2‘19 }
Recenzovaný společenskovědní časopis
Peer-reviewed social science journal
2019 * Ročník / Volume XV * Číslo / Issue 2
www.sets.cz

Scientia et Societas

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Mezinárodní mobilita pracovní síly v Africe

Ing. Tereza Němečková, Ph.D. » Metropolitní univerzita Praha, Dubečská 900/10, 100 00 Praha, Česká republika; email: tereza.nemeckova@mup.cz

1. Úvod

Pracovní síla je v ekonomii považována za jeden z hlavních výrobních faktorů. A stejně jako v případě kapitálu, i v případě pracovní síly dochází k její mezinárodní mobilitě. Jenže na rozdíl od kapitálu existuje na globální úrovni stále ještě mnoho překážek, které její větší mobilitě brání. Přesto ale v posledních letech tzv. mezinárodní mobilita pracovní síly stabilně narůstá.

Podle nejnovějších dat Mezinárodní organizace pro migraci (IOM) ve světě žilo v roce 2017 celkem 258 milionů tzv. mezinárodních migrantů, tj. osob, které žily v jiné zemi, než v jaké se narodily. To při současném stavu populace ve výši 7,7 miliard osob (2018) představuje 3,4 % světové populace. Jen mezi léty 1990–2017 se jejich počet zvýšil o 105 milionů (IOM, 2018a). Z tohoto celkového počtu pak dle zatím posledních odhadů IOM z roku 2015, založených na datech z roku 2013, patřilo kolem 150 milionů osob, čili 58,1 %, mezi tzv. pracovní migranty, tj. osoby, které odešly do zahraničí primárně z důvodu zaměstnání (IOM, 2018b, s. 23). Toto číslo představuje 2 % světové populace. K tomu je možno přičíst dalších cca 5 milionů osob, které dle odhadů IOM odešly přes hranice za prací nedobrovolně, což je někdy označováno také jako moderní otroctví. Zjednodušeně lze ale říci, že i ostatní typy mezinárodních migrantů (za studiem, za účelem sloučení rodin apod.) představují potenciální novou pracovní sílu pro hostitelské země a naopak ztrátu pracovní síly pro země domácí. Z tohoto ekonomického pohledu je i na mezinárodní migraci v tomto článku nahlíženo, tj. jako na mezinárodní mobilitu pracovní síly, bez ohledu na její primární motiv. Důvodem je i skutečnost, že neexistují kvalitní mezinárodně srovnatelná data týkající se mezinárodní migrace pouze za prací.

Z pohledu ekonomické teorie přináší mezinárodní mobilita pracovní síly řadu výhod. Dochází ke konvergenci reálných mezd mezi zeměmi — zvyšují se v zemi, kde je pracovní síly hodně a ze které odchází do zahraničí, a snižují v zemi, kde je pracovní síly málo a do které nová pracovní síla směřuje — a zvyšuje se i celkový globální produkt. Vybraní aktéři ale pociťují dopady mezinárodní mobility pracovní síly rozdílně, například ti, kteří by v hostitelské zemi měli vyšší reálné mzdy, mají v konečném důsledku vlivem přílivu nové pracovní síly mzdy nižší (Krugman, Obstfeld a Melitz, 2012, s. 71). Dvojaký charakter má i osobní kapitál, který v důsledku mezinárodní mobility pracovní síly je v podobě tzv. remitencí přesouván mezi zeměmi. Z pohledu hostitelské země se jedná o odliv kapitálu, z pohledu domácí (zdrojové) země pak →

o příliv kapitálu. Celkový objem těchto peněžních transferů činil jen za rok 2017 dle dat Světové banky 613 miliard USD. Jen do zemí s nižším a středním příjmem se tímto způsobem dostalo 466 miliard USD (WB, 2018a). Remitence se tak staly pro některé země klíčovým zdrojem zahraničního kapitálu. Jen pro srovnání významu tohoto typu kapitálu, například do Indie se v roce 2017 dostalo 69 miliard USD v podobě remitencí (WB, 2018b), 40 miliard USD v podobě přímých zahraničních investic (UNCTAD, 2018) a 2,7 miliard USD (2016) v podobě rozvojové pomoci (OECD, 2018).

