states is the evolution of this concept from absolute to extremely relative.

My personal opinion is that today the sovereignty of the states is relative due to the fact that the vast majority of countries in the world depend on the bigger countries, especially the small countries. If the big powers create an international legal order through legal rules, then they also impose the rules of behaviour of the countries on the international scene. If some countries have opposite policies to those of the big powers, they risk their own existence as they cannot fulfil the conditions imposed by the bigger countries. The birth and disappearance of states is a fact rather than a legal issue, and the facts emphasize that without directives and assistance from the big countries, the existence of states is brought into question.

Undertaking armed interventions in situations where certain dictatorship regimes conduct ethnic cleansing in their countries becomes a perceptible option for a large number of countries in the world. According to them, the traditional understanding of sovereignty of the state should be abandoned in situations of genocide and serious violations of human rights.

In this lines are the views of the Institute for International Studies at the Brown University in USA which emphasizes eight principles that are related to the humanitarian action in times of armed activities. Among them, the most specific is the principle of “subsidiary sovereignty”. In accordance with this principle, in situations where the need for humanity and sovereignty clash, then sovereignty should be given up before the need for assistance of the people who are victims of the armed acts.<sup>6</sup>

On the other hand, the prediction of state sovereignty is emphasized. The “Peace Agenda” report of 1992 states that even in situations of internal crises and violations of the rules of international law, the UN is obliged to respect the sovereignty of the state, thus each procedure with which state sovereignty is violated, is considered against the principle of the UN. Also, the resolution of the General Assembly 46/181 of 1991 states that the humanitarian intervention and assistance provided to the countries during armed conflicts should be carried out while at the same time respecting the principle of humanity, neutrality and impartiality, while sovereignty, territorial integrity and national unity of states should be respected in accordance with the rules provided for in the UN statute. In such a case the state sovereignty is not put into question nor it violates the provision of Article 2 paragraph 7 of the Charter with which the intervention of the UN in the internal state matters is prohibited (Evans and Sahnoun 2001:12).

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<sup>6</sup> Listed are the principles of humanitarian action in armed conflicts: aid to the individuals whose life is threatened, proportionality, impartiality, independence, responsibility, adequacy of sovereignty

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## JUSTIFICATION FOR HUMANITARIAN INTERVENTION WITHOUT AUTHORIZATION OF THE SECURITY COUNCIL

The point of reference for the legality of humanitarian intervention without prior authorization from the Security Council article 2 (4) of the UN Charter, derives from the general ban on the use of force in international relations.

Article 2 (4) should be interpreted as general prohibition on the use of force between the states in their relations, without any exception but in the cases envisaged in the UN Charter, and consequently the humanitarian intervention without the prior authorization of the Security Council is prohibited. (Wallace 1986: 217).

A large number of legal experts (from US) defend and develop the thesis for humanitarian intervention without prior authorization from the Security Council. One of the arguments that they use, is that the humanitarian intervention is not in the contradictory nature of Article 2 (4), because it does not contradict the territorial integrity or political independence of the state, and is not in contradiction with the principles of UN but on the contrary, is in accordance with one of the main objectives of the UN, the promotion of the protection of human rights (Article 1 (3)) (Wallace 1986: 217).

An additional argument is that humanitarian intervention is not incompatible with Article 2 (4), as long as it is based on the obligation of Member States to maintain the international peace and security in a situation where the Security Council does not have the ability to perform its tasks.

In a situation where the government brutally violates civil standards and general principles of human rights, it is considered that each state (which is not party to the dispute without the prohibition of Protocol II of 1977) is empowered to take significant steps toward humanitarian intervention, even though such action represents intervention in the internal state matters.

From this, it is clear that it is permitted to eliminate the bigger evil through the lesser evil, namely to commit a smaller international offense in order to eliminate a bigger international crime. With this thesis, humanitarian intervention is justified only in situations of extreme necessity.

The current practice of humanitarian interventions undertaken without the prior approval of the Security Council reaffirms a new customary right which permits interventions with a legitimate excuse. However, we cannot freely speak of an intervention without a mandate on the UN as a generally accepted practice. The development of the contemporary international law is characterized by the inclusion of new negotiating rules and not with the unwritten rules. It is very difficult to enact a new international custom, which at the same time is against the basic principles of the UN Charter.

Regardless of the fact that humanitarian intervention without authorization from the US Security Council is very problematic, it is a fact that the sometimes in practice there is a blockade of the Council because of the different interests of the existing members. With the aim to minimize or escape the potential misuse of such a defect at the United Nations, as well as due to the possible legalization of planned and executed humanitarian interventions before the international community, it is necessary to assess the existence of material and

legal prerequisites for undertaking such an action.

As long as the intervening countries have a previously provided assessment of the impartial authorized institution, agency or body at the United Nations, that in the country where the intervention is taking place there is an essential and systematic breach of human rights and the rules of international humanitarian law, violations that threaten the peace and security and as long as the use of adequate force is required to achieve exclusively humanitarian aims, in this case the problem may be reduced to procedural error and the omission of authorization by the Security Council for the presumption of humanitarian intervention can be treated as procedurally lacking in an uncontested character.

Thus, the legal fate of the humanitarian interventions, and their consequences, which are carried out without prior approval of the Security Council should depend on the intentions of the participants in the intervention and the justification for its undertaking. If the UN Security Council additionally finds that the intervention itself does not have a humanitarian character and represents a violation of international peace and security and an act of aggression, then the required measures, as envisaged in the UN Charter for such cases, are taken.

#### ARGUMENTS FOR AND AGAINST HUMANITARIAN INTERVENTION WITHOUT THE SECURITY COUNCIL APPROVAL

The events from recent history are imposing the view that the future of humanitarian intervention will be subject to case-by-case decisions, whereof the taking of such an action without the authority of the Security Council becomes a legitimate option. Supporters of the idea that the humanitarian intervention can be undertaken without prior authorization from the Security Council, use strong moral and legal-political arguments for the legitimacy of the humanitarian intervention<sup>7</sup>:

1. The first argument is that the humanitarian intervention is undertaken on the behalf of protecting humankind and its dignity; whence, there is a moral justification behind it;
2. The intervention protects the moral legitimacy of international law
3. Although the procedure is not followed, an unjust act is performed to correct a greater injustice (extreme necessity). In other words, the humanitarian intervention constitutes a "legal violation" of international law with the intention of preventing or ending more serious violations of international law.
4. The humanitarian intervention does not violate the sovereignty of the states. The basis of the sovereignty of a state consists of its territorial integrity and political independence. The humanitarian intervention has a strict, limited and purely humanitarian goal.
5. The humanitarian intervention can increase the level of respect for human rights in the states. The absence of humanitarian intervention in cases of genocide, massive

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<sup>7</sup> Danish Institute for International Affairs, *Humanitarian Intervention, Legal and Political Aspects*, Copenhagen, 1999, p. 99.



and systematic violations of human rights may encourage states to act with unlawful forceful methods. However, the humanitarian intervention actions, compels states to consider the level of respect of the human rights and seek peaceful solutions to conflict situations.

6. The need for the enforcement of international law when the Security Councils can not perform its duties. The existence of an automatic and absolute limitation of humanitarian intervention by delegating powers to the Security Council may lead to paralysation of the whole security system of the UN. Consequently, there may arise situations in which a quick reaction is needed without requiring prior authorization by the Security Council in order to re-establish peace or to prevent a major violation of human rights.
7. The existence of an automatic and absolute obstacle for the humanitarian intervention by the Security Council can be abused. If a state that commits the massive violations of human rights or genocide is an ally of one of the member states with a veto able power (which can prevent a decision on humanitarian intervention), with certainty can be said that a proper action against the perpetrator state cannot be brought. The supporters of this idea say that states that oppose the use of force without prior authorization from the Security Council aim to exclude the possibility of applying individual and collective rights.

On the other hand, opponents of the humanitarian intervention undertaken without prior authorization from the Security Council, also use compelling political and legal arguments against humanitarian intervention and especially humanitarian intervention without the authority of the Security Council.<sup>8</sup>

The arguments that are used are briefly discussed below:

1. Humanitarian intervention threatens the international legal order. It may provoke the general international prohibition of the use of force, and may put the collective security system at risk, and may violate the basic principles of the current international legal order.
2. The humanitarian intervention taken without prior authorization from the Council increases the risk of division between the permanent members of the Security Council. The veto right of the permanent members of the Security Council is a legally recognized fact that the use of force for purposes that are contrary to self-defence must be subject to the consensus of the great powers.
3. It leads to undermining of the authority of the Security Council. If states support the policy that the authorization of the Security Council is desirable but not compulsory for undertaking a humanitarian intervention, it can at any time undermine the role of the Security Council as the only centre that is competent to take a decision on use of force for humanitarian purposes.
4. Humanitarian intervention may threaten the political order in weaker states. The frequent use of humanitarian intervention can encourage the unsatisfied groups to use force against the government forces.

<sup>8</sup> Danish Institute for International Affairs, *Humanitarian Intervention, Legal and Political Aspects*, Copenhagen, 1999; p. 101.

5. In the majority of cases, humanitarian interventions are taken by stronger states against weaker ones. Accordingly, the humanitarian intervention is seen as an action that reflects the inequality of states in the international scene, which, on the other hand, is contrary to the basic principle of equality of states
6. The permission of an intervention without prior authorization of the Security Council increases the risk of abuse of the same for political purposes.

The critics of humanitarian intervention undertaken without an authorization of the Security Council believe that it is a mistake that violates the principle of non-interference. According to them, an intervention without prior approval by the Security Council is illegal. Circumventing the Security Council in order to avoid the veto is equated with the violation of the Constitution in a national legal order. The disregard of the principle of the use of force other than self-defence can cause uncertainty and tensions in relations between states and may undermine the International order (Janis1999: 187).

The deliberate violation of the UN's charter as a legal act with universal validity threatens the functionality of the entire international system.

If the view that any state can individually undertake a humanitarian intervention is accepted, the right to use force is returned at a time when the use of force for the settlement of disputes was permitted. A humanitarian intervention outside the framework of the UN Charter, i.e. without a prior authorization from the Security Council, can encourage strongest political and military states to take arbitrary actions.

Finally, in spite of the absence in the current international law of a legal basis for humanitarian intervention without the authorization of the Security Council, it is difficult to expect that states will refrain from such actions in the foreseeable future, if it is assessed that it is necessary and based on political and moral grounds.

## CONCLUSION

Undertaking military intervention or not, is a question that affects all countries in the world in situations of gross violations of human rights and the rules of international humanitarian law, especially the states that have resources and means for direct engagement in the resolution of such situations. For many countries, the answer is simply negative. The justification is that these crimes do not occur on their territory and it is not worthy that their soldiers die trying to restore peace and security in other countries. The most powerful countries should actively be involved in the prevention and ending of situations of gross human rights violations, which at the same time represent a shame for the whole civilized world. The most powerful countries should intervene because they have the necessary capacity to maintain the peace and security in the world.

The best solution is to undertake humanitarian interventions at multilateral level. Although multilateral interventions do not guarantee that the cessation of transgressions, they are still expressing the attitude of a growing number of countries in the world, which

does not leave space for new divisions, particularly amongst great powers.

Considering the fact that the United Nations is a large organization with a large number of administrators, the decision to undertake military action can be very slow. Hence, it would be of paramount importance to define an exact period of time in which the Security Council should bring a decision on undertaking or not a military humanitarian intervention.

I recommend that the international community should allow individual humanitarian interventions but only when it can be proved in front of the General Assembly of the UN that there are not any hidden intentions and claims by the state which is undertaking the intervention.

It would be preferable in the decision-making process, in cases when the disagreements between the permanent members of the Security Council are visible, to foresee the possibility of involvement of international institute that enjoys a great international reputation, as auxiliary of the process of adopting decisions for undertaking military (humanitarian) interventions.

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**EFFECTS OF EMPLOYEE TRAINING AND DEVELOPMENT ON FIRM  
PERFORMANCE: EVIDENCE FROM SUCCESSFUL COMPANIES IN THE  
REPUBLIC OF NORTH MACEDONIA**

**Abstract**

Employee training is an indispensable strategic tool for enhancing business performance and creation of a sustainable competitive advantage. The main purpose of the training is to develop employee's knowledge, skills and abilities, which eventually results in improved organizational and financial performance. The present study examines the association between employee training and firm performance in the best performing companies in the Republic of North Macedonia. We specifically suggest that investments in employee training, by adopting various sets of training practices, may have a positive effect on firm profitability.

The research hypothesis was empirically tested on a sample of 59 private sector companies in diverse industries. The sample was drawn from the target population of the 200 most successful companies in the Republic of North Macedonia. Data collected from the respondents was analysed by applying statistical methods. The results indicated weak but a statistically significant positive correlation between the two researched variables. Moreover, the research results show some evidence that employee training is confirmed as a predictor of profitability. Also, findings revealed that the various aspects (practices) of

the overall employee training and development construct have a significant strong positive correlation with each other, suggesting that the effects of training practices are stronger when used simultaneously, in combination with each other. The research highlights the need for businesses to be focused on and invest more in building **employee** competences in order to attain better bottom-line results.

**Keywords:** Employee training and development, profitability, Republic of North Macedonia.

## INTRODUCTION

The business world today is characterized by market globalization, technological changes and increased number of competitors. Such external factors affect the business success of firms. Since they are not able to control those factors, companies turn to that which can be controlled – their internal resources. In their efforts to achieve sustainable competitive advantage, they are forced to continually rethink the organization of their work and intervene through continuous development of the internal organizational capabilities. Strategic management theory proposes that companies will be able to respond to this challenge if they succeed in their efforts to acquire and use valuable, rare and inimitable resources (Barney, Wright, and Ketchen, 2001). Bearing in mind that human resources may be important organization assets, it is imperative for companies to build competitive advantage through these organizational resources. Consequently, the effective management of human resources is imposed as the main task (Guest et al., 2003).

Among other HR practices used for HR development, training is considered as one of the most important activities. Strategic human resource management theory has already confirmed that successful firms are distinguished by, among other things, the strong dedication to training and development of their employees (e.g. Huselid 1995; Wood and de Menezes 2008). The experiences of firms in developed economies demonstrate their increasing acknowledgment of the need for training and development of knowledge, skills and capacities of their employees.

In the Republic of North Macedonia, however, the situation is far from satisfactory. In general, Macedonian firms face two main challenges they need to address in order to be competitive at regional markets: unfavourable external economic and social conditions, and, not infrequently, weak internal capabilities. Although there is an increased understanding that employee training is an important element for the implementation of business strategies, this activity is still considered as an expenditure rather than an investment with long-term benefits. In the Republic of North Macedonia as a developing country, work force competitiveness is one of the important factors affecting economic growth. The current conditions of the labour supply and demand, which directly affect firms, imply that: 1) the number of job positions requiring less knowledge and skills is declining while the number of job positions requiring more knowledge and skills is on the rise, and 2) the external labour market has a scarce offer of educated workers that possess the specific skills required by the firm. These facts point out that the investment in training should become a priority for those with a strategic intention to be competitive.

In the context of Macedonian economy, which is small and limited by many external and internal factors, the speed and manner of developing the work force are becoming a strategic issue. Companies, in their efforts to increase their performance results and business success, should accept the inevitability of larger investments in training and development due to the fact that the existing labour market has a shortage of skilful and knowledgeable workers demanded by companies. Experiences of successful Macedonian firms show that management engages in and aware that employee training and development is of strategic importance and should be placed higher on the business agenda.

Following the pragmatism of the firms, we refer to the statement made by Baron and Kreps (1999:372), according to whom the theory of human capital explains the need for employee training in a simple manner: “*Firms train workers (and pay for the training) if doing so enhances the firm’s profits.*” The main reason why firms are problematizing the investment in employee training and development is the lack of an appropriate system that would measure the return on training in terms of changes in financial results as the direct consequence of the training activities.

Taking into consideration the above-mentioned situations, the objective of the paper is to analyse the impact employee training and development have on performance results. Additionally, drawing on the strategic human resource management (SHRM) theory, and considering the training as a high-performance practice, the paper attempts to highlight the causal relationship between employee training and development and firm profitability in the Macedonian context.

## REVIEW OF LITERATURE AND FORMULATION OF HYPOTHESIS

### **Strategic Human Resource Management (SHRM) and Organizational Performance**

In practice, companies are dominated by the approach that human resources (HR), as a work force and a business function, is treated as the biggest operative expenditure requiring control (to be minimized), and, at the same time, as a potential source of bigger efficiency. In order to cut the labour costs, there is a constant reduction in job positions and expenditures on the work force. Contrary to this, there are rare cases where HR is considered as a potential strategic source of value creation.