Na mezinárodní mobilitu pracovní síly se lze dívat i prizmatem migračních teorií. Ty zkoumají například faktory, které ji vyvolávají. Teoretický koncept tzv. tlaků-tahů (*push-pull factors*) se stal jedním z nejvíce používaných ve výzkumu migrace. Jeho základy položil známý americký psycholog Kurt Lewin (Lewin, 1951). Nejčastější motiv, tj. získání nové práce může být vnímán jak jako *push* faktor v případech, kdy na domovském trhu práce není dostatek pracovních příležitostí, tak i jako *pull* faktor v případech, kdy na hostitelském trhu jsou nejen větší pracovní příležitosti, ale také vyšší mzdy. Mezinárodní mobilitu pracovní síly ale podporují i další faktory, jako například poptávka po vyšším a lepším vzdělání. I v tomto případě lze na tento faktor pohlížet ze dvou úhlů — jako na *push* faktor v případě, že na domácím trhu není dostatek příležitostí, či chybí specifické studijní obory, tak jako na *pull* faktor v případě, kdy na hostitelských trzích existují nabídky na stipendia pro studenty. Neméně významným faktorem, který se promítá i do migrace za prací, je faktor násilí, respektive donucení, který vyvolává nucenou migraci. Na mezinárodní mobilitu pracovní síly se také lze dívat prizmatem čtyř hlavních migračních konceptů — *brain drain/brain gain/brain circulation/brain waste*. Ty zkoumají především pohyb kvalifikované pracovní síly a její dopad jak na domovské, tak i na hostitelské země (Dawson, 2007; Docquier a Rapoport, 2009; Bailey a Mulder, 2017 a další).

Afrika nestojí stranou tohoto globálního jevu. V médiích je sice často prezentována jako region masového exodu, ovšem data IOM hovoří trochu jinak. Celosvětově největší počet migrantů odchází z Asie (105,7 milionů), dále pak z Evropy (61,2 milionů), z Ameriky (42,1 milionů) a teprve na čtvrtém místě z Afriky 36,1 milionů (IOM, 2018a). A i když počet lidí odcházející z některé africké země do zahraniční se postupně zvyšuje (z 20,1 milionů v roce 1990 na 36,1 milionů v roce 2017), data současně naznačují, že zhruba polovina z nich zůstává na africkém kontinentě. Současný vývoj demografické struktury africké populace, či stávající problém vysoké nezaměstnanosti na některých afrických trzích dává za příčinu domnívat se, že tlak na odchod Afričanů ze svých zemí bude do budoucna nadále sílit.

V Africe dnes žije 1,3 miliardy lidí (2018), 60,3 % (820 milionů) je mladších 24 let, dalších 28,7 % je pak v rozmezí 25–49 let (UN, 2017). Jinými slovy, 89 % africké populace (1,15 miliard osob) je dnes v Africe mladších než 49 let. Takto mladou populaci nemá žádný jiný region světa. Problémem je, že zejména mezi mladými lidmi do 24 let (15–24 let) existuje vysoká nezaměstnanost, což z pohledu migračních teorií lze vnímat jako *push* faktor, který motivuje k odchodu do jiné země. Dle odhadů Mezinárodní organizace práce (ILO) sice nezaměstnanost mladých v africkém regionu postupně klesá z průměrných 16,8 % v roce 2000 na 13,4 % v roce 2018 (ILOSTAT), je ale nutné zdůraznit, že se jedná o oficiální data a skutečnost může být a s velkou pravděpodobností i je horší. Jedním z důvodů je obecně stále nedostatečná kvalita národních statistických dat (Jerven, 2013), druhým pak skutečnost, že řada (mladých) lidí pracuje v neformálním sektoru, který se do těchto statistik nezapočítává. Africká rozvojová banka uvádí, že mladí Afričané do 24 let mohou být dokonce až z 60 % nezaměstnaní (AfDB, 2011, s. 1). Tento údaj do jisté míry potvrzuje i Světová banka, dle jejíchž dat za rok 2017 je například jen v Jihoafrické republice nezaměstnanost mezi mladými ve výši neuvěřitelných 53,7 % (WB, 2018b).