In the last few decades, alongside this situation in practice, researchers have developed a new interest in HR as a strategic impetus in the process of value creation with potential significant economic effects on bottom line results. The focus of SHRM is the form and structure of HR policies and practices leading to skilled, motivated and flexible workers able to deliver added value to the firm. The strategic approach to HR, as a factor of success to the organization, is becoming an increasingly popular research approach founded on the belief that the function of HRM must demonstrate strategic responsibility, i.e. demonstrate the manner in which it contributes to the implementation of the organization’s mission and goals.

The extensive research generates empirical support to the assumption that HR, provided there is investment in its development, can be the source of competitive advantage. Much of this research has demonstrated statistically significant relationships between measures of HR practices and firm profitability (Huselid, 1995; Delery & Doty, 1996; Huselid, Jackson, and Schuler, 1997; Huselid and Becker, 1997; Boselie *et al.*, 2001; Wright *et al.*, 2002; Guest *et al.*, 2003.). According to the meta-analysis by Combs and his colleagues, 92 studies made by the year 2006 showed relevant statistics on the association between high-performance work practices (HPWPs) and organisational performance. The results demonstrate that: HPWPs enhance organizational performance and that, contrary to



assumptions in SMHR theory, measurement of operational performance does not show stronger effects than measurement of financial performance. Organizations can increase performance by 0.20 standardized units for each increased unit of HPWPs (Combs et al., 2006). A few significant studies are presented below. Among the first and most influential studies is the one made by Huselid (1995), which estimates in detail the connection between the system of HPWPs and the performance of the organization. The results based on a national sample of approximately 1000 organizations in the USA show that these practices have economically and statistically significant effects on the immediate employee results (employee fluctuation and productivity) as well as on the corporate financial performance. According to the findings, HR practices that enhance skills, such as selection and training, are related to employee fluctuation and performance (Huselid, 1995). Another study, exploring the influence of HR practices and organizational commitment on business unit operating performance and profitability, discovered that HR practices were strongly and significantly related to operational measures of performance as well as to operating expenses and pre-tax profits (Wright *et al.*, 2002).

Empirical studies conducted in Europe show similar results. In the framework of the research on the use of HPWPs in the Netherlands, Boselie concluded that a large number of Dutch firms had already adapted most of the high-performance work practices, previously selected by Pfeffer, who argued that their adaption would result in higher productivity and profit for all types of organizations (Pfeffer, 2005). This is due to pressures imposed by legislation and institutional factors, while at the same time, compared to firms from other countries in the European Union, Dutch companies show higher level of performance than the European average (Boselie *et al.*, 2001). On the other hand, according to research done in the UK, there is no significant correlation between HR practices and labour productivity, however there is a significant correlation between HR practices and profitability (profit per employee), even though, with regard to employees, this is a more distant measure than the measure of productivity. At the same time, it is shown that this correlation is stronger in the manufacturing sector than in the service sector (Guest *et al.*, 2003).

### **The Concept of Employee Training and Development and Firm Profitability**

Employee training is a significant component of a high-performance work system and should be considered as an important dimension in terms of the company's strategic goals (Dessler, 2005). Fast changes in external conditions force firms to place more focus on enhancing knowledge, continuous innovation and learning. Knowledge is becoming the capital and lever of economic development. Hence, training and development is an important determinant of organizational performance. Employee education and knowledge improvement is done through HR practices that pertain to training and development. Even though these terms overlap in practice, in theory they have different meanings. Training means acquiring knowledge, skills and abilities with the purpose of increasing worker's current individual performance, while employee development refers to investing in knowledge for the future needs of the individuals and the organization. Noe defines training as a "*planned effort by a company to facilitate learning of job-related competencies, knowledge, skills, and behaviors by employees*" (Noe, 2017:8). Employee development has

an individual dimension, such as achieving individual goals and career development, but it also has an organizational dimension which is related to fulfilment of strategic goals.

In empirical research it is often impossible to test one without the other due to their close interconnectedness and dependence. Employee training and development is important for building a skilful and flexible workforce, which is the main factor for achieving high performance. Comprehensive training and activities for employee development improve performances in many ways. Through the enhancement of employee's skills, knowledge and abilities, the following can be achieved: 1) better performance of work tasks; 2) enhanced sense of bigger responsibility and creativity, as well as motivation for performing work tasks, and 3) increased satisfaction from the work and work environment. The formal system of training and development contains programs based on systematic review of competences. These programs include a certain number of courses that the employees need to attend in order to gain technical knowledge, problem solving and interpersonal skills (Delery and Doty, 1996). Successfully trained workers possess skills to personally control their work, which decreases the need and costs for supervision. Multi-skilled workers, due to the broad knowledge based on skills in many areas, adjust easily to new work tasks and allow bigger functional flexibility of the firm and bigger adaptability in newly developed situations. According to Noe (2017), cross-training, as an HR practice, aims at creating multi-skilled workers, and involves training employees in a wide range of skills in order for them to be able to fulfill any of the team roles and tasks. The same author describes the concept of cross-training as *"a training method in which team members understand and practice each other's skills so that members are prepared to step in and take another member's place should someone temporarily or permanently leave the team; also, more simply, training employees to learn the skills of one or several additional jobs."* (Noe, 2017:516). Cross-utilization practices and cross-training lead to acquiring a broader range of skills and enable employees to perform different work tasks (Pfeffer, 2005).

More specifically, empirical research on the relationship between employee training and development and profitability is rarer than research regarding the overall relationship between HPWPs and organizational performance. One of the reasons for this is that the return on the investment in training is harder to quantify due to the problem of quantifying the intangible (Aragón-Sánchez *et al.*, 2003). However, there is still evidence of this relationship.

In order to have a clear idea about the relationship of training and organizational performance, this paper introduces the empirical results of studies examining the causal link and effects of training on performance results. Using a sample of 457 European SMEs, Aragón-Sánchez and colleagues (2003) argue that companies investing more in employee training, i.e. including a larger number of employees in training activities, have better results in profitability than those investing less. Another study, based on British 2004 Workplace Employee Relations Survey (WERS), affirmed that the relation between training and financial performance is positive but complex at the same time, and it depends on the measures applied for training and the performance variables (Jones *et al.*, 2009). Building upon the theory of human capital, empirical research conducted by García (2005) confirmed the effects of training on business performance. Namely, the analysis showed that the implementation of training policies aiming at human capital development positively

affected the index of owner/shareholder satisfaction (where increased profitability is one of the index variables). The Bassi and associates study (2002) confirms the importance of human capital, or more specifically, it suggests that investing in training is a factor in the organizational financial performance, while Glaveli and Karassavidou (2011) claim that training affects profitability (value for shareholders) through a certain value chain based on the concept of a balanced scorecard and service profit chain.

Consequently, this research intends to answer two basic questions:

1. To what extent is training and skills development present in successful firms? and
2. Whether organizational financial performance is related to training and, if so, what is the strength of the relationship between them?

With regard to all of the aforementioned, the general hypothesis is proposed: *Training and skills development practices have a direct positive impact on firm profitability in the best performing Macedonian companies.*

## RESEARCH METHOD

### Sample and Data Collection

The research sample is convenient and was drawn from the target population of the 200 most successful public and private sector companies in the Republic of North Macedonia (RNM), in accordance with the criterion of pre-tax profit (data published in the edition “200 largest and most successful companies in Macedonia, 2010” by Euro Business Center - Skopje)<sup>1</sup>. The edition contains the 200 largest (ranked by total revenue) and most successful (ranked by profit before income tax) companies (public and private), according to the financial indicators derived from authorized financial institutions of RNM. The sample size is 58 companies. The 17 companies from the public sector did not participate in the sample due to their monopolistic position. Out of the rest of the companies included in the research, more than 80 were contacted (companies that accepted the communication) and 59 agreed to participate in the survey. They belong to different industries in the manufacturing and service sectors. Multi-sector analysis was opted because the activity sector can largely influence HRM practices, and, of course, training practices. The unit of analysis is the company as a whole.

A quantitative method was applied in the survey. For the independent variable, as well as for the control variables, the data, such as demographic characteristics of the respondents, company's features, and frequency of using diverse training practices in the company, were collected using structured interviews (standardized interviews) (Bryman, 2011). The research instrument (a questionnaire) integrated two sections. The first section includes questions that refer to the respondent (job position, number of years in that position, total number of years at the firm) and to the characteristics of the firm as a whole (controls: sector, ownership structure, number of years of existence, number of employees, degree

<sup>1</sup> [http://www.eurobc.com.mk/en/utd\\_200.html](http://www.eurobc.com.mk/en/utd_200.html)

of competition). The second section comprises of statements regarding employee training and skills development practices (employee training scale). The respondent was the HR manager or some other person in charge of HR (since some companies do not have human resource managers or at least human resource specialists) who is also qualified to provide general information about the firm, as well as accurate information on the employee training and skills development practices. The job position of the respondents is presented in Table 1.

**Table 1.** *Job position of the respondent in the company*

Respondents' job position	Frequency	Percent	Cumulative Percent
CEO (General Manager)	8	13.6	13.6
Head of Finance	5	8.5	22.0
Head of Sales	6	10.2	32.2
Head of Production (manufacturing)	7	11.9	44.1
Head of Legal Affairs	10	16.9	61.0
Human Resource Manager	23	39.0	100.0
Total	59	100.0	

The interviews were conducted face-to-face. The decision to personally handle the interviews was made because personal contact helps ensure a higher response rate to the questionnaire.

Regarding the dependent variable, firm profitability, secondary analysis of data was applied. Data on the pre-tax profit as a financial indicator, derived from authorized financial institutions and collected by Euro Business Center - Skopje<sup>2</sup>, was used with regard to the firm profitability.

## MEASUREMENTS

### Employee Training and Development

The key questions were how to determine practices referring to training and how to best identify and measure them. For that purpose relevant literature was consulted, the key empirical research related to HPWPs, more specifically we analysed practices on training and skills development (Huselid and Becker, 1997; Delery and Doty, 1996; Guest *et al.*, 2003; Pfeffer, 2005; Combs, 2006; Wood and Menezes, 2008; Guthrie *et al.*, 2009). Items were selected from the research instruments used in previous empirical studies and were then translated and adapted.

The predictor variable, employee training and development, is operationalized by using

<sup>2</sup> [http://www.eurobc.com.mk/en/utd\\_200.html](http://www.eurobc.com.mk/en/utd_200.html)

a five point Likert scale (1 = never to 5 = always) measuring the frequency with which the firm organized and performed diverse training activities for its employees in the last three years. The employee training scale (Table 2) measures different aspects of training practices, such as: planning and implementing training in current and future needs of the firm; career advancement and promotion opportunities; job induction and on-the-job-training during the first year of employment. Also, other practices were included, such as training on: firm-specific skills; variety of jobs or skills (cross-training) and routinely performing more than one job (cross-utilization); quality management in product/service; team work; and general skills such as leadership, communication and conflict resolution skills. All these training practices were measured with eight items. The higher score for each item indicates more frequent use of a given practice.

**Table 2.** *Employee training scale*

In the past three years, how often has your organization planned, organized and implemented trainings that relate to:	Never (1)	Rarely (2)	Some- times (3)	Often (4)	Always (5)
1. Training for current and future needs of the company?					
2. Training on career advancement and promotion opportunities?					
3. Job induction and on-the-job-training during the first year of employment?					
4. Training on tasks specific to the sector/department?					
5. Training in variety of jobs or skills (cross-training) and routinely performing more than one job (cross-utilization)?					
6. Training on managing product/service quality?					
7. Team work training?					
8. Training in leadership, communication skills and conflict resolution skills?					

The employee training scale was found to be highly reliable. Cronbach's alpha for the scale (8 items) is 0.85.

### **Profitability**

Consistent to relevant past studies, this research introduced the dependent variable - profitability as an objective measure of performance (Guest et al., 2003; Guthrie et al., 2009; Huselid, 1995; Huselid and Becker, 1997). Profitability refers to the generated accounting/financial bottom line results. In the research of the relationship between HRM and organizational performance, the performance concept is treated in different ways. Certain indicators of financial performance, such as return on investment (ROI) are considered as key measures. Huselid tries to surpass the problem of potential inconsistency in accountancy data by using market indicators such as Tobin's Q (Huselid, 1995). These measures cannot be applied in this research because a significant number of the firms are not quoted, so it is difficult to determine their market value. Therefore, the variable firm profitability was measured by the profit per employee indicator. This indicator is considered to be in a way closely related to the employees because it is of essential importance as to whether a specific profit is attained with a smaller or larger number of employees. The variable, firm profitability, is operationalized as the ratio between the pre-tax profit and the number of employees in the firm. The resulted value is transformed into a natural logarithm (Ln), (Guest *et al*, 2003).

### **Control Variables**

Having in mind that a variety of external and internal (organisational) factors can cause variations and may affect the HR system as well as the firm profitability, several control variables have been included (Guest *et al*, 2003; Guthrie *et al*. 2009). They are the following: sector of economic activity (production/services), ownership structure (domestic/foreign ownership), company age (operationalized by using the Ln of years of existence on the market), company size (operationalized by using the Ln of number of employees) and market competition (from 1 = no competition to 5 = very big competition).

SPSS (Statistical Package for Social Sciences) and appropriate statistical operations were applied to analyze the survey data.

## **RESULTS AND DISCUSSION**

### **Descriptive Analysis of the Research Sample**

Concerning the sector of economic activity, descriptive statistics of the research sample shows that a total of 59 companies, 34 (57.6%) belong to the production sector and 25 (42.4%) are service companies.

The frequency of the companies in terms of industry sectors shows that the sample is dominated by companies from the manufacturing industry – 29 companies or 49.1% (see Table 3).

**Table 3.** *Structure of the sample according to the industry sector*

Industry sectors	Frequency	Percent	Cumulative Percent
Manufacturing	29	49.1	49.1
Wholesale and Retail Trade	19	32.2	81.3
Information and Communication	3	5.1	86.4
Agriculture	2	3.4	89.8
Mining and Quarrying	2	3.4	93.2
Transportation and Storage	2	3.4	96.6
Construction	1	1.7	98.3
Professional, Scientific and Technical Activities	1	1.7	100.0
Total	59	100.0	

Ownership of the companies, in terms of whether the company is dominantly domestic or foreign investment, was also taken into consideration in order to determine the possible impact of the ownership type on the level of adopted training practices. The companies' frequency, according to the ownership type, reveals that both types are almost equally represented in the sample: companies with domestic capital (100%) participated with 55.9% (33), while companies with predominantly foreign capital (more than 51%) represent 44.1% (26).

The following table (Table 4.) shows the age structure of the companies in the sample. It is noticeable that more than a third of the surveyed companies have over 25 years of market experience.

**Table 4.** *Structure of the sample according to the company's years of existence on the market*

Years of existence (grouped into age categories)	Frequency	Percent	Cumulative Percent
6-15 years	21	35.6	35.6
16-25 years	15	25.4	61.0
More than 25 years	23	39.0	100.0
Total	59	100.0	

The size of the companies is measured by the number of employees. Namely, the smallest company has 14 employees while the largest one 1,265 employees. The total number of employees in the companies covered in the sample is 15,594. The structure of the sample by company size, grouped into categories, is presented in Table 5.

**Table 5. Structure of the sample according to the size of the companies**

Number of employees (grouped into size categories)	Frequency	Percent	Cumulative Percent
Under 50	7	11.9	11.9
50-99	12	20.3	32.2
100-199	14	23.7	55.9
200-499	16	27.1	83.1
500 and more	10	16.9	100.0
Total	59	100.0	

Table 6 provides the results on the degree of market competition regarding the companies studied. The results indicate that most of the companies in the sample reported big (47.5%) or very big competition (30.5%), with a much smaller number of those who have little (6.8%) or average competition.

**Table 6. Companies' frequency in the sample according to the degree of market competition**

Degree of competition	Frequency	Percent	Cumulative  Percent
Little competition	4	6.8	6.8
Average competition	9	15.3	22.0
Big competition	28	47.5	69.5
Very big competition	18	30.5	100.0
Total	59	100.0	

#### DESCRIPTIVE STATISTICS ON THE EMPLOYEE TRAINING AND DEVELOPMENT VARIABLE AND HYPOTHESIS TESTING

The descriptive analysis shows that employee training and development practices are partly adapted in successful Macedonian firms. The scale mean value for employee training and skills development is  $M = 3.4$ . Firms often employ the following practices: job induction and on-the-job-training during the first year of employment ( $M = 4.66$ ), as well as training for current and future needs of the firm ( $M = 4.19$ ). Rarely employed practices are: leadership training, communication skills and conflict resolution ( $M = 2.46$ ); team work training ( $M = 2.69$ ); as well as training in a variety of jobs or skills (cross-training) and



routinely performing more than one job (cross-utilization) ( $M = 2.78$ ). The other three practices are “occasionally” applied: training on managing the product/service quality ( $M = 3.25$ ); training on tasks specific to the sector/department ( $M = 3.66$ ); training on career advancement and promotion opportunities ( $M = 3.73$ ).