Dobře řízená mezinárodní mobilita pracovní síly v rámci afrického kontinentu by tak mohla po-

moci tento problém řešit a minimálně zmírnit tlak na odchod lidí mimo své země. Otázkou zůstává, do jaké míry jsou africké země připraveny mezinárodní mobilitu pracovní síly podporovat, respektive umožnit její co největší volný pohyb, čímž by se zmírňovaly nerovnosti na tamních pracovních trzích, zamezilo neregulérní migraci, či výrazně omezil tlak na odchod zejména kvalifikované pracovní síly, která velmi často odchází mimo africký kontinent a zpětně je nahrazována několikanásobně dražší pracovní silou ze zahraničí.

Cílem toho článku je zjistit, do jaké míry je Afrika připravena tomuto fenoménu čelit, respektive do jaké míry byla v jednotlivých afrických subregionech přijata opatření pro usnadnění volného mezinárodního pohybu pracovní síly, která mají výše uvedené problémy řešit. Článek je rozdělen do dvou částí. V první části je stručně analyzována mezinárodní mobilita pracovní síly v Africe. Do kontextu je dán i současný vývoj demografické struktury tamní populace z hlediska věku a dále pak vývoj nezaměstnanosti na tamních trzích, opět ze subregionálního pohledu a opět s přihlédnutím na věkovou strukturu nezaměstnaných. Oba tyto dva faktory ovlivňují a ovlivňovat budou další vývoj mezinárodní mobility pracovní síly v regionu. V druhé části jsou pak analyzovány jednotlivé kroky, a to jak na celoregionální, tak i regionální úrovni, které měly (či mají) v konečném důsledku vést k zavedení volného pohybu osob v rámci afrického kontinentu, což mimochodem byla idea zdůrazňována již v počátcích dekolonizačních hnutí v Africe po skončení druhé světové války. V závěru jsou pak výsledky dílčích analýz obou částí syntetizovány s cílem dát do poměru politické snahy a opatření na straně jedné a vývoj mezinárodní mobility pracovní síly na straně druhé. Časové období pro analýzu bylo zvoleno období 1990–2017 s akcentem na vývoj po roce 2010, kdy se dynamika mezinárodní migrace na africkém kontinentě oproti předchozím obdobím zvýšila.

2. Vybrané aspekty mezinárodní mobility pracovní síly v Africe

2.1. Regionální pohled

Na území Afriky dnes dle odhadů IOM žije celkem 24,7 milionů mezinárodních imigrantů[1], od roku 1990 narostl tento počet o 9 milionů (IOM, 2018a). Podíl těchto migrantů na tamní populaci je pod celosvětovým průměrem (2 % oproti světovému průměru 3,4 % v roce 2017) a vzhledem k rychlému populačnímu růstu v Africe dokonce i postupně klesá (z 2,6 % v roce 1990 na 2 % v roce 2017). Zajímavostí Afriky je, že zde žije jen minimální počet migrantů, kteří pocházejí z jiného než afrického regionu (většinou z Asie, příp. z Evropy). V roce 2017 odhadovala IOM jejich počet na 3,6 milionů (IOM, 2018a).

Celkový počet Afričanů, kteří žijí mimo zemi svého původu, je za rok 2017 IOM odhadován na 36 milionů (IOM, 2018a). Jejich počet se od roku 1990 zdvojnásobil. IOM odhaduje, že zhruba polovina z nich žije mimo afrických kontinent, druhá pak zůstala v Africe. A zatímco v obou případech čísla v posledních letech narůstala, rychleji rostl počet migrantů odcházejících mimo kontinent. V roce 2015 žilo 9 milionů Afričanů v Evropě, 4 miliony v Asii a 2 miliony v severní Americe (IOM, 2018c, s. 44).

Co se týče mezinárodní migrace za prací, přesná data bohužel neexistují. IOM i OSN ve svých publikacích zmiňují zatím poslední výzkum z roku 2015, který se opírá o data z roku 2013. Na jeho základě se odhaduje, že z celkových 150 milionů mezinárodních pracovních migrantů žije 5,8 % v afrických zemích (IOM 2018b, s. 23). IOM současně odhaduje, že jen zhruba polovina (52 %) →

[1] *Dle definice IOM je mezinárodním migrantem ten, kdo se stěhuje, či se přestěhoval za hranice státu, kde se narodil, a to bez ohledu na (i) jeho právní statut; (ii) dobrovolnost jeho odchodu; (iii) příčiny odchodu z domovské země; (iv) dobu jeho pobytu v zahraničí.*

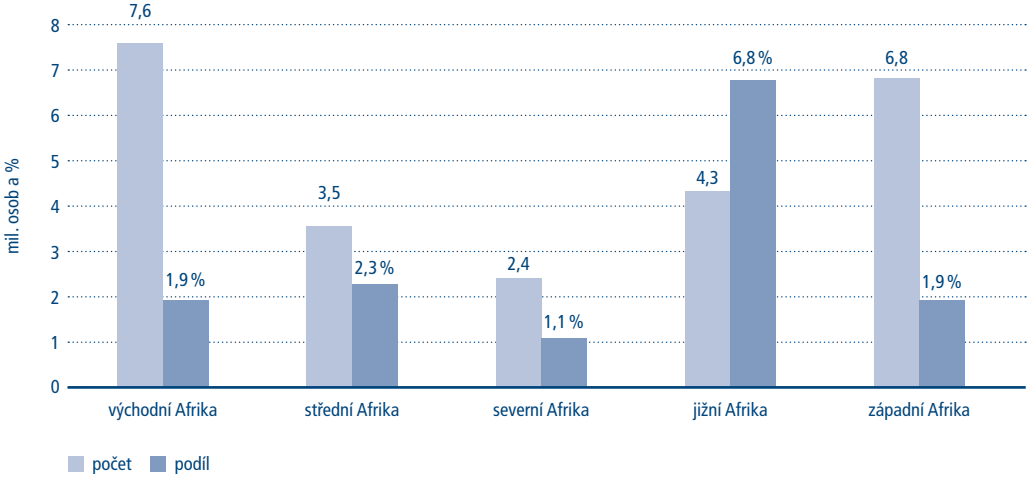
afrických mezinárodních migrantů jsou pracovní migranti, zbytek tvoří tzv. nucená migrace (AUC, 2017, s. xv). To v obou případech znamená, že odhady o počtu afrických migrantů za prací se pohybují v rozmezí 8–12 milionů osob.

Počet mezinárodních imigrantů v jednotlivých afrických subregionech a jejich podíl na tamní populaci ukazuje obrázek č. 1. Absolutně nejvyšší počet mají východní a západní Afrika (7,6, respektive 6,8 milionů osob), zbylé regiony (jižní, střední a severní Afrika) jich vykazují výrazně méně. Z relativního pohledu je situace jiná — zdaleka nejvyšší podíl na tamní populaci vykazuje jižní Afrika (6,8 %), s výrazným odstupem následovaná zbylými subregiony. Jistou zajímavostí je, že oproti roku 1990 se jejich absolutní počet zvýšil nejvíce právě v jižní Africe (o 2,9 milionů), dále pak v západní Africe (o 2,3 miliony) a na pomyslném třetím místě pak ve střední Africe (o 2 miliony osob).

Trochu jiná situace je z pohledu mezinárodní emigrace (viz obrázek č. 2). Subregionem s největším počtem emigrantů, tj. Afričanů, kteří se rozhodli žít mimo zemi svého původu, patří severní Afrika s 11 miliony osob, následovaná v těsném závěsu východní Afrikou s 10,5 miliony osob a dále pak s mírným odstupem západní Afrikou s 8,9 miliony osob. Zbylé dva subregiony — střední a jižní Afrika — mají tato čísla výrazně nižší (4,1 milionů a 1,6 milionů). Severní Afrika patří z relativního pohledu mezi subregion s největším podílem mezinárodních emigrantů na celkovém počtu populace (4,9 %), následovaná zbylými subregiony, které mezi sebou mají jen nepatrné rozestupy.