The average of each item on the employee training scale is presented in Figure 1.

**Figure 1.** *The mean value of each item on the employee training scale*



The results of the Pearson’s correlation between items on the scale for employee training and skills development revealed important specifics in the relationship between the different practices. The findings confirm a statistically significant positive correlation, which points to their interdependence. This confirms the assumption that the training and skills development practices are significantly connected, which suggests that their effect may be larger if employed jointly, as a system.

Item-total correlation, which is the Pearson product moment coefficient between the responses for the reported item and the participants’ total scores, shows moderate to strong positive correlation at the 0.01 level. Higher positive values for the item-total correlation indicate that the item is discriminating well (see Table 7).

**Table 7.** *Pearson’s  $r$  values for the item-total correlation*

Items	Employee training scale							
	1	2	3	4	5	6	7	8
Pearson’s $r$	.687**	,599**	,385**	,790**	,759**	,765**	,777**	,801**

\*\* Correlation is significant at the 0.01 level (2-tailed)

In order to explore the relationship between the research variables, a bivariate correlation was first conducted (Pearson’s  $r$ ). The results show that employee training and development is in a statistically positive correlation with profitability ( $r = 0.26$ ;  $p < 0.05$ ).

Additionally, the results from the test of the association between the predictor variable, training and skills development practices and controls variables do not confirm a significant correlation with any of the control variables included in the research.

Regarding the association of control variables with profitability (criterion variable), only the variable the degree of competition shows a significant moderate correlation with profitability and it correlates in a negative direction ( $r = -0.362$ ;  $p < 0.01$ ). It is important to underline that, according to the correlation coefficient, the degree of competition (control variable) is more strongly connected to profitability than the employee training and development practices (predictor variable). These findings can be interpreted in two ways, from the aspect of the firm and from the aspect of the organizational and broader landscape of the firm. Namely, the firm's insufficient efforts in enhancing internal capacities, such as human resources and suitable practices of employee training and development, render its competitiveness problematic. On the other hand, the degree of competition the firm faces on the market is a factor connected to its bottom line results (profitability, among others), but also, as an external factor it is objectively conditioned and the firm has quite small or insignificant control over it.

In order to explore the differences among the groups in the degree of the competition variable, referring to the profitability of the firm, the statistical operation Analysis of Variance (ANOVA) was employed (see Table 8).

**Table 8.** Differences in groups in degree of competition referring to profitability (ANOVA)

	Profitability (Ln)				
	Sum of Squares	df	Mean Square	F	Sig.
<b>Between Groups</b>	22.530	3	7.510	3.168	.031
<b>Within Groups</b>	130.404	55	2.371		
<b>Total</b>	152.935	58			

Since the results of the analysis of variance show a significant F ratio, a posteriori (post-hoc) comparison of the arithmetic means was made using the Duncan test, suitable for smaller samples. The effect of the degree of competition firms face on the market over profitability is statistically significant ( $F = 3.168$ ,  $p < .05$ ), whereas their relationship is negative, which points to the fact that when a company is faced with increasing competition, that may affect the financial outcomes such as profitability.

Duncan's test (post-hoc) shows that profitability is statistically significantly larger in organizations that have average (13.4986) and small competition (13.5593) than those with very big competition (11.8332).

The bivariate regression analysis was carried out for testing the hypothesis. The results confirm that the training and skills development variable is a predictor of the firm's profitability. The increase in the volume of planned and realised training programs positively affects the increase in profitability ( $\beta = .264$ ;  $F = 4.277$ ;  $p < 0.05$ ;  $R^2 = .070$ ). These findings enable us to confirm the suggested hypothesis.

In addition, a hierarchical regression for testing the influence of the training and skills development and competition predictors on profitability was also carried out (Table 9).

**Table 9.** Hierarchical regression of profitability according to the control variable degree of competition and training and skills development (method Enter)

Variables	Profitability (Ln)	
	Model 1	Model 2
	$\beta$	$\beta$
<b>Degree of competition</b>	-.362**	-.389**
<b>Training and skills development</b>	/	.299*
R <sup>2</sup> ( $\Delta$ R <sup>2</sup> )	.131** (.116)	.220* (.192)
R <sup>2</sup> Change	/	.089*
F	8.612**	7.905***
F Change	/	6.385*

\*  $p < .05$

\*\*  $p < .01$

\*\*\*  $p < .001$

Training and skills development participates with additional 9% in predicting the variance in profitability, after controlling the degree of competition. Together both predictors explain 19% of the variance in profitability, where the combining of the two predictors is on a level of statistical significance ( $F = 7.905$ ;  $p < .001$ ).

The presented research findings are in line with previous empirical studies. Aragón-Sánchez and his colleagues (2003) argue that training as an HRM practice positively affects profitability. They emphasise, however, that this influence is realised only when the training is performed inside the firm (on-the-job training with an external or internal trainer) and not outside it, which, according to them, has negative influence due to the need for flexible working hours or the need for replacements while the trainee is outside the firm. They also maintain that the newly acquired competences will not have an effect if they're not directly implemented on the job or if they're not compatible with the needs of the firm. There is also a range of objective factors that affect the value of the training. According to Baron and Krepes (1999), those factors are: a) length of the period in which the employee is expected to stay with the firm; b) skills of the employee prior to training and c) the degree in which those skills are complementary to the skills provided by the training.

Employee training and development has also effects on the change in the behaviour and attitudes of the employees. Even though these effects are less visible, they create value in the social and intellectual capital of the firm and transfer the training to other employees.

## CONCLUSION

This paper aims to contribute to the exploration of employee training and development practices from the SHRM perspective. Traditionally, employee training and development activities in many companies are still considered as an expenditure rather than a strategic investment that would generate financial results, although this point of view, however, is beginning to change. The reasons can be located in the difficulties in proving causality between training and development practices with bottom line results, mostly because profitability is at the end of the causal chain and it is simultaneously influenced by many other intervening factors. At the same time, we must bear in mind the fact that the benefit and cost effectiveness of the executed training practices are not visible in the short term.

Although the research results are limited by the size of the sample (59 companies of the total target population of the 200 most successful in RNM), this study confirms that training should be considered as a factor in organizational performance. The study also contributes to the scarce empirical literature that deals with training as a strategic HR practice and its impact on the profitability of Macedonian companies. Despite all theoretical and methodological challenges in studying the relationship between training practices and profitability, it is still important to encourage and support further empirical research in exploring and identifying those employee training practices that contribute, directly or indirectly, to higher performance.

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## **SOME CONCEPTUAL LEGAL ISSUES RELATED TO THE CONFLICT OF INTEREST**

### **Abstract**

In recent years, the conflict of interests and its forms is an especially important and current topic. Therefore, it is a subject to public debate in any contemporary and democratic society. It has aroused the interest of the public, media, politicians, businessmen and all others being part of the public and private life. It also leads to raised awareness, as well as importance of the consequences it causes as harmful social phenomenon. In the beginning, the focus was put on corruption which somewhat leads to underestimating the risks deriving from the conflict of interests. Of course, that is unjustified because the conflict of interest is the one that primarily leads to corruption which, by default, is being prosecuted and sanctioned. The conflict can be perceived as a natural phenomenon which could appear and be handled adequately by any society. The officials are obligated to serve the public interest, and very often these persons appear in many roles in the social, business and political domain. At the same time they play the role of government representatives and private persons, which

could lead to conflict of interests. The public and the citizens have a legit expectation for them to conduct in an honourable, just and impartial manner and not to get included or involved in any situation which would make them look like they are in conflict.

**Key words:** conflict of interest, sources of conflict of interest; forms and categories of conflict of interest, mechanism for prevention of conflict of interest



## INTRODUCTION

Corruption and conflict of interests are related, layered and negative social phenomena and fighting against such phenomena requires holistic approach, i.e. involvement of many social factors, which would contribute via coordinated, exact, feasible, effective and efficient activities. Corruption includes conflict of interests, even though not all cases of conflict of interest are deemed to be corruption. The conflict of interests creates a system for risk management, which are crucial challenge in the fight against and prevention of corruption.

Corruption and conflict of interests are especially important topic for scientific elaboration. All societies, without exception and with different intensity and forms, have issues with these two phenomena. What we want to emphasize in their mutual relation and the fact that there is no clear distinction between them, even though they are two different things. Globally, corruption is perceived as misuse of public function for personal benefit, while the conflict of interest is perceived as performance of public duties and authorizations which are in conflict with the personal interest i.e. its partiality to the detriment of the official position and duty.

The author Londa Esadze in her study “Guidelines for Prevention of Conflict of Interest”<sup>1</sup> says that it appears in form of “bribe, extortion, clientelism, kleptocracy, nepotism and corruptive networks” and is studied as criminological problem which entails with economic, legal, political and social consequences. The studies describe conflict of interest as “public administration, political and legal problem”.

The bond between corruption and conflict of interests is in the regard that corruption may, by itself include a conflict; however, not all cases of conflict of interests are deemed as corruption. In case when one official is in conflict of interests, it does not mean, by default, that such official is also corrupted. Therefore, it is quite justified when we perceive conflict of interests as one more comprehensive politics in the context of prevention of and fight against corruption. Conflict, by itself, is key instrument in building the integrity in the public sector, defence and promotion of the rule of law and democracy.

Integrity is a serious challenge for every official; hence its connection to the conflict of interests, which, as a condition, is regulated and standardized by means of using different mechanisms and instruments. Expectations of transparency and distinction between the private and public interest are quite justified in the contemporary societies and countries. The countries which recently became democratic and whose past is filled with corruption and abuse of power, official responsibilities and authorizations are the ones that face with such challenge.

Prevention, promotion of good rule and minimizing the risks of corruption are crucial in the fight against corruption and conflict of interests. When speaking of prevention, we refer to codes of conduct for officials, method of declaring their property status, personal interests, campaigns for education and raising the public awareness and the need of ethical conduct. On the other hand, the policy for prevention should be balanced with regards to penalties and measures for law enforcement, which should be conducted properly in order to eliminate the reasons for appearance of conflict of interests, as well as eliminate its risks

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1 Guidelines for Prevention of Conflict of Interest, Belgrade, 2013.

and effects. Unethical conduct can be different and inappropriate, and even violate national and international laws and standards by means of fraudulent activities. What is deemed unethical is hiding material information during negotiations with other persons, breaking given promises or violation of contracts concluded with clients or external partners. Unethical conduct ruins the reputation of institution, its position and role in the society and contributes to its exposure to incriminations, sanctions and appeals.

#### DEFINING THE NOTION AND TYPES OF CONFLICT OF INTEREST – SOURCES OF CONFLICT OF INTEREST

Recently, an especially popular topic for studying is the conflict of interests which directly refers to officials, especially the ones who are expected to work for the interest of the public. Such condition alarms us that they face on a daily basis with the challenge whether they could work in their personal interest by using the granted power. All of this makes us ponder and investigate about the thin line between personal and public interest. How the official behaves in their daily work, action and decision-making. Over time, such dilemmas indicate the gravity of the situation and the need of precise standardizing and putting thereof in a legal frame, and within a frame which does not entail any legal obligation, which is also needed and important when it comes to handling with such situation. The aforementioned is something that exists along with the existence of society itself, in different forms, shapes and different perception thereof. The evolution of societies entail evolution of the perception for the conditions undermining the rule of law, democracy and rule of state in terms of the awareness about them. The conflict of interests between political leaders and officials, in the way we perceive it today, exists since the time when public administration first appeared. In the past, the concept of conflict of interest was not even recognized by many societies. However, there were several societies, for example the Sasanian Empire (of the Sassanid people) in Iran, and the initial Tang dynasty in China, which required their official to work only in the interest of the state or their ruler. We cannot say for certain whether the administrative officials adhered to such principle. However, in many societies, regardless of whether we are speaking of England in the XVII century or Java Island in the XVIII century, it was naturally assumed that political leaders and officials would abuse their position for the benefit of their personal interests.<sup>2</sup>

Once the process of modern industrialization of the societies has begun, the political leaders and officials were expected to work strictly for the benefit of the interests of the country. Countries with great war ambitions, such as England in the XVIII century and Germany, when ruled by Bismarck and Hitler, were in need of efficient and relatively uncorrupted public administration in order to achieve their ambitions. The Soviet Union had the need of officials who were entirely devoted to social and economic transformation imposed by Lenin and Stalin. When the countries in Western Europe became democratized, their governments were responsible to the public, and the “sovereign” people started to insist via “ballot boxes” the politicians and officials to work in the interest of the public,

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2 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19

despite their personal interests.<sup>3</sup>

The bonds between the private and public sector proved as bonds in many layers and shades, which resulted from the constantly predefined role of the state and the global economies. As the public and personal interest meet in ways which are constantly changing, the conflict of interests (or their perception) becomes a challenge for those who practice it and for those who create policies for it. Dealing with such challenge, in international frames, was difficult since mid-90.<sup>4</sup>

The condition of conflict of interests poses a serious problem about the integrity of all elected and appointed persons. Such problem, according to its nature, belongs to so-called anti-corruption law which is primarily based on international and regional standards and recommendations being part of the legal obligation, but also on what is known as soft law, which includes provisions for preventive measures i.e. standards or codes of ethics, guidelines and tools referring to the responsibility of officials, public sector and public interest.

In that regard, we distinguish the following sources of law<sup>5</sup>:

Inter-American Convention against Corruption (IACAC)<sup>6</sup> is one of the first international instruments in this regard. Article 3, paragraph 4 of this Convention, *inter alia*, requires from the member states to consider the relevance of measures in order to create, maintain and strengthen “systems for registration of revenues, assets and debts to persons appointed to perform public functions, particular places, as stipulated by law, and where possible (appropriate) such data to be publicly announced”.

Another instrument is the African Union Convention Preventing and Combating Corruption<sup>7</sup> which emphasizes, as referred to in Article 7, that the member states are obligated, *inter alia*, to “demand from all or particular officials to report their assets as of the moment they start to perform public function and upon the expiry of their mandate”.

The Council of Europe was the first organization that accepted both international standards from the area on which the focus was put. The first generally known standard was

3 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19

4 Ibid.

5 American Convention against Corruption (Article 3 – Preventive Measures)

Economic Community of West African States Protocol on the Fight against Corruption (Article 5 – Preventive Measures)

African Union Convention for Preventing and Combating Corruption (Article 7 Corruption and corruption offences in the public sector)

United Nations Convention against Corruption (Chapter II: Preventive Measures)

International Code of Conduct for Officials (Article II: Conflict of interests and disqualification)

Organization for Economic Cooperation and Development (OECD): Guidelines for managing conflict of interest in the public sector – Transparency and responsibility of the public sector

Council of Europe: Model of the Code of Conduct for Officials (Article 13- Conflict of interests)

6 Adopted on the 3rd Plenary Session held on March 29, 1996. This Convention was signed by 34 countries and ratified by 33 member states in both North America and South America. For more information go to: <http://www.oas.org/juridico/english/treaties/b-58.html>

7 Adopted on July 11, 2003. This Convention was signed by 45 of 53 member states of the African Union and ratified by 31 of them. For more information go to: [http://www.au.int/en/sites/default/files/AFRICAN\\_UNION\\_CONVENTION\\_PREVENTING\\_COMBATING\\_CORRUPTION.pdf](http://www.au.int/en/sites/default/files/AFRICAN_UNION_CONVENTION_PREVENTING_COMBATING_CORRUPTION.pdf)

Resolution (97) 24, referring to “Twenty leading principles for fight against corruption”.<sup>8</sup> This list of guiding principles (GP) is an important indicator, especially with regards to the following guiding principles:

- GP 1: “Take effective measures for prevention of corruption and, at the same time, raise the public awareness by promoting ethical conduct”;
- GP 3: “Ensure that the persons responsible for prevention, investigations, prosecution and making court decisions related to cases of corruption, will enjoy independence and autonomy, as necessary prerequisites for the performance of their functions, that they will be exempted from any negative influence, with effective measures for gathering evidence at their disposal, as well as provided protection of the persons assisting the competent bodies in the fight against corruption, by keeping the confidentiality of investigations in the process”;
- GP 7: “Promote qualification of the persons or institutions responsible in the fight against corruption and provide the necessary means and trainings for performing their tasks”;
- GP 10: “Ensure that the rules referring to the rights and obligations of the officials consider the necessary prerequisites for fight against corruption and provide adequate and effective disciplinary measures; promote further analysis of the manner of conduct expected from the officials via adequate measures, such as codes of conduct”;
- GP 20: “Develop more extensive international cooperation in all areas of fight against corruption”.<sup>9</sup>

The second instrument of the Council of Europe is Recommendation no. 10 (2000) of the Committee of Ministers to the member states, referring to the “codes of conduct for officials”<sup>10</sup>. This instrument sets the standards for integrity and conduct which should be accepted by the officials; however, it cannot apply to elected MPs, members of the government and judges.<sup>11</sup>

The Group of States against Corruption (GRECO) should not be left out when it comes to the dedication, activities and standards set by the Council of Europe GRECO was founded in 1999 and its task is to monitor how much the member states comply with the set anti-corruption standards.<sup>12</sup> The Second Evaluation Round, apart from many other topics, considered the topic related to administration and corruption. GRECO evaluated the member states by taking into consideration: conflict of interests, inconsistencies, additional activities, gifts and whistleblower protection.<sup>13</sup> GRECO, starting as of 2012, will initiate

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8 Adopted on November 6, 1997, on the 101<sup>st</sup> Session by the Committee of Ministers of the Council of Europe.

9 Rules and experience on integrity issues, RAI and Integrity Experts Network, Feb.2012 2012, p.24-33

10 Accepted by the Committee of Ministers of the Council of Europe on the 106<sup>th</sup> Session held on May 11, 2000.

11 The Model of the Code of Conduct for Officials contains provisions referring to: Article 13 (Conflict of interests); Article 14 (Assets Declaration); Article 15 (Improper external interests); Article 16 (Political or public activity); Article 17 (Protection of the privacy of officials); Article 18 (Gifts); Article 19 (Reaction to indecent proposals) and Article 26 (Leaving the public office).

12 At the moment, GRECO consists of 49 member states (48 European countries and USA).

13 This topic was evaluated by taking into consideration the leading principles 9 (Public administration) and 10 (Officials). The recommendations referring to conflict of interests, transition of public administration into private

Fourth Evaluation Round, which will be focused on: “Prevention of corruption with regards to MPs, judges and public prosecutors”.<sup>14</sup> <sup>15</sup> The Fifth Evaluation Round started in 2016 and the questionnaire referred to prevention of corruption and promotion of integrity in the central authority (highest executive functions) and law enforcement bodies.<sup>16</sup> Interesting fact that should be written down is that the first anti-corruption instrument focused on conflict of interests was the International Code of Conduct for Officials.<sup>17</sup> The Code of conduct is direct product from the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was held in 1990 in Havana, Cuba. The Code of Conduct thoroughly reviews the conflict of interests, emphasizing the most important parameters of the concept of conflict of interests by including several measures for managing thereof.<sup>18</sup> Important anti-corruption measures such as the Assets Declaration of public function holders and officials, prevention of conflict of interests, ban on receiving gifts, services, information, etc. are regulated in a different i.e. mixed manner, within one country and in separate countries. For example, in some countries some of these questions are included in the codes of ethical conduct for officials, which consider their informal nature, with emphasis on the effect on ethical standards, as it was done in most of the OECD countries (USA, Great Britain, the Netherlands, Norway, Finland, Australia, New Zealand, Portugal, Japan). In other countries these questions are regulated with special anti-corruption laws, which include the ethical component as well, with the difference that it is additionally strengthened with misdemeanour sanctions (Estonia, Poland, Russia, Ukraine, Romania, etc.); while in third countries, where no special anti-corruption legislation exists, similar and other questions are restrictively treated (or not treated at all) within the traditional criminal and legal solutions (Bulgaria, and until recently North Macedonia as well).<sup>19</sup>

The guidelines for managing conflict of interest in the public sector<sup>20</sup> of OECD<sup>21</sup> are another valuable tool in the area of softer standards which contains clear and precise technical guidelines, as well as definitions and concepts of the conflict of interests, policies and fundamental principles for managing conflict of interests, tools and procedures for

sector and whistleblower protection are just part of the many new comprehensions. For more information access to: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports\(round2\)\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports(round2)_en.asp)

<sup>14</sup> See the questionnaire to the following link:

[http://www.coe.int/t/dghl/monitoring/greco/source/Greco%20\(2011\)%209E%20Questionnaire.doc](http://www.coe.int/t/dghl/monitoring/greco/source/Greco%20(2011)%209E%20Questionnaire.doc)

<sup>15</sup> Rules and experience on integrity issues, RAI and Integrity Experts Network, Feb.2012 2012, p. 24-33

<sup>16</sup> For more information access to: [www.coe.int/greco](http://www.coe.int/greco)

<sup>17</sup> Resolution 51/59 of the United Nations General Assembly of December 12, 1996.

<sup>18</sup> ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19

<sup>19</sup> Miodrag Labovic, Authority Corrupts, De Gama 2006, p. 241-242.

<sup>20</sup> These guidelines are part of the annex of the significant recommendations introduced by the OECD Council in June, 2003 for its member states. Although only two IEN countries are OECD members, whose total number is 34 countries, it is a fact that almost all IEN countries were inspired by the OECD guidelines and other related bodies and practices in the reforms aimed at developing tools for preventing conflict of interests.

See the guidelines to the following link: <http://www.oecd.org/dataoecd/13/22/2957360>.

Based on such guidelines, a wide range of tools for managing conflict of interests in the public sector was established in 2005.

<sup>21</sup> Organization for Economic Cooperation and Development (OECD) is international economic organization founded in 1961 with headquarters in Paris. Its goal is to assist the economic prosperity and financial stability of the countries. It has 34 member states.

identification, management and solution of the condition of the conflict of interests.<sup>22</sup> There is no clear European reference or *acquis communautaire* (*accumulated legislation, legal acts and court decisions which form the European Union legal system*) for prevention of conflict of interests or assets declarations. Nevertheless, the candidate countries from SEE are being periodically monitored by the European Union when it comes to the anti-corruption agenda<sup>23</sup>. As a consequence, the prevention of conflict of interests and the system of assets declaration became, *de facto*, a standard for the EU candidate countries, as well as for the last two countries which became EU member states, after their accession.<sup>24</sup>

United Nations Convention against Corruption (UNCAC)<sup>25</sup> is the newest international standard in this area.<sup>26</sup> UNCAC most important provisions related to system for asset declarations and conflict of interests are contained in Articles: 7(4)<sup>27</sup>, 8(5)<sup>28</sup>, 52(5)<sup>29</sup>, 12(2)<sup>30</sup>, 9(1)<sup>31</sup>. With regards to the templates and registration of asset declarations and statements of interests, it is important to declare all types of income and properties owned by officials, in order to analyse the financial status of the officials, the procedures for announcement of property which will prevent its concealment, reliable system for control of income and property of persons related to the officials or legal entities connected therewith. This Convention indicates that when it comes to conflict of interests member states should pay attention to several questions, such as: what positions and activities are deemed inadequate

22 Rules and experience on integrity issues, RAI and Integrity Experts Network, Feb.2012 2012, p. 24-33

23 SIGMA conducts periodical evaluations of the SEE countries at the request of the European Union, thus encompassing the integrity issues as well.

24 Rules and experience on integrity issues, RAI and Integrity Experts Network, Feb.2012 2012, p. 24-33

25 Adopted by the General Assembly with Resolution 58/4 dated December 31, 2003 and entered into force on December 14, 2005. It consists of 154 member states and is ratified by all of them but one. For more information go to: <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

26 Rules and experience on integrity issues, RAI and Integrity Experts Network, Feb.2012 2012, p. 24-33

27 "Each member state, pursuant to the fundamental principles of the legislation applicable in that state, shall strive to adopt, maintain and strengthen the systems promoting transparency and prevention of the conflict of interests"

28 "Each member state should strive, where appropriate and pursuant to the fundamental principles of the national legislation, to put measures and systems in place which would obligate the officials to provide assets declaration in order to inform, inter alia, the competent bodies about: their external activities, job engagements, investments, property and more valuable gifts or benefits which could cause conflict of interests which appear due to their performance of public functions as officials."

29 "Each member state, pursuant to the national legislation, should take into consideration the establishment of effective systems for display of the financial status of the officials and determine relevant sanctions for violation of the legal obligations. Each member state should take into consideration the measures necessary to be taken in order to ensure that the competent persons share such information with other competent persons from other member states, when they are needed as an evidence during an investigation and as a mean for determining incurred costs, as established under this Convention."

30 "The measures taken by the member states may include prevention of the conflict of interests by imposing relevant restrictions, applicable within reasonable time period, on the professional activities of former officials or on the employment of officials in the private sector upon their resignation or retirement, where such activities or job engagements are directly related with the function the officials performed or through which they controlled such job engagements during their mandate."

31 "The systems [Public Procurement] should determine where it would be appropriate particular measures to regulate the jobs referring to personal responsibility with regards to procurement, such as the statement of interests, especially in terms of public procurement, as well as to determine procedures for monitoring and necessary trainings."

for particular public function, what interests and properties should be reported and what obligations and debts, what are the prerequisites to be fulfilled with regards to the conflict of interests, what information should be published, what is the asset declaration template, who verifies the reported information, who has access thereto, to what extent the indirect interest i.e. family should be monitored, who is responsible to report, what is the method of publishing asset declarations and provisioning the obligation for declaration. With regards to the limitations of work engagements after leaving the public position, the countries should consider the measures aimed at utilization of their function for services of potential employers, looking for employment during business negotiations, abuse of protected information, representation of private interests or private groups. The countries should also consider the following: Duration of the limitation, precise determination of the level or group of officials subjected to limitations, as well as definition of the areas where representation by former officials is prohibited.<sup>32</sup>

## CONCEPTUAL DETERMINATION OF CONFLICT OF INTEREST

The Council of Europe states the following: “Conflict of interests appears in situations where an official has personal interest which could affect, or seems to affect, the incomplete and one-sided implementation of the official responsibilities of the officials. The Organization for Economic Cooperation and Development (OECD) offers similar explanation, defining the conflict of interests as: “... conflicts of interests between the official duty and personal interest of the official, when the official has personal interest which could have negative effect on the implementation of (his/her) official responsibilities and obligations.”<sup>33</sup> From the aspect of the modern Western world, the conflict of interests is a fundamental element in the abuse of power by politicians and officials. The conflict of interests appears when the personal interests of the politicians or officials do not comply with the goals of the government or institutions where they perform their functions. There will always be persons (called “altruists”) who naturally and selflessly work hard in order to realize the institutional goals.<sup>34</sup> In fact, the conflict of interests is a situation, not an action, and it is clear that the official can find himself/herself in a situation of conflict of interests, without having to act in a corruptive manner. The general definition does not only include situations where the official or politician wants a financial benefit. It also includes conflict of interests which are not of financial nature, when officials or politicians work in order to realize their personal political interests which are contrary to the official politics. Contrary to the realization of personal interests for financial benefit, this not always has to be at the expense of the public interest - for example, if the official works for government whose policies are obviously unethical.<sup>35</sup> If the personal interests of politicians and officials are reviewed more thoroughly, one may say that they are specific, easily recognizable

32 Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005.

33 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19

34 Ibid.

35 Tullock, Gordon. 1965. *The Politics of Bureaucracy*. Washington, D.C.: Public Relations; and Downs, Anthony, 1967.



conflicts of interests, for example: if they own shares in enterprise which participates in the public procurement where they make the decision on granting the job/contract. Or, if their personal interests are reviewed more comprehensively, it can be determined that they may have personal interest that prevents them to implement the goals of their government or institution, for example: if they decide to demand bribe in order to perform any service. The general definition is considered when we want to understand from where the abuse of power and corruption arise and how to solve the problems deriving therefrom.<sup>36</sup> Politicians fundamentally face with special conflict of interests related to their election or re-election. On one hand, this is a conflict of their obligations towards the public and the obligations towards the political parties on the other hand, should they want to be elected or re-elected. By principle, the abuse appears in two ways: when persons or groups having interest give money to politicians or their parties who, in return, perform services for them; and when politicians use money or the money embezzled from the state budget to fund their election campaigns or to buy votes from the citizens.<sup>37</sup>

## MANAGING WITH CONFLICT OF INTEREST

The good politics for managing conditions of the conflict of interests contributes to preservation and strengthening of the trust in state institutions. Some conditions of conflicts of interests cannot be avoided; however, the public institutions are obliged to define them and know precisely what is incompatible with the role or public function of the officials. Otherwise, the trust of the public will be lost when it comes to integrity, fairness and personal impartiality of officials performing their public functions. In order for a conflict of interest to exist, there must be a personal interest of the official and such interest can be: financial, economic, debt-related, property-related, related to profit and non-profit organizations, professional, social, ethical, family-related, religious, etc. The risky areas in terms of the existence of conflict of interests in any of its forms are also identified, and here we have the public and private sector, public procurements, regulatory and inspection functions, national contracts i.e. public and private partnership, sponsorships, non-governmental organizations, exchange of employees between the departments, etc. Partners in this fight are the media, supervision and the public pressure.<sup>38</sup>

In order to prevent conflict of interests, it is especially important the officials to be aware thereof and to be able to identify and report such conflict of interests. The country is obliged to adopt laws and codes, take particular steps in order to solve the conditions of conflict of interests. Procedures for recognizing, handling and solving conflicts of interests are necessary to be put in place as well.<sup>39</sup>

With regards to submitting a declaration, in line with the international standards, practices and guidelines, the officials must act in accordance with the declaration submission procedure immediately after being appointed or elected to a new function, by declaring their

36 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19.

37 Ibid.

38 Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005.

39 Ibid.



personal information which identify their interest in definite time period, and as periodically conditioned by the possible changes or new conditions the official would find himself/herself into. Public, transparent and timely declaration by the official is for the purpose of gaining and increasing the public trust, his/her own and institutional integrity. Declaration can be submitted in the institution, as well as in the body responsible for record keeping and monitoring the interests of the officials. Officials are obliged to declare all relevant information while performing their function in their entirety, while the institution is obliged to properly review and regularly update thereof.<sup>40</sup>

The options for positive settlement or management of existing or recurring conflict of interests can include one or more adequate strategies, such as: separating or removing the interest from the official; exclusion of the public official from the affected decision-making process; limited access<sup>41</sup> of the official who is in conflict of interests with a particular information; transfer of the official to a position where the performance of his/her function will not cause conflict of interests; change of responsibilities and tasks of officials; allocation of tasks where conflict of interest exists upon the principle of “blind trust”; resignation<sup>42</sup> by officials from their function where conflict of interests exists and/or resignation of officials from the function in the institution where they are appointed.<sup>43</sup>

In the course of performing the public authorizations and responsibilities, the official is obliged to comply with the principles of legality, equality, efficiency, trust, independence, publicity, impartiality, integrity and professionalism and act conscientiously and professionally without discriminating or preferring anyone, and respect the human rights and freedoms and human dignity without having any private interest.

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40 Ibid.

41 In places where it is deemed that particular conflict of interest will not appear on regular basis, it could be appropriate for the official to keep his/her function; however, the official should not participate in the decision-making process for matters of personal interest, e.g.: when a decision, of personal interest for the official, is adopted by a third party or when the official is excluded from voting for particular decisions, or not to participate in discussion for suggestions and plans which could be of personal interest for the official, not to receive relevant documents and other information referring to personal interest of the official. The option for rearrangement of particular functions of officials having personal interests should be also taken into consideration, especially for the persons for whom it is believed that the conflict of interests will continue, but whose exemption from the decision-making process would be inappropriate. Special attention should be paid in order to make sure that all affected parties with the decision are aware what measures have been taken for protection of the integrity of the decision-making process where exclusion is allowed. *Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005.*

42 The officials are asked to remove their own personal interest which is causing conflict of interests, should they want to continue to be in the capacity of official, in cases when the conflict of interest cannot be solved otherwise (e.g. by using one or multiple of the aforementioned measures). In cases when the serious conflict of interests cannot be otherwise solved, the officials are obligated to resign from their public position. Under such circumstances, the conflict of interest policy (together with the provisions of the relevant labour law and/or employment contract) should allow the public position of the official to be suspended in accordance with the defined procedure. *Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005.*

43 Ibid. p. 28-34

## CATEGORIES OF CONFLICT OF INTEREST

The conflict of interests usually belongs to two categories: material and immaterial interests. Financial interests include real or potential financial profit. They may result from employees or family members of employees owning property, shares or being on a function in a company which is in competition for state work, or accepting gifts or services or receive additional income from additional work. It does not mean that funds must pass from one to another hands - the benefit can increase in property value due to making partial decision or partial selection in a procedure for particular tender.<sup>44</sup>

For example, if the person who applied before the council adopts a decision to donate in company wherein any of the committee members is a partner, in such case there is a potential conflict of interests, since such donation can affect the commission member when reviewing the applications in a tender procedure. There is a risk that the personal interest of the commission member for a particular company can cause conflict of interests with the performance of his/her public duties when evaluating the tender procedure applications.<sup>45</sup>

Immaterial interests do not have any financial component. They may derive from personal or family relations, or involvement in sports, social or cultural activities. The most obvious example for this is family interest – for example, the recruit official can have interest to affect the employment procedure in order to secure a job for his/her brother or cousin without having any financial benefit.<sup>46</sup> For example, a municipal city planner, with a child in a local pre-school institution voluntarily prepares plans for extensions of pre-school institutions, has personal interest to approve such plans for the institutions and thus affect his/her impartial assessment of the applications. Similar example to the aforementioned is when a national institution provisioning grants for sports organizations has a member whose daughter is the main player in one team in particular group which applies for donations of funds. The member has or it is believed that has personal interest when granting such funds.<sup>47</sup> In addition, there are many other interests which are not directly personal; however, they can be subject to conflict of interests. The elected function holders, having the idea of being re-elected, usually monitor the interests of their supporters and/or their party, thus trying to affect the relevant administrative process, which is usually contrary to the public interest.<sup>48</sup>

## SUPPOSED AND POTENTIAL CONFLICT OF INTEREST

Conflict of interests (COI) appears when officials should make a decision at work which may have an impact on their personal interests. The guidelines for managing conflict of interests in OECD public sector define the conflict of interest as “*conflict between official*

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44 Londa Esadze, Guidelines for Prevention of Conflict of Interest, Belgrade, 2013.