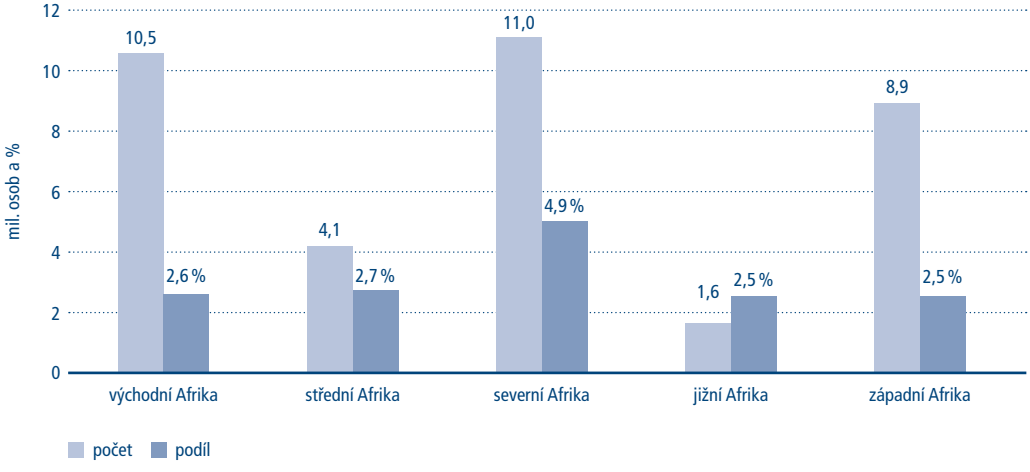
Detailnější pohled na jednotlivé subregiony pak ukazuje ještě další zajímavosti, respektive jejich specifika. Západní Afrika vykazuje nejvyšší míru vnitroregionální migrace — 80 % (Adepoju, 2016). Mezi země s nejvyšším počtem imigrantů patří Pobřeží slonoviny (2,2 milionů), Nigérie (1,2 milionů) a Burkina Faso (705 tisíc), z hlediska jejich podílu na celkové populaci pak Gambie (9,8 %), Pobřeží slonoviny (9 %) a Mauretánie (3,8 %). Mezi země s nejvyšším počtem emigrantů pak patří Burkina Faso (1,5 milionu), Nigérie (1,3 milionu) a Mali (1,1 milionu). Migrační koridor mezi Pobřežím slonoviny a Burkina Faso patří mezi absolutně

Obrázek č. 1 » *Počet imigrantů a jejich podíl na celkové populaci v jednotlivých afrických subregionech v roce 2017 (v mil. osob a v procentech)*



Pramen: IOM (2018a), UN (2017)

Obrázek č. 2 » *Počet emigrantů a jejich podíl na celkové populaci v jednotlivých afrických subregionech v roce 2017 (v mil. osob a v procentech)*



Pramen: IOM (2018a), UN (2017)

největší v rámci celého afrického kontinentu. Z hlediska dočasné, či sezónní práce pak mezi významné migrační koridory patří i osa Niger/Mali směrem do Ghany nebo Pobřeží slonoviny (IOM, 2018c, s. 51). Země západní Afriky také patří mezi hlavní zdrojové země neregulérní emigrace, zejména pak směrem do Evropy a Spojených států amerických. Jedná se především o občany Nigérie a Ghany, kteří tvoří většinu těchto afrických emigrantů, kteří směřují do evropských a severoamerických zemí (Pew Research Center, 2018).