45 Ibid.

46 Ibid.

47 Londa Esadze, Guidelines for Prevention of Conflict of Interest, Belgrade, 2013.

48 Ibid.

*duties and personal interests of the official, when the official has personal interests which can improperly affect the performance of their official duties and responsibilities*". The conditions of conflict of interests are "real" when the officials find themselves in situation when their personal interests can affect the way of performing their work in an impartial manner. The situations of conflict of interests can also be "potential" or "supposed":

- potential conflict of interests exists when officials can have such personal interests which may cause conditions of conflicts of interests in the future. For example, the official owns large number of shares in a forest company, which may decide to compete in the future for a contract for cutting trees with the institution where the official is employed on a position which allows the official to be responsible for all public procurement contracts.
- the supposed conflict of interests exists where it seems that the official has conflict of interests, but in fact that is not the case. For example, if official on a high position owning shares in a corporation, in order to deal with the conflict of interests, kept himself/herself aside from all decision-making processes ("was excluded from the decision-making process") with regards to the contract for which this company decided to compete. Although the activities taken by this person are not at all familiar to the public, they are satisfactory for his/her institution.<sup>49</sup> Therefore, it can be said that the conflict of interests can be actual or existed in some time in the past. On the contrary, it can be said that the possible conflict of interests exists where the private interest of the official can improperly affect the quality of his/her work, but in fact this does not refer to this case. The potential conflict of interests appears if the official is included in the performance of (so-called conflict) official duties in the future.<sup>50</sup> The obvious and potential conflict of interests can be as harmful as the actual or real conflict of interests. Although there is no universal definition of "managing conflict of interests", majority of countries and competent institutions have common opinion that the conflict of interests appears when the public interests or properties are affected by personal interests.<sup>51</sup> When left unchecked, the conflict of interests is identified as indicator, predecessor and result of corruption. The consensus that prevention of conflict of interests is of crucial importance in the fight against corruption continuously increases. In a comparative case study<sup>52</sup> conducted in the European Union, it was established that "In most of the cases, corruption appears if there is a personal interest that has negative effect on the work of the official..., still the prevention of conflict of interests must be part of more comprehensive politics for prevention and fight against corruption".<sup>53</sup>

49 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 83-91

50 Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005, p. 28-34

51 ADB/OECD Anti-Corruption Initiative for Asia and the Pacific p. 3-19.

52 Conflict of interests and practices in nine EU member states: Comparative review. Text written for OECD and EU SIGMA Programme, 2005.

53 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19.

Evident conflict of interests	Perceived conflict of interests	Potential conflict of interests
The official is in position to be led by his/her own personal interests in the course of performing his/her work	The official is in position where the official seems to be led by his/her own personal interests in the course of performing his/her work	The official is in position where the official could be led in the future by his/her own personal interests in the course of performing his/her work

Overall, the potential<sup>54</sup> conflicts of interest refer to various issues such as: relations (for example, obligations to a professional, ethnic, family or religious group in a personal or professional relation or people living in the same household); possession of important information; advocacy and action for foreign countries; abuse of one's own position for private benefit; misuse of state property; other professional activities; post-employment; future employments; financial interests; different responsibilities to different actors; honorary positions; invitations for holidays, dinners, speeches, participation in events. There is an agreement that the risk areas where there is potential for the occurrence of situations of conflicts of interest are: additional work engagement, "internal" information, contracts, gifts and other forms of benefits, family and community expectations, appointment to a management or supervisory board and activity after leaving public office. For the additional work engagement, it is important for the preconditions, as well as the procedures for its approval, to be precisely defined. The internal information is considered to be privileged information that is received or owned by the public authorities and institutions and it is the responsibility of both the holder and the official to protect them from inappropriate use, publication or abuse. An adequate policy is needed for detecting the conflict of interest in terms of gifts and other forms of benefits, as well as for recognizing the conflict of interest in terms of recognizing the expectations of the family and the community. The appointment to a management and supervisory board should be in accordance with the necessary procedures for election and appointment. This also applies to the activities after leaving office in terms of negotiating an election or employment in another institution which was affected or could have been affected by the previous office, but which also has an effect after the termination of office.<sup>55</sup>

## FORMS AND CATEGORIES OF CONFLICT OF INTEREST

In addition to defining, delineation, the categories and forms in which we encounter the conflict of interest are equally important for it. In continuance we will present you the most commonly noticeable forms and categories of conflicts of interest. There will always be other „*self-interested*“ people who, if they do not encounter any restrictive mechanisms, will allow their personal interests to hinder them in the performance of their public duties

<sup>54</sup> See Annex 1 which contains examples of potential conflicts of interest.

<sup>55</sup> Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005.

and will abuse their public office for personal gain. This can happen in a variety of forms, such as: soliciting a bribe for the services they offer, using the “internal information” for personal financial gain, giving advice and making decisions in a manner that will provide them with personal benefit, showing affection for co-workers or family members when appointing, promoting or awarding contracts. In a similar manner, politicians may take actions that are designed to secure the benefit of the party they belong to, and at the expense of the public. Where there is abuse of power for personal or party interests, we can confirm that the public office holder has allowed the conflict of interest, that is, the personal or party interest, to affect the performance of his public duties.<sup>56</sup> Like in chess, leaving the king in a “chess position” is a dangerous move. However, the “chess position” by itself is not fatal if there is a solution to the conflict of interests. Similarly, the situations of conflicts of interest in the public and private sector do not always represent corruption, but are potentially harmful or politically dangerous and must be timely identified and prevented. If the conflict of interest situations are not identified, prevented and adequately solved, they can lead to corruption.<sup>57</sup>

Sources of the conflicts of interest are all forms of personal bias based on: personal relations (with the social, ethnic or religious community), material interests, business interests and professional or political affiliation. Every interest is relevant if it is considered to be improperly affecting the official when performing his official duties in certain situations or circumstances.<sup>58</sup>

Some scientists identified eight categories of conflicts of interest:

1. Independent operation that refers to a situation in which an action is undertaken with an official capacity, which implies a personal benefit and interest;
2. The acceptance of benefits describes that public officials should not solicit, nor accept economic benefits from persons with whom they have contact at the official level. These benefits can be in the form of gifts or range to significant “transfers” that are prohibited under the Criminal Code;
3. The impact on trade is a “practice of soliciting some form of benefit in exchange for the performance of the official duty or power”;
4. The use of government property, including the use of government phones for personal use, or said in an archetypal manner “taking pencils home” from the office. When there are more serious repetitions, it implies a significant use of government vehicles, airplanes, computers and other for private purposes;
5. The use of confidential information means that the public official discloses this information to others or uses it for his personal interest, and this is confidential information acquired during the performance of the official duties. A special example of this is “insider information”, which means use of information that is acquired during the performance of work tasks by the public official and that is not available to the general public, but is used for private purposes;
6. Employment outside the state institution, whereby the official can engage in negotiation or can accept employment in the private sector for which he will offer services for the realization of someone’s private interests or businesses, and which will directly impact the arising of conflicts of interest in the course of his official duties;
7. Post-employment is one of the newest areas of conflicts of interest. It implies that the officials cannot act after

<sup>56</sup> ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19.

<sup>57</sup> Ibid. p. 83-91.

<sup>58</sup> ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 83-91.

leaving office in a manner in which they will provide themselves with personal benefit. This is an example of the problems of the so-called “capturing” of the government officials after leaving office in the field of regulation. When there is such a situation, it undermines the public confidence in the already adopted administrative decisions; 8. Personal behaviour is a question of whether the officials have the same right to privacy as other citizens. There are two key circumstances where personal behaviour can create a conflict of interest:

- a. when the behaviour of the public official makes him vulnerable to pressure for improper use of his office (such as drug addiction);
- b. when the behaviour of the public official brings significant discredit to the government or the department and thus undermines the confidence in the public officials. Every case of suspicious or improper personal behaviour of officials should be carefully reviewed in terms of their merits.

#### DELINEATION OF CONFLICT OF INTEREST FROM ABUSE OF OFFICIAL POSITION

Where the personal interest has basically endangered the proper performance of the duties of the officials, the specific situation is more known as a case of abuse of office, or even as a case of corruption, rather than a case of a “conflict of interest”. In this definition, “personal interests” are not limited solely to financial or monetary interests, or interests that generate direct personal benefit to the official. The conflict of interest may also include other cases that would otherwise appear as legitimate activities of personal/family interest and personal connection, if those interests are actually deemed to be able to affect the officials to perform their public duties in an improper manner. A specific case is the one that refers to the topic of the work engagement of the official after leaving public office<sup>59</sup>: the negotiations for the future work engagement before leaving office are considered to be a conflict of interest situation. The modern policy on conflicts of interest should find a balance through the identification of the risks that may affect the integrity of the public institutions and the officials, thus: prohibiting unacceptable forms of conflict of interest, proper management of conflict of interest situations, informing the public institutions and certain officials about the incidents arising from such conflicts of interest, providing effective procedures to be used for identification, reporting, management and promotion of adequate solutions to conflict of interest situations.<sup>60</sup> In order to better manage conflicts of interest, the OECD has adopted “Guidelines for Managing Conflict of Interest in the Public Sector”<sup>61</sup> that help central level governments implement a constant policy and practice that applies to officials, including administrative officials, office holders. These guidelines help

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59 Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005 p. 28-34.

60 Ibid.

61 *Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005*. This publication provides a set of practical solutions for the development and implementation of solutions for managing conflicts of interest. The toolkit was created in cooperation between the OECD member countries, as well as the countries that are not members of this organization. It is a result of several international forums in different regions, and: Southeast Europe, the Asia-Pacific Region and Latin America.

in the creation of an effective policy on conflicts of interest, a framework for verification of the existing solutions and modernization of the mechanisms in relation to good practices, a culture of public administration behaviour and proper reporting, management and resolution of conflicts of interest in a transparent manner, clear and public standards for stakeholder responsibility towards integrity. In order to maintain the public confidence, and with the purpose of promoting integrity, OECD experts have defined some basic principles for managing conflicts of interest. They are: service for the benefit of the public interest<sup>62</sup>, support of transparency and monitoring<sup>63</sup> and promotion of individual responsibility and personal experiences.<sup>64</sup>

Some of the institutional mechanisms for preventing a conflict of interest in the case of appointed officials (public/state officials) may be applied to the elected officials, but

62 - Officials should make decisions and provide advice based on a relevant law or policy and the merits of each case, regardless of their personal benefit (that is, not to be affected by it). The integrity in making decisions by officials, especially making decisions on the application of policies in certain cases, should not be affected by the religious, professional, ethnic, family or other personal preferences or beliefs of the decision-maker.

- Officials should be free of or limit the impact of the personal interests that may impede the making of decisions in which they participate. Whenever possible, officials should be excluded from their involvement in the making of public decisions that may be affected by their personal interests.

- Officials should avoid activities related to their personal interests arising from the irregularly acquired benefit from the “internal information” that they acquired in the course of their public duties, whereby the information they acquired is not always available to the general public, and therefore the officials are required not to abuse their office and the state resources in order to obtain personal benefits.

- Officials should not solicit or acquire any unlawful benefit arising from their impact on the performance or non-performance of the official duties and functions.

- Officials are obliged not to abuse the institution or the public office to which they were previously appointed, including information they acquired while being in office, especially when seeking a work engagement or appointment to another office after the termination of their public office.

63 - Officials and public institutions are obliged to act in a manner that is in accordance with the needs of the public. This obligation is not considered fulfilled only through the work within the framework of the law, but it is also subject to the respect of the values of the public services for the general public through: interest, impartiality and integrity.

- Officials should adequately report all their personal interests and connections that may impact the inadequate performance of their public duties in order for their proper control to be enabled and an adequate solution to be found.

- Public institutions and officials should ensure the consistency and adequate level of openness in the process of resolution or management of the conflict of interest situation.

- Officials and public institutions should promote control in managing conflict of interest situations within the applicable legal framework.

64 - Officials are obliged to act at all times in such a manner in which their integrity serves as an example to their officials and the public.

- Officials should accept the responsibility to adjust their personal interests as reasonably as possible in order to prevent a conflict of interest that would arise if they are appointed to a public office.

- Every time a conflict of interest arises, officials should accept the responsibility to identify and resolve the conflict of interest in favour of the public interest.

- Officials and public institutions are obliged to demonstrate their commitment to integrity and professionalism through the application of effective conflict-of-interest policies and practices.



not all of them. There are some differences between the appointed and elected officials. State officials operate “permanently, professionally and full-time”, elected officials operate “temporarily, unprofessionally and part-time”. State officials are “responsible solely for the institution for which they work and its rules”, elected officials are directly responsible to the public through elections and other means and ways of legislative control. Given that state officials can only participate in a specific discussion related to their office or duty, elected officials are by definition part of various public debates or decision-making processes. It is therefore necessary to make a clear distinction between public officials who perform functions within the framework of the public administration or a public sector entity, on the one hand, and elected representatives who are political figures responsible before parliament, and finally the voters on the other hand. In addition, the judicial office holders (that is, judges and prosecutors) are likewise excluded from the scope of the conflict of interest regulation applicable to public administration officials. In the past period, there has been an increase in the perception that the ethical standards in the state system bodies are decreasing, even in the very advanced and developed democracies, especially in the part of the ethical framework for elected officials. There are many examples where the conflict of interest concept is not properly and clearly understood, and there is a tendency of its underestimation and difficulties are encountered in the process of its implementation. Therefore, we emphasize that the conflict of interest is a condition or situation in which any elected or appointed person can be found, in a manner in which that condition can impact his impartial and objective performance of the public and official duties and authorizations. The conflict of interest is a natural phenomenon, and not a pathology, as well as an inevitable consequence for people who have more than one social role or function. Here we see the challenge of regulating the public and political sphere in a manner that will prevent corruption and abuse of office because the conflict of interest situation does not by itself imply that. As a result, the task of the regulation designed for conflicts of interest should help people counter offenses in a manner that would point out the risks of corrupted and unethical behaviour or abuse of office. Therefore, the conflict of interest is not the real crime, the real crime is the potential for an offense to occur and the conflict of interest is by itself different from the offense of abusing the official position and authority.

#### MECHANISMS FOR PREVENTION OF CONFLICT OF INTEREST

It is a challenge for governments and society to ensure the existence of adequate institutional mechanisms that will encourage “altruism” and prevent “selfish persons” from realizing their personal interests at the expense of the public. If the political leaders are elected and the adequate mechanisms for verification and prevention are not implemented, corruption will remain at the same level or it will rise to an even higher level. This is especially the case in democratic societies rich in resources. In cases involving officials these mechanisms may include:

- Appointment and promotion of well-being, including the integrity of the person being appointed;
- Adequate compensation;
- Clear rules for dealing with specific forms of



conflicts of interest (for example, “reporting of interests” when the official faces situations in which he has a personal interest) and for securing ethical behaviour (for example, the behaviour of the competitors when participating in tenders for concluding contracts);

- Good leadership for ensuring compliance with the rules; -“Altruistic” leadership;
- Legal framework that can serve as a defence mechanism and a means for punishment for committed violations; -Supervision by the legislature; -Supervision by the civil society organizations;
- Protection of whistleblowers; -Law on free access to information that will provide the public with access to the internal state documentation; -Independent media that will conduct investigations of abuse of power.<sup>65</sup> In addition to these instruments for prevention and avoidance of conflicts of interest, the following are likewise recognized in science: 1. Restrictions on auxiliary employment; 2. Personal Income Statement; 3. Family Income Statement; Personal Financial Statement; 4. Family Financial Statement; 5. Declaration of Gift; 6. Security and control of the access to internal information; 7. Statement of private interests relevant for contract management; 8. Statement of private interests relevant for decision making; 9. Statement of private interests relevant for participation in the preparation or giving of policy advice; 10. Publication of income and asset declarations; 11. Restrictions and control of post-employment activities or NGO activities; 12. Restrictions and control of gifts and other forms of benefits; 13. Restrictions and control of external concurrent appointments (for example, with an NGO, a state-owned political organization or corporation); 14. Refusal and routine withdrawal of public officials from public office when the participation in the meeting or the adoption of a certain decision will place them in a position of conflict); 15. Personal and family restrictions on the ownership of private companies; 16. Revocation, either by selling business interests or investments or by establishing a trust or blind management agreement.