Východní Afrika naopak nevykazuje příliš vysoký podíl vnitroregionální migrace — pouze 47 % (Adepoju, 2016). Příčinou této relativně nízké míry je poměrně velký počet těch, kteří se rozhodli odejít za účelem zaměstnání mimo subregion, především do zemí Perského zálivu (IOM, 2018, s. 53). Jistou zvláštností také je, že naopak velkou část vnitroregionální migrace v tomto subregionu tvoří nucení migranti. Z absolutního pohledu patří Uganda (1,7 milionů), Etiopie (1,2 milionů) a Keňa (1,1 milionů) mezi země s nejvyšším počtem imigrantů (a z velké části právě nucených migrantů, často uprchlíků), z relativního pohledu jsou to pak Réunion (14,7 %), Seychelské ostrovy (13,6 %) a Džibuti (12,1 %). Z pohledu emigrantů pak patří mezi největší země Somálsko (2 miliony), Jižní Súdán (1,8 milionů) a Mosambik (950 tisíc). Bohužel v případě Somálska i Jižního Súdánu se v drtivé většině jedná o uprchlíky, mezi jejich největší hostitelské země patří sousední Uganda, Keňa a Tanzanie (UNHCR, 2018).

Specifikem severní Afriky je nízký počet imigrantů (2,4 milionů osob), přičemž toto číslo se překvapivě od roku 1990 vůbec nezměnilo. Nejvýraznějším rysem je pak největší počet emigrantů z celého afrického regionu (11 milionů), 90 % z nich odchází mimo severní Afriku (Adepoju, 2016). To je dáno nejen historicky úzkými vazbami na bývalé kolonie, ale i geografickou blízkostí Evropy, která díky své ekonomické vyspělosti vždy přitahovala zejména pracovní migranty ze severní Afriky. Navíc celý tento region již delší dobu trpí poměrně vysokou nezaměstnaností, zejména mezi mladými lidmi, kteří tak stále více hledají své pracovní uplatnění v Evropě. Z hlediska absolutního →

počtu mezinárodních imigrantů patří mezi největší země Libye (790 tisíc), Súdán (740 tisíc) a Egypt (480 tisíc), z relativního pohledu pak Libye (12,4 %), Súdán (1,8 %) a Alžírsko (0,6 %). Z hlediska absolutního počtu emigrantů patří mezi největší země Egypt (3,4 milionů), Maroko (2,9 milionů) a Súdán (2 miliony). Migrační koridor Alžírsko-Francie patří k druhému největšímu na africkém kontinentě. Hned na třetím místě je pak koridor Egypt-Spojené arabské emiráty (IOM, 2018c, s. 47). Blízký východ je obecně druhým nejvýznamnějším regionem po Evropě z hlediska migrace ze/do severní Afriky. Z pohledu nucené migrace pak největší problém představuje Súdán. Jen na jeho území se dle odhadů UNHCR nachází kolem 2 milionů osob, které byly nuceny opustit svoje domovy (UNHCR, 2018), zhruba stejný počet osob již odešel do zahraničí.

Střední Afrika je stejně jako východní Afrika subregionem se zhruba polovičním podílem vnitroregionální migrace — 50 % (Adepoju, 2016). Současně patří mezi subregiony s nejnižším počtem imigrantů (3,5 milionů) i emigrantů (4,1 milionů). Z hlediska imigrantů patří mezi největší země Demokratická republika Kongo (880 tisíc), Angola (640 tisíc) a Kamerun (540 tisíc), z relativního pohledu pak Rovníková Guinea (17,5 %), Gabon (13,8 %) a Kongo (7,6 %). Z hlediska emigrantů pak mezi největší patří Demokratická republika Kongo (1,7 milionu), Středoafrická republika (725 tisíc) a Angola (630 tisíc). Největší problém v regionu představuje Demokratická republika Kongo, která na svém území má kolem 4,3 milionů tzv. vnitřně přesídlených osob, které se mohou pokusit dostat do zahraničí (UNHCR, 2018). Největšími příjemci uprchlíků z tamních konfliktních oblastí jsou pak Uganda, Rwanda a Burundi.