Failure to comply with the institutional policy on conflicts of interest should be considered as a subject to disciplinary procedure, while more serious offenses that include an actual state of conflict of interest may result in penalties for abuse of office or criminal prosecution for a committed corrupted offense. Different penalties may be imposed on officials depending on the seriousness of the offense, for example the simple failure to report a relevant interest compared to a more serious refusal of an official to leave a conflict of interest state of which he is aware. Positive management can provide efficient additional forms of solutions for non-compliance with the policy on conflicts of interest and can efficiently deter those who want to directly or indirectly exploit such offences to their advantage. Such measures may include retroactive annulment of the affected decisions and unlawful agreements, as well as exclusion of the users, regardless of whether they are corporations, individuals or associations, etc., from future processes. Such exclusion measures may function for a certain period of time, within the framework of the specified monetary restrictions or for certain types of activities.<sup>66</sup>

65 ADB/OECD Anti-Corruption Initiative for Asia and The Pacific p. 3-19.

66 Managing Conflict of Interest in the Public Sector, A Toolkit OECD, 2005 p. 28-34.

## SUBMISSION OF FORMS FOR REPORTING THE PROPERTY STATUS (ASSETS) AND PROMOTION OF OBLIGATIONS FOR FULFILMENT OF LEGAL OBLIGATIONS

The primary goal of the institution in charge of publishing the forms for declaring property is to assist honest officials, who are obliged to report their property, to do so in a proper manner. The activities that agencies can undertake to encourage voluntary compliance with the obligation for declaring property include: seminars for the persons obliged to submit a property declaration form, to provide assistance in completing the forms, as well as to provide advice and opinions in parts of the law regarding which there are certain ambiguities. Opinions should be widespread because they then become a legal basis that directs the interpretation in future cases. Once the state has taken the necessary steps to promote voluntary compliance with the legal obligations, it is easier for it to implement its policies on compliance with the legal provisions through penalties. These penalties should be strict enough to match the severity of the offense. In other words, the failure to submit or the false filing of property declaration forms should not be treated less seriously than the soliciting or accepting a bribe. For example, in Trinidad, in addition to prison sentences for failure to declare property, the state may request the confiscation of the property of the defendant that has not been declared. When establishing a system, start slowly and build capacities. A common mistake when establishing a new institution is for it to be established on the first day, and on the second day to request thousands of state officials to submit forms to the institution. The institution is not able to significantly review so many forms, so early in its existence. The news about this effect will rapidly spread and make people not to take the institution or its mandate seriously. In the first round of the establishment of the system, ask only a few senior officials to submit property declaration forms. In addition to asking officials to report personal and business property, it is good practice for officials to report: sources of income, positions in profit and non-profit organizations, debts, gifts, travel expenses, advances, allowances and income and property of spouses or children who live with or are supported by the official.<sup>67</sup> Another important question is how to develop a good regulation for the conflict of interest? The answer to this question is in the direction of prohibiting activities, declarations of interest and exemption from the decision-making processes. The primary objective of the regulation of conflicts of interest is to prevent conflict of interest situations to the extent possible and practical, then to establish rules relating to cases of conflicts of interest, when they arise, as well as to provide guidelines to officials and enable them to protect themselves in an easier manner.

## PRINCIPLES FOR EFFECTIVE REVISION OF CONFLICT OF INTEREST

Violations of the Law on Prevention of Corruption and Conflict of Interest and examples thereof.<sup>68</sup>

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<sup>67</sup> ADB/OECD Anti-Corruption Initiative for Asia and the Pacific p. 37-46.

<sup>68</sup> Accumulation of offices

The simultaneous performance of multiple offices by one person is contrary to the positive legal regulations in this field that envision the performance of one, and not of several public offices. This leads to the accumulation of offices, which creates preconditions for the public interest to subordinate the private interest of the official.

Example:

1. A person performs the following offices: Director of Finance in a state institution and member of a Board of Directors in a joint stock company with a 100% state capital.
2. Performance of three offices: Member of a Board of Directors in a Public Enterprise, Member of a Municipal Council and member of a Supervisory Board in a Public Health Institution.

Simultaneous performance of public authorizations and duties determined by law and as owner manages a trade company or institution.

Example:

1. Member of a Municipal Council and manager of a private trade company.
2. Minister and manager of a private trade company.
3. Member of Parliament and manager of a private trade company.

Performance of public offices and receipt of compensation for activities in citizens associations, foundations and organizations (with the exception of travel expenses related to their activity).

Example:

1. Organizational Director in a Public Health Institution and Founder and Director of a Foundation, as well as a Founder and President of a sports association. Receives compensation both in the foundation and the association.
2. Member of a Board of Directors of a Public Enterprise and a member of the Board of a Foundation, thus receiving monetary compensation per session.

Nepotism

The official giving an advantage, benefit or other convenience in the course of his official duty to a particular individual or group of persons with whom the official has family or friendly connections.

Example:

1. The Director of a kindergarten employs a close person (daughter) in the same institution, by signing a Decision for election of a candidate and an Employment Contract.
2. After 6 months of taking office, the Director of a Public Enterprise announces a call for temporary employment, whereby he employs his daughter.
3. The Director of a clinic employs his son through a transfer from primary to tertiary healthcare. For this purpose, he annulled a call for employment of two doctors without any legal basis.
4. The Director of a primary school employs two close relatives, his sister and his wife.

Officials must not act in a case in which they have a personal interest. When they learn about circumstances that indicate a conflict of interest, they are obliged to immediately request to be exempted and stop their actions. The decision on the exemption is made by the body where the official is elected or appointed, that is, the employed person, and at the request of the interested person.

Restriction after termination of office

This risky area is related to a potential conflict of interest among officials who, after termination of office, are employed in the private sector. It implies that the official created benefits and privileges for himself while performing his office.

Example:

A Council Member, after the termination of this office, is employed in a private company within a shorter period of time than the legally prescribed one, where he conducted supervision as a member of the aforementioned Council.

Determining a conflict of interest in a public procurement procedure

The official must not impact the making of a public procurement decision or in any other way to use his position to make a decision aimed at obtaining a private interest or benefit for him or his close relatives.

Example:

The Director of an Agency is found in a conflict of interest situation because his close relatives are employed in

Within the ReSPA,<sup>69</sup> a Methodology for oversight bodies and other stakeholders was made with which hidden conflicts of interest in the public sector are detected.<sup>70</sup> The purpose of this methodology is to provide an overall image of what should be done for proactive detection of conflicts of interest. There are various schemes of how public officials try to hide their private interests, and all these schemes should be target of oversight. At the same time, conflicts of interest leave traces and various stakeholders are in a position to use these traces for detecting hidden conflicts of interest.<sup>71</sup>

Incompatibilities do not constitute a conflict of interest by themselves, but rather restrictions created to prevent a conflict of interest before it can arise. In other words, incompatibilities try to minimize the risk of a conflict of interest. For example, in some countries (certain categories of) officials are not allowed to engage in additional activity or own their business as there is a high risk that the interests of the activity or the business will come into conflict with the public duties of the official. The main permanent restrictions that exist at the international level and the adequate hiding strategies are as follows:

- Additional activity (failure to report the additional activity in the property declaration form/the declaration of interest; failure to report the activity in the tax return; failure to report the social security activity (if applicable).
- Businesses (failure to report the business in the property declaration form/the declaration of interest; registration of the business under a different name or under a legal structure as owner).
- Contracts with the public sector (failure to report the contract in the property declaration form/the declaration of interest or use of legal structures as intermediaries).
- Membership (failure to report the membership in the property declaration form/the declaration of interest).
- Opposing public positions (failure to report the position in the property declaration form/the declaration of interest.)
- After leaving office (failure to report the benefits after leaving office in the property declaration form/the declaration of interest; failure to disclose the information to the previous employer; failure to report the tax return; failure to report in social security (if applicable).
- Political affiliation (failure to report the membership in the property declaration form/the declaration of interest; avoidance of participation in (semi-) public events of the political party).<sup>72</sup> Ad hoc conflicts of interest depend on the situation – the official may temporarily be in a position where he/she can support his/her private

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trade companies that act as economic operators, public procurement holders, published by the Agency and the Director himself acts as signatory.

69 The Regional School of Public Administration is a joint initiative of the European Union and the Western Balkan countries, which works to encourage and strengthen regional cooperation in the field of public administration through its member countries. Its headquarters is in Danilovgrad in Montenegro.

70 Tilman Hoppe, *Detecting hidden conflicts of interest*, ReSPA, 2017.

71 Hidden conflicts of interest: non-disclosure of incompatibilities: additional activity, businesses, opposing positions, after leaving office (which are in conflict or at risk of conflict); visible; official – official duties; non-disclosure of conflicts of interest; private interests related to: family, other close relatives, businesses, policies that are conflicting.

72 Tilman Hoppe, *Detecting hidden conflicts of interest*, ReSPA, 2017.

interests. For example, a tax inspector performs a tax audit of a family member.<sup>73</sup>

Categories of private interest:

- Family relations (non-disclosure of ad hoc family relationship, non-reporting of family members in the property declaration form/the declaration of interest as required; non-reporting of a family business in the property declaration form/the declaration of interest; hiding family relations behind a different name or legal entity.)
- Other close relations (non-disclosure of an ad hoc personal relationship).
- Business relations (non-disclosure of ad hoc business relations; non-disclosure of the business in the property declaration form/the declaration of interest; non-registration of the business or its specific interests; registration of the business under a different name.)
- Political affiliation (non-disclosure of the political affiliation; non-registration of the membership in the property declaration form/the declaration of interest.)
- Gifts (non-reporting of received gifts above the legal limitation; the gift is shown to be from private sources; hiding gifts from public supervision (no “sponsored” travel is published on the social networks).)<sup>74</sup>

The foreign judicial systems, in addition to being an attractive option for the public officials who want to hide their money originating from corrupt sources, are also attractive for hiding conflicts of interest. For example, a minister who does business with his ministry will be easily be detected. Hiding his business under the ownership of another (domestic) company is an option, but it can easily be detected by any interested stakeholder by checking the domestic trade register. The hiding of such a business under one or more layers of foreign legal structures is a more effective alternative. The domestic oversight body may not have the authority to inspect the foreign databases and they may not be publicly available, due to language barriers or due to the fact that the database is located in a non-transparent country (so-called offshore destination). In general, there are two types of schemes involving foreign countries:

- Incompatibilities: The official owns a foreign business or generates income from a position abroad and does not disclose it.
- Ad hoc conflicts: The official (or his/her family/other close relationships) owns a home business, which he/she hides under the cover of a foreign legal structure and becomes part of a situation where a conflict of interest arises, such as business services for his/her employer.<sup>75</sup>

The search strategy for detecting incompatibilities largely overlaps with the financial audit of the property declarations. The oversight body compares the data contained in the annual statement of the official with the data contained in the public and private databases, such as the databases of companies, associations, tax offices, registries (family members). In general, the oversight body may detect unreported membership by searching the Internet

<sup>73</sup> Ibid.

<sup>74</sup> Tilman Hoppe, *Detecting hidden conflicts of interest*, ReSPA, 2017.

<sup>75</sup> Ibid.

or the membership lists or through secondary information (for example, a press release or a report from an event of an association where the membership of the official is mentioned).

There are basically two types of schemes involving foreign countries:

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- Random selection (“lottery”) of a certain percentage of officials every year (for example, 4%);
- Media reports about suspicions;
- Supported reports on violations of the provisions of conflicts of interest (open and anonymous).

## CONCLUSION

Conflicts of interest and incompatibilities constitute one of the most important challenges to the establishment of rule of law in South East Europe. Successfully tackling these phenomena is a key issue in the relationship between the countries in the region and the European Union. The conflict of interest implies a conflict between the public duty and the private interest of the official, where the interest in the private capacity of the official may improperly impact the performance of the official duties and responsibilities. Officials have the obligation when performing their duties to always act in favour of the public interest, excluding the personal or private interest, while respecting the positive regulations, the efficiency, confidentiality, independence, individuality, honesty and professionalism. The inability to identify, publicize or manage the conflict of interest is the basis where serious corruption begins. Due to this precisely, the management of conflicts of interest is a particularly important strategy for preventing corruption as a social phenomenon. The management of the system for preventing a conflict of interest, both at the institutional level and at the level of the state system, requires continuous improvement and upgrade. No state can have full insight into the interests, especially of the elected and appointed persons, if it does not have a sufficient number of monitoring instruments. However, the State Commission for Prevention of Corruption in the Republic of North Macedonia as an institution is not and will never be “everybody’s darling”. In fact, it has and will have powerful enemies, also among certain segments of the political elites, who will try to limit the scope of the competencies and actions of these institutions. Therefore, a strong civil society that insists on transparency and accountability, that supports respective institution, is essential in ensuring the durable success of efforts to prevent conflicts of interests and incompatibilities.

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<sup>76</sup> Tilman Hoppe, Detecting hidden conflicts of interest, ReSPA, 2017.

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## **SOCIOLOGY AND URBAN PLANNING<sup>1</sup>**

### **Abstract**

The aim of this paper is to indicate the complexity of the phenomenon of urban planning, as well as the importance of sociological expertise for its success. A well-structured and designed urban space is one whose morphology and function are suited to the needs of the inhabitants (citizens) residing in the city, neighbourhood or quarter. For such a goal to be achieved, it is necessary to view the city spatial whole as a unique and one-of-a-kind social whole, and sociological research can provide an important contribution. Reducing urban planning to its technical dimensions does not provide insight into the complexity and multidimensionality of space, and so this paper indicates that its *social* dimension is

<sup>1</sup> The paper was completed as part of the Internal project “A step towards the professionalization of sociology: the analysis of the needs for the profession”, which was realized by the Sociology Department and the Faculty of Philosophy in Niš.

not only important, but essential. In addition, the paper provides an overview of some of the contemporary challenges faced by urban planning, such as the neoliberal model of urbanization, the crisis in patriarchy and the importance of ecological problems. At the same time, it is emphasized that such social occurrences are not important only for the practice of urban planning, but for the development of urban sociology as a discipline.

**Key words:** Urban planning, city, space, urban sociology, sociology

## INTRODUCTION

Urban planning can be defined as a technical and political multi-actor and multi-dimensional process, with the aim of the controlled development of a city, and in a broader sense, society. It is a phenomenon which is one of the elements of urbanism, as the broader institutional mechanism which strives for harmony within heterogeneity which is immanent in city life. Considering that we are dealing with a complex process, urban planning requires expertise in several sciences and fields/professions, where in addition to architects, engineers, lawyers, geographers, historians and others, sociologists are an essential link in the chain.

The necessity of involving an array of various experts indicates the very “nature” of cities, where, provisionally speaking, it could be defined as being threefold. As settlements, they are primarily *physical spaces*, that is, material creations which have their own physical features, a center and periphery, streets, various edifices and objects, and provide spaces for movement, work, and housing. Which is why the determination of the means of exploiting land and the design of urban planning are the first important steps in shaping space and require the expertise of professionals in the field of technical sciences. What should certainly be added to this is the legal-administrative framework, as an important part of the level of regulation and legitimization of the construction process. However, cities are a reflection of man, which as a being of culture strives towards the beautiful, creation, games, and so they are also realized as *works of art*, while the aesthetic dimension means introducing harmony into the city space. Cities are visual creations which generate impressions, expression, interpretation and experiences, and within them synthesize the practical, symbolic, and imaginary (Lefebvre 2007: 74), creating at the same time both material and virtual works (Issin 2007: 212). Finally, cities are not only physical (morphological) structures, or works of art, and instead in their essence represent *social spaces* - a field of the manifestation of power, political relations, ideology, the relationship between inclusion and exclusion, expenditure, wealth, and poverty. It is precisely due to this humane and social dimension that the process of building a city and its management must also include the expertise of social-humanistic sciences, and primarily of sociology, which is best acquainted with the described social-spatial projections. However, Ljubinko Pušić makes the astute observation that simply speaking, in our case scientific work is actually the “production of space”, and has, for a very long time, been a primarily technical and only occasionally aesthetic-arts discipline, and in the very end (which actually does not exist) a social discipline (Pušić 2009: 121).

Sociologists, due to the extensiveness of the approach, can in the most adequate way gain insight into the social collage of the city, and can contribute to urban planning in several ways. One of the most important ways is objective scientific research and the analysis of social reality by means of sociological research methods (surveys and interviews with citizens/inhabitants of urban communities), which provides insight into the demographic, professional, and age characteristics of the urban population, then class differences, the origin of the population, and cultural and ethnic diversity, which represent the necessary initial “material” for the planning and development of a community. Based on the obtained

results, suggestions are made for the use of the space, its organization and urban design, so that the physical aspects of the city are suited to the structure of the population, its social characteristics and the cultural needs of the citizens. Housing, public transport, and city services must be spatially organized so as to reflect the social image of the city. In addition, except for research into the aspirations and characteristics of the city population, it is important to have insight into the workings of utility companies, social and other various city institutions. Primarily because their experience was gained through direct contact with various strata of society, it represents precious material on how the everyday life of the city pulsates, as well as the life of its citizens, which is a good basis for focusing the processes of urban planning (Todorović 1970: 243). Urban planning, therefore, is the result of teamwork, and sociologists can take part in all of its phases: from compiling data which are used to create an image of the social structure of the inhabitants, to the evaluation phase of urban projects, and providing recommendations for their improvement or focusing.

This type of understanding of the role and importance of sociology for urban planning is essentially based on the opinions of Jane Jacobs and her famous claim that when cities are being studied, it is actually life that is being studied, in its deepest complexity and highest intensity in particular (Džejkobs, 2011). These understandings of the author are based on the paradigm that the city is primarily made by its *people*, and only then by its architecture.<sup>2</sup> To this we add the exceptionally important fact that every city locality (neighborhood, quarter, block) has its own urban aroma and represents a unique mixture of social and cultural elements. It is precisely because of that that we need to approach it and study it as a special social-spatial whole, before one actually takes on the endeavour of transforming and building. In that context, Jacobs claims that planning no expertise can act as a replacement for knowledge of the place that is being built (Džejkobs 2011: 446).

## URBAN SOCIOLOGY AND PLANNING

We could say that the 19<sup>th</sup> century is a watershed of sorts, both for the development of cities, and the emergence of sociology as a science. Industrialization and urbanization had already begun to change the world as we know it at the beginning of the 19<sup>th</sup> century, which, among other things, has influenced the emergence of new social sciences. Among other disciplines, sociology as a science emerges from the need to explain the newly created world and to determine its possible paths of development. The new age has on the one hand given rise to an uncritical optimism in terms of the creation of a *new man* who has parted ways with traditional society, privileges, and the pressures of religion and aristocratic practices. However, social reality has, on the other hand, shown its flipside which is manifested in poverty, epidemics, a high mortality rate, and the erosion of the environment. The described contradictoriness is taken into consideration by Castells when

<sup>2</sup> Jacobs claims that urban planning must be preceded by observation of the lives of the people, which requires walking through city quarters and talking to the inhabitants. This is the first and necessary step in compiling sociological material on the urban community which we want to build and develop. This is the horizontal type of urban planning, as opposed to the vertical and hierarchical, which would probably lead more to destruction of the city as a living community, than to its organization and cohesion.

he speaks of the emergence of an *urban sociology* as a special branch of the sociology. The author in that sense cites that it emerged at the beginning of the 20<sup>th</sup> century as the result of the desire to establish a certain cohesion between American cities and the cities in the West, which were spread afar by competitive individualism and the desire of an individual to survive in a cruel environment.<sup>3</sup> At the time, some socio-spatial experiments emerged, among them the *garden city* of Ebenezer Howard, a scientist who proved that sociological knowledge with the addition of imagination can create a different urban world (see Mirkov, 2009). Beginning with 1902, with the city of Letchworth (and somewhat later Welwyn), until the 1970s, approximately twenty more cities were erected on the premises of ecology, of which many today can boast of higher quality and better organized life. Howard's ideas spread during the 20<sup>th</sup> century throughout the USA and Russia (with sometimes unsuccessful modifications), and it is estimated that there are approximately 2.6 million people in the world today living in approximately 30 cities which were inspired by Howard's idea of garden cities (<http://labourlist.org/2014/02/a-new-generation-of-new-towns-and-garden-cities/>).<sup>4</sup>

Later on during the 20<sup>th</sup> century, it was increasingly more easy to recognize the importance of the profession of a sociologist in the process of social and urban planning (Lamont, 1973). Tomas H. Jenkins studied sociologists who integrated dual roles and established themselves as sociologists (that is scientists) on the one hand, and planners or social designers on the other. The author refers to them as "sociologist-planners" (Jenkins, 1996), and includes among them Patrick Geddes, Karl Mannheim, Robert E. Park and Louis Wirth. Wirth said that in order for someone to become a social scientist, he primarily had to be an active citizen, and in his works he did not separate theory from practice.<sup>5</sup> Geddes studied social science primarily as an applicative one and confirmed that by his active involvement. Even before he became a well-known sociologist, he was an activist who strived for the improvement of the position of marginalized groups and slums in Edinburgh.<sup>6</sup>

The dialectical process of the development of social science and society, that is, theory and practice, continued into the 1970s, when the so-called *new urban sociology*, rebellious and critically minded began to turn towards the topic of the right to a city, which is precisely most closely bound to the right to space (Castells 2002: 10). The neutralization of the process of urban planning, that is, its de-ideologization and the relinquishing of ties it has with the

3 The search for a better urban society found its expression in social utopias as well, but also numerous literary works. Authors also negatively write about how city life influences the psychology of individuals torn between tradition and modernization: Virginia Woolf speaks about the alienation and atomization of individuals in a big city (London), while James Joyce describes random encounters between people, their destinies and attempts to find the meaning of life in Dublin at the beginning of the 20th century, at a time of rapid and intense social change (Gandy 2006: 64).

4 In addition to Howard, a noteworthy mention is the importance of one of the pioneers of the idea of an eco-city, Patrick Geddes, who stood for the ideology of *constructive anarchism* and founded a laboratory for the sociological study of cities and their ecological development (*Patrick Geddes Centre for Planning Studies*).

5 Wirth was also for a time the chair of the Planning Committee of Illinois.

6 For more on sociologists as social planners see Jenkins, 1996.

ruling class was the basic problem which urban sociologists had contended with up to that point, pointing out the imperative that the city must belong to everyone who lives in it, and not to the class of capitalists and politicians.

The new social challenges of the 21<sup>st</sup> century confirm the continuity in the development of urban sociology through the interplay between science and practice. Numerous topics which are imposed upon urban sociology as a problem of study are reflected in the new problematization of urban planning, which must keep up with the overall social dynamics and take into consideration all the numerous social transformations. One of the most important frameworks for study is the neoliberal model of urbanization, which places economic interests before broader social ones. In addition to that, crucial social changes take place both in the field of climate change and weakening patriarchies, as believed by Castells, so it is necessary to consider those social aspects as well.

### IDEOLOGY AND PUBLIC SPACE

That cities are social spaces permeated by a complex matrix of political-interest patterns was best proven by Henri Lefebvre. City space is never a neutral category, and instead is filled by the values of those in power. Writing about that in the 1960s, the author had in mind the interests of the capitalist class which when teamed up with the political class realized the reproduction of social relations, keeping in that way the working class in a subordinate position. Being pushed to the spatial margins was for Lefebvre equal to social and political isolation, and so the cure of revolutionary transformation of society and the destruction of the social order he saw in the fight for the *right to the city*. By articulating the struggle for the right to the city, broader systemic and essential social changes can be made, due to which cities must become the centres of study of all social relations and the main subject of study of social sciences. This is how sociology is manifested and how it imposes itself as having exceptional importance.

Analysing urbanism as a profession, Lefebvre sees it, first and foremost, as an ideology in the service of the ruling class and profit, and states that architects and urban planners, either consciously or not, work for the working class and thus take part in the reproduction of social relations. Urbanism thus does not represent anything other than a mixture of ideology and practice which through the appropriate institutions suppresses real life, instead of being in the service of human and ecological goals. Or, as Pušić puts it, when the urbanists “conquer” the vocabulary of political rhetoric, then their profession ceases to be creative (Pušić 2009: 213). Urbanists act upon dictates in favour of liberalism and technocracy, without analyzing the real world and the needs of the inhabitants.<sup>7</sup> They do not note that space is a *product*, and not a given, and that their role might be of special importance. Lefebvre stated that it seems that urbanists either do not know or pretend not

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<sup>7</sup> Lefebvre distinguishes between three types of urbanism for which he provides various qualifications. One type is the urbanism of humanists (architects, authors, etc.) or *the urbanism of people of good will* (Richter, 1975), the second is the urbanism of the state as public administration urbanism, and the third type is technocratic urbanism, that is urbanism of entrepreneurs (Lefevr 1974: 170).



to know that they themselves are a part of the production relations, that they are adhering to their regulations. They are merely executing, while they believe they are managing space. They subjugate themselves to one social commandment which does not refer to an object or a product (goods), but instead to a global object, this ultimate product, this final object of exchange: space (Lefevr 1974: 173).

What Lefebvre wrote about in the last century is equally valid today, since in their essence, social relations have not changed. The dominant model of urbanization today is *neoliberal urbanisation* which manages space by bearing in mind the interests of investors, and is led by the logic of entrepreneurial management of the city, while as a consequence; social polarization and spatial segregation are produced. Mass processes such as gentrification, ghettoization, commercialization and a specific kind of colonization of public space, are indicators that urban planning is in the service of capital and that the needs of citizens are focused increasingly more on consumption, where the *use value of a city* is suppressed as are its functions which are focused on everyday life and the needs of citizens.

The neoliberal model of urbanization is dominant in the post socialist countries. In most cities in Serbia, for example, we find a large concentration of cafes, fast food restaurants, and casinos in pedestrian zones, which is a reflection of a quasi-urban sensibility and a lack of taste. This type of spatial planning reminds us of the mass production of low quality goods and leads to an understanding of the city as a profitable entity (Pušić 2009: 168), and not complex material, spiritual and civilizational growth.<sup>8</sup> Research has shown that the decisions on public space are mostly made by people holding high positions, that is, by the local self-government, without any consultations with the citizens, and sometimes even without consulting with professionals (see Vlahek and Kireta 2018; Pajvančić Cizelj 2016). Citizens do not take an active part in the decision-making process regarding space, and their participation is being increasingly more reduced to a formal possibility rather than an essential inclusion in the issues and processes which are of public importance. Apart from that, they do not believe that their opinion can change any decision which was handed down from above (Vlahek, Kireta 2018). This type of attitude is a reflection of a broader political culture of the countries in the Balkans, which is characterized by a weakly developed civic society, a low level of trust of citizens in institutions, and the lack of a willingness to take part in politics.<sup>9</sup> Such an apathetic civic atmosphere is suited to a deeper neglect of a common interest and leads to a more serious democratic deficit in the management of a city.

Considering how public space represents a public good and common interest, various actors must take part in its planning, and not just formally, but substantively.<sup>10</sup> In order

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8 By analyzing urban planning in Serbia, on the example of the city of Novi Sad, Pušić claims that urbanism was not only a topic dealt with by experts (especially of sociologists who were not included in these processes), and instead was ruled by architects and engineers who loved politics or politicians who loved architecture. This indicates that education was not of primary importance for managing the space of a city, but instead political suitability, above all (Pušić 2009: 220). Thus it turned out that urbanism is primarily a technical and political matter, and only then a social one. The social dimension of the city was neglected and treated as something known to everyone, due to which the specific nature and significance of the social sciences, and sociology as well, were not recognized.

9 For more information on the research done in Serbia, visit the following website: <https://demostat.rs/sr/vesti/istrazivanja/politicki-aktivizam-u-srbiji/131>.

10 It is especially important to include the poor and marginalized social groups in the process of urban planning

to achieve such a goal, an *integral approach* should be applied to urban planning, which would include various participants in the decision-making process, beginning with the local authorities, then the professions, all the way to the citizens as the users.<sup>11</sup> Only through interaction can various interests, desires and needs be accommodated, and active thought regarding one's living environment stimulated (Vlahek and Kireta, 2018). This is an opinion shared by Jacobs when she criticized the modernist top-down approach, which she claimed in a way negated the city, because it negated the people who live in it, imposing upon them inadequate centralist solutions and projects. Contrary to that, she advocated a decentralization of urban planning, claiming that the opinions of "ordinary" men are important, since they possess "local knowledge", which means that they know that space best as they use it daily and know how it should be organized in accordance with their needs. Even when some form of centralized approach to planning is needed, more urbanistic options should be offered, that is, the possibility of choice should be left open (<https://marketurbanism.com/2016/02/21/who-plans-jane-jacobs-hayekian-critique-of-urban-planning/>).

#### AN OVERVIEW OF THE CONTEMPORARY SOCIAL CHALLENGES OF URBAN PLANNING

Among the topics which are imposed on urban sociology in the 21<sup>st</sup> century, Castells cites as the two most important the crisis of patriarchy and ecology. Even though patriarchy is still dominant, the 20<sup>th</sup> and 21<sup>st</sup> century brought with them certain changes in the patterns of life and gender relations, which urban planning needs to keep up with. The household has experienced a transformation, since women are to a greater extent included in the job market, which with itself carries the consideration of other spatial organizations.<sup>12</sup> It is especially important to properly connect city wholes by public transport systems and institutionally organize the issues of childcare and the city school system. Obstacles, however, occur since it seems that there is no sufficiently developed awareness of the spatial needs of new patterns of living. Among other things, one of the problems is that women are not widely included in teams for urban planning, considering that urbanism is traditionally considered a male and technical profession. This is why in almost all the charters on the right to the city the necessity to include women experts to a greater extent in public city policy is emphasized, including activities related to urbanism. Of course, this step does not necessarily mean the production of a gender sensitive city space, but is considered one of the most important assumptions of such a transformation. Dealing with gender-spatial problems, Castells leaves it to urban sociology which he defines as the *post-patriarchal urban sociology* (Castells 2002: 17).

According to the same author, the other great topics for contemporary urban sociology

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(See International Guidelines on Urban and Territorial Planning, 2015).

<sup>11</sup> Sometimes we use the term *collaborative approach* for the type of approach which includes a broad spectrum of actors, and even the citizens themselves (Timotijević 2018: 67).

<sup>12</sup> For more see Božilović, 2018.

are the problems of endangering the environment. The dominant position of the citizens is that ecological problems are essentially political and that a political platform is necessary for the solution of the ecological crisis which will vertically be in harmony with all the scales of spatiality – from global institutions to the local level. Cities in that respect are considered especially important, since they, on the one hand are places where industrial facilities were located. However, they are the lifeline of capitalism and the consumer way of life, which with its logic of consumerism significantly contributes to the depletion of non-renewable natural resources. At the same time, this is not done for existential human needs, but with the aim of achieving a desired lifestyle and the social status which is imposed by capitalist society. In a more narrow sense, the organization of city space could be one of the initial factors of change in the paradigm of the everyday way of life, which would significantly contribute to the decrease in air pollution. Numerous organizations and urban movements develop specific suggestions and solutions regarding cities, such as places with more pedestrian zones, where the tendency is towards the decrease in the use of motor vehicles.<sup>13</sup> This includes the spatial organization of neighbourhoods which have been provided with all the necessary social services for everyday life, but in addition to that, what is emphasized is the development of the idea of a decrease in the temporal and spatial distance between one's place of residence and place of work.<sup>14</sup>

Apart from that, an important topic is the increase in green surfaces in cities, since green areas are not only important from the point of view of cleaner air, vegetation, and a healthier life in the city, but instead have a cohesive *social* function. They are locations of socialization, and thus enable inter-generational, inter-cultural, inter-class and other encounters in a relaxed atmosphere. Connecting various ethnic groups in multicultural communities, city parks and gardens has a positive effect on the construction and strengthening of solidarity and social capital. Also, research has indicated that these areas are especially important for the integration of crime-stricken neighbourhoods (Foster, 2006), which is one of the arguments why it is important to include sociologists in teams for urban planning

Still, we should not assume that increasing green surfaces in quarters by building lawns will in and of itself have a positive effect on the local community. In her research into American cities, Jacobs reported the opinion of a citizen of a poor neighbourhood in East Harlem on why he and the other citizens are opposed to the existence of a large green surface in their residential area: "Nobody cared what we wanted they built this place. They threw our houses down and pushed us here and pushed our friends somewhere else. We don't have a place around here to get a cup of coffee or a newspaper even, or borrow fifty cents. Nobody cared what we need. But the big men come and look at the grass and say 'Isn't it wonderful!, Now the poor have everything'" (Jacobs 1961: 15). This example shows that decisions regarding the shaping of space should never be made from "above", even if they do have the best intentions. The urbanistic solution which can somewhere show positive results, in other places may just be adequate, which is to a great extent the consequence of the social position of the inhabitants of the given neighbourhood. This only confirms that in the designing of space, an integrative approach is needed.

<sup>13</sup> For more information go to [www.newurbanism.org](http://www.newurbanism.org)

<sup>14</sup> Historically speaking, the time which man needs to get from his home to work has increased, and this trend is still ongoing.

Another topic worth mentioning in the analysis of contemporary challenges faced by urban planning is the orientation of cities towards tourism, which significantly changes the function of cities, especially their central zones. Often during that process, requirements occur which could be contradictory: how to please a stranger/visitor to the city so that he could experience the content of the city (both historical and cultural), and at the same time not allow the commercialization of the space in the desire to attract tourists and profit to endanger the local city population by suppressing their essential needs and everyday rhythm of life. In practice, the central parts of public city areas are usually given a commercial, service industry purpose.<sup>15</sup> This is especially problematic when only the urban planning of *tourist cities* is taken into consideration, since pedestrian zones are reduced by the spreading of terraced areas of service industry objects. Space, in that way, is viewed partially (solely as a form), which does not correspond to the social, cultural and historical environments in which a city emerges and exists (Vlahek and Kireta, 2018).<sup>16</sup> The described conflict takes place between the economic and social function of cities, and it would seem that the former is dominant.

## CONCLUSION

Based on the aforementioned, it emerges that urban planning is a complex social phenomenon. Usually it primarily includes the physical, that is material aspect of a city; however, its social and human dimensions are essential and must be of primary importance when considering urban planning. Without people and society, cities as material spatial constructs would be empty shells.

In this paper we attempted to indicate the importance of the profession of a sociologist in the process of urban planning, both by indicating the specific activities through which a sociologist can contribute to this process, and by pointing out the very development of urban sociology which was always in a certain way connected to practice, that is, the attempts to measure the urban world. What was also pointed out was the influence of ideology on space and the model of neoliberal urbanization, which with its orientation towards profit renders urban planning pointless, as it neglects the needs of citizens which must be the basic reference point of urban planning. Numerous sociological studies offer insight into the described processes, which confirms that the findings that have scientifically been obtained are a precious basis for possible corrections for a more just urban planning.

We should, however, bear in mind the important fact that the development of cities

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<sup>15</sup> Jacobs criticizes the reduction of city space to a single function and as one of the central principles of urban planning advocates diversity. She believes that the ethnic, cultural, racial, socio-economic, residential, functional and other types of variety make up the foundation of a healthy urban community, and that every neighborhood should be organized in such a way as to offer a variety of services and encourage various activities (<https://www.cppr.in/article/how-to-plan-a-city-lessons-learned-from-jane-jacobs>). In that context, she compares cities to ecosystems, since they both need diversity to be sustainable.

<sup>16</sup> It is important to look at space both contextually and as a totality, that is, as a field in which all social processes take place, where cultures overlap, and on which history leaves its mark (Šakaja 1999: 7).

cannot completely be planned, or carried out based on some abstract planning or statistical principles. No science, technical or social (even sociological), can ever fully predict the influence the direction of development of the city, since it represents a “living” dynamic entity, which has its own pulse which sometimes eludes controlled development. It is in the nature of a city to have a spontaneous path of development, and that is precisely how cities and the life taking place in them differ and have their own appeal. Their identity is a mixture of controlled and spontaneous development, which was confirmed by Jacobs: “The main responsibility of city planning and design should be to develop - insofar as public policy and action can do so - cities that are congenial places for this great range of unofficial plans, ideas and opportunities to flourish, along with the flourishing of the public enterprises” (Jacobs 1961: 241).

However, when public policy based on scientific research is applied to the development of a city, we should always bear in mind that there is no single best spatial pattern which can successfully be applied everywhere, and instead each city quarter is a social whole unto itself, and which is how it should be approached. Just like a suit is tailored to fit a unique set of measurements and dimensions of a man, so must a city be designed in accordance with the social structure and needs of its inhabitants.

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**PROCESSES OF ACTUAL DESECULARIZATION IN THE REPUBLIC OF  
NORTH MACEDONIA**

**Abstract**

The complex period of globalization, followed by social-economic and cultural modernization, has been supposed to lead to disappearing of the religion. In contrary, all those processes are leading to its revitalization. When we talk about religious processes in the modern industrial and postindustrial societies, as well as the post socialists and the societies in transition, the desecularization becomes an inevitable concept. The process of desecularization, respectively, the religion back up on the world scene is the main characteristic of the modern society. However, that does not mean rejecting the theory of secularization, but its revision. The period after 70's and 80's of the previous century, is the period of religion reviving in the biggest part of the world. This period is accompanied by a strong social and political influence of religion. With the introduction of political pluralism, as well as the change in the legislation, there is considerable relief in the work of religious organizations compared to the period of socialism.

The revitalization of religion began in the early 1990s. Initially, the revitalization process of religion is perceived through the revitalization of the actual ritual behavior. In our country, the emergence of MOC-OA and IRC since its decades of isolation within the framework of privacy and their gradual inclusion in public life has been supported by greater media coverage of religious organizations, as well as a resurgence of religious literature and publishing.

The question arises as to how post-socialist democratic processes affect the religiosity increasing. The results of the researches made in the post-socialist period show that in addition to the old Latent believers who now freely manifest their religion, there is the

appearance of new believers, ie, a real increase of religiosity is evident. Not always the revitalization of religion is the result of only the profound changes in the spiritual life of people in the direction of returning to religion and the aspiration for spiritualization, but the period of revitalization of religion is related to the deep social and political changes associated with the collapse of socialism, as well as the disintegration of former Yugoslavia; respectively, the revitalization of religion is the result of the social, territorial, national and confessional homogenization of the population in the republics within the former Yugoslavia.

**Key words:** religion, religiosity, socialism, secularization, desecularization.



## INTRODUCTION

It was supposed that the complex period of globalization, followed by social-economic and cultural modernization, will lead to disappearing of the religion. In contrary, all those processes are leading to its revitalization. The empirical data on religion in the modern societies have shown that the religion not only has not disappeared, but it has survived by retreating into the privacy and it is becoming one of the main public life creators. When we talk about religious processes in the modern industrial and postindustrial societies, as well as the post socialists and the societies in transition, the desecularization becomes an inevitable concept. The process of desecularization, respectively, the religion back up on the world scene is the main characteristic of the modern society. However, that does not mean rejecting the theory of secularization, but its revision. "It's true that secularization happens fast, but, it's also true that the world manifests an incredible power for surviving." (Blagojevic, 2006:96). The examples in the world show that modernization processes do not lead to the rapid spread of secularization, but on the contrary, it is confirmed the thesis that secularization is not a necessary prerequisite for economic, political and social development. The period after 70's and 80's of the previous century, is the period of religion reviving in the biggest part of the world. The religion and the church are very present in the public life related to many current issues. The period after 70's and 80's of the previous century, is the period of religion reviving in the biggest part of the world.

## THE IMPACT OF SOCIAL DEVELOPMENTS ON THE PROCESSES OF DESECULARIZATION

During the 80's of the previous century, in the countries of Western Europe appeared a certain revival of the sacred. Respectively, the Catholic and protestant church started to appeared by raising the voice related to important social problems and issues. However, when we talk about secularization in the countries of Western Europe, we can say little about complete secularization, but rather it is a non-church form of religion; it is a matter of believing without belonging. Accordingly, for the countries of Western Europe, the revitalization of religion would rather mean the revitalization of the church form of religion.

A little bit later, "during the 1990s, in the countries of the former socialistic part, people returned to religion, since the collapse of socialism left behind an ideological vacuum. The new, far more favorable conditions for preaching and spreading, lead to the resurgence of religions in Central and Eastern Europe" (Blagojević, 2006: 97).

With the introduction of political pluralism, as well as the changes in the legislation, there is considerable relief in the work of religious organizations compared to the period of socialism. In addition to the changes in the legislation regulating the legal status of religious communities, many educational, cultural and social-humanitarian institutions have also been established and restored. Religion also has an important place in electronic and other media. Churches in post-socialist societies play an increasing role within religious education, moral care, social and human work. Religion also has a significant social and

socio-psychological function, acting as an important integrative factor in the consciousness of every religious individual (Vukomanović, 2001: 82-104).

As we have already said, the revitalization of religion begins in the early nineties of the last century. Initially, the revitalization process of religion is perceived through the revitalization of the actual ritual behavior. In our country, the emergence of MOC-OA and IRC since its decades of isolation within the framework of privacy and their gradual inclusion in public life has been supported by greater media promotion of religious organizations, as well as a resurgence of religious literature and publishing.

The question arises: “How post-socialist societies are predisposed to a successful transformation (modernization) if the traditional values, including religious ones, are on a high level” (Blagojević, 2006: 101)? The answer to this question is of double significance. On the one hand, from the aspect of the social context of transition, the answer to the question is important because without the general acceptance of modern values there is certainly no real success in the initiated processes of Euro-integration. On the other hand, from the aspect of religion and religious-institutionalized organizations in the transition countries, the answer to the above question is also important because the success of the transformation, that is, the modernization of society depends on how religious values are or are not valuable dissonances in the society in which they are exciting. In other words, the religion itself depends on whether it will be a brawler or instigator of the already initiated processes that lead to civil society.

After the collapse of socialism, there is a clash of values, a clash between the traditional and the modern, a conflict that existed in socialism. At the beginning of socialism, the clash was quite radical and later hidden. “It was a clash between the tradition, most often represented in the frame of religion as a legal but suppressed and stigmatized opposition and the socialist regime with modern values which encouraged and the results that it brought within” (Blagojević, 2006: 102).

Historically, after the Second World War in the Yugoslav territories, it became to a breakdown of tradition and traditional consciousness, a process in which religion and the church took a central place. The period of social marginalization of religion and church begins, as well as its material and personnel weakening. The Marxist-Leninist ideology according to which religion is perceived as a form of human alienation determined the place and role of religion in society during the period of communism. The communist ideology that propagated systemic secularization and conducted atheism influenced the stigmatization of traditional, especially religious socially-problematic unacceptable values (according to the point view of the social system), as well as the affirmation of new non-traditional values. “In such unfavorable social situation, the religion and church remain to be guards and defenders of those traditional values against which was unofficially declared war by the atheistic “ (Blagojević, 2006: 103).

After a long and frustrating suppression, in the early nineties of the last century the tradition, respectively, religion is coming back on a triumphal door to the territory of the former Yugoslavia. The religion “on the big door has penetrated into all spheres of public life of citizens. This phenomenon in some way from the private sphere of personality has shifted into his public life “(Matevski, 2013: 43). It is a period in which the socialistic social system is weakening and the nationalist ideologies are spreading; and that have resulted

with the collapse of the SFRY. The collapse of socialism means the return of traditional religion in all Yugoslav republics. The fact that communism in Yugoslavia was a kind of secular religion was undeniable and it played an integrative and identification function. However, with the collapse of socialistic social system, it becomes a period of economic and spiritual crisis of the population, so there was a need to return to religion as a shelter and spiritual security, respectively, as a compensation for the crisis in identity and identification. In that period, the function of religious symbols is present so it gives people a certain orientation in some disturbed relationships in which they live and “that help individuals and groups to adapt to those situations in life that are filled with fear, uncertainty and danger - problems of all kinds” (Šušnjić, 2004: 200). The feeling of insecurity imposes the need of the individual to seek protection by belonging to certain group identities. “The need for belonging to a group and the identification with that group, in the transition period, was found within the framework of religion” (Matevski, 2012: 323-324). Thus, religion restores its social function that has been marginalized in the period of socialism. Also, a religion that is regarded as a phenomenon over everyday life, has always followed human needs, offering imaginary explanations for many questions characteristic for the transition period.

There are certain perceptions in sociology that consider religion and tradition as limiting factors in post-socialist European integration processes. According to some European sociologists and sociologists from the former Yugoslav territories, the negative effect of religion in post-socialist societies is manifested “in several ways: the reaffirmation of religion covers traditionalist antimodernist patterns, it leads to re tradition; religion leads to ethnocentrism; post-socialist society brings religion back to the past, instead of the present and the future; blocks the society in accepting the processes of modernization and rationalization and renews the process of authoritarianism and egalitarianism, instead of encouraging the society of democratization and progress” (Blagojević, 2006: 107). Mirko Blagojević points out that approach would be one-sided if the religion is seen as a limiting factor in post-socialist integration in Europe. According to him, “religion and religiousness have a positive influence in society: the autonomous manifestation of religiosity is expanding as a” right to consciousness “as part of general human rights and freedoms, as well as the realization of several important functions of religion such as psychological-emotional, ethical and anthropological function: religion affects the preservation and strengthening of national identity; it strengthens the cultural and social integration of the community, which prevents social anomy; religion profiles national particularities, identity and self-determination in conditions of more modern globalization, and so on; contemporary neocolonial strategies of the strongest (or strongest) countries in the world” (Blagojević, 2006: 108). Certainly, those are the functions of religion that should be preserved in the future in the processes of the entire European integration of our country.

The question arises as to how post-socialist, democratic processes affect the increasing of religiosity, respectively, whether the revitalization of religion means the emergence of new lanes or only a change in the form of expression of religion from latent into manifestation form? Certainly, the results of the research made in the post-socialist period show that in addition to the old Latent believers who now freely manifest their religion, there is the appearance of new believers, respectively, the religiosity increasing is evident.

Revitalization of religion is possible only if certain social conditions exist previously.

The return (revival) of religion is unlikely in the peaceful flows of social life. It comes to her in the moments of a fundamental social crisis (Matevski, 2009a). Of course, the social events after the collapse of socialism are in favor of the revitalization of religion. The transition period is accompanied by phenomena, demands, as well as open questions where saint answers are not able to fully meet the needs of people. The transition period is a period in which people experience extremely negative experiences. They range from a sense of existential uncertainty and uncertainty caused by the economic crisis to the fear of death caused by war conflict and war psychosis in the areas of the former Yugoslav territories affected by the war conflict. In such circumstances, the universal questions relating to human life and death are inevitably resurrected, respectively, questions for which answers are sought in religion, which is certainly not the case with countries that have not been covered for a long time by the war conflict. They are characterized with an indifferent relation to religion. Confirmation of this is the empirical data obtained after the researches made in the former Yugoslav territories.

## CONCLUSION

Desecularization as a social phenomenon basically represents a gradual up taking into the sacred in the established saint environment, the process of returning believers to the churches, celebrating religious holidays, or emphasizing religious movement. The crisis in a secular society manifested in all forms of human division and organization imposes the need for returning to religion. De-categorization determines the creation of new, but at the same time strengthening the already existing religious communities.

To fill the frame of the revitalization of religion, we should also point out that there are negative phenomena, or abuses of religion, for daily political and national purposes. Such phenomena are most present in environments with a heterogeneous religious and ethnic composition. Of course, by changing the legal regulation, the state undertakes acts that regulate the attitude of the state and religious organizations.

Some authors believe that, the religion itself depends on whether it will play the role of a brawler or an instigator of post-socialist transformations. After the collapse of the communist value system in the society of post-socialism, there is an anomaly, ie a conflict between traditionalism and modernism, a conflict that exists in socialism itself. That conflict was between the tradition, represented in the image of religion as a legal, but also pressed and stigmatized and socialist regime with the values that it incited.

However, in our societies the religions and traditions are so intertwined and connected phenomena so that many elements can even be identified. After the Second World War there is an attack and a breakdown of tradition and the traditional consciousness in which religion has a central place. At the beginning, this breakup was presented on the public and ideological scene, and later in other areas of social and political life. New non-traditional values were affirmed while the traditional ones were stigmatized. However, religion and religious organizations managed to preserve the role of guards and defenders of those traditional values against which was officially declared war by the atheistic culture.

In this context, it was emphasized the question about the perspectives of the processes of de-secularization of the states that were created by the breakdown of Yugoslav society and the collapse of socialism, the processes that are most intense in the period of gaining independence. Depending on the fact which former Yugoslav republics will be able to restructure economically and politically and thereby raise the standard of living of the population, the processes of de-secularization will slow down as soon as possible. Not always the re-vitalization of religion is the result of only the profound changes in the spiritual life of people in the direction of returning to religion and the pursuit of spiritualization, but a period of revitalization of religion is related to the profound social and political changes associated with the collapse of socialism and the collapse of the former Yugoslavia, respectively, the revitalization of religion is “a result of the social, territorial, national and confessional homogenization of the population in the republics of the former Yugoslavija” (Blagojević, 2005: 384). Also, socio-political developments as well as national and confessional homogenization or segregation of the population have their further impact on intensifying the processes of de-secularization in the Republic of North Macedonia.

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