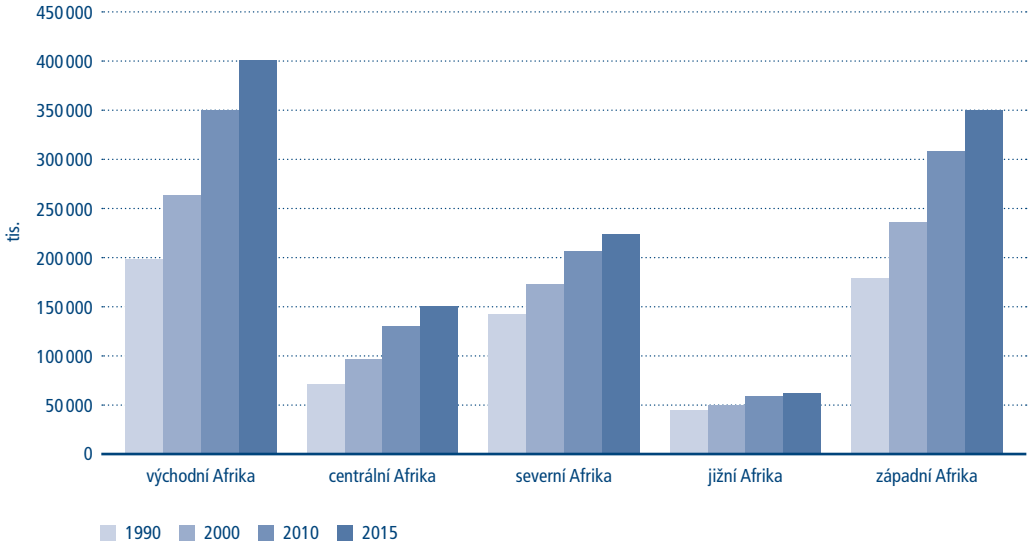
A konečně Jižní Afrika vykazuje také relativně vysoký podíl vnitroregionální migrace — 65 % (Adepoju, 2016). Specifikem tohoto subregionu je Jihoafrická republika, která jako nejvyspělejší země vždy přitahovala a dodnes přitahuje nejvíce (nejen pracovních) imigrantů. Na jejím území jich dnes žije kolem 4 milionů (z celkového počtu 4,3 milionů, kteří žijí na území jižní Afriky), což je nejvíce ze všech afrických zemí. Jen oproti roku 2010 se jejich počet v Jihoafrické republice zvýšil o 2 miliony. Je to dáno zejména politickou a ekonomickou situací v sousedních zemích, zejména pak v Zimbabwe, odkud v posledních letech odešlo několik milionů osob (odhady o jejich počtu se však různí). Dle posledního sčítání lidu (2011) cekem 75 % imigrantů v Jihoafrické republice pochází z Afriky, 68 % pak přímo z některé ze zemí SADC[2] (Meny-Gibert a Chiumia, 2017). Dalšími zeměmi, kam migranti směřují, jsou Botswana a Namibie, ve srovnání s Jihoafrickou republikou ale vykazují jen minimální počet (166 tisíc, respektive 95 tisíc). Z hlediska podílu imigrantů na celkové populaci je pořadí zemí trochu jiné. Mezi největší země patří Botswana (7,3 %), teprve na druhém místě je Jihoafrická republika (7,1 %) a na třetím pak Namibie (3,8 %). Z hlediska emigrantů patří mezi největší země Jihoafrická republika (890 tisíc), dále pak Lesotho (327 tisíc) a Namibie (190 tisíc). Zvláštností jižní Afriky je také to, že v celoafrickém srovnání vykazuje nejnižší počet emigrantů (1,6 milionů).

2.2. Demografická struktura

Afrika je v současnosti kontinentem s nejvyšší dynamikou růstu populace na světě. Ještě na počátku roku 1990 žilo v Africe 634,6 milionů lidí, na počátku nového tisíciletí (2000) již 838 milionů lidí a v současnosti, jak již bylo uvedeno výše, 1 300 milionů (2018). Již od počátku 50. let 20. století, od kdy OSN údaje o vývoji počtu obyvatel světa detailně sleduje, byl přírůstek obyvatelstva v Africe vždy nad světovým průměrem. Ale zatímco v období 1950–1955 byl jen o 0,32 procentního bodu vyšší, v letech 2010–2015 to bylo již o 1,4. Takže za-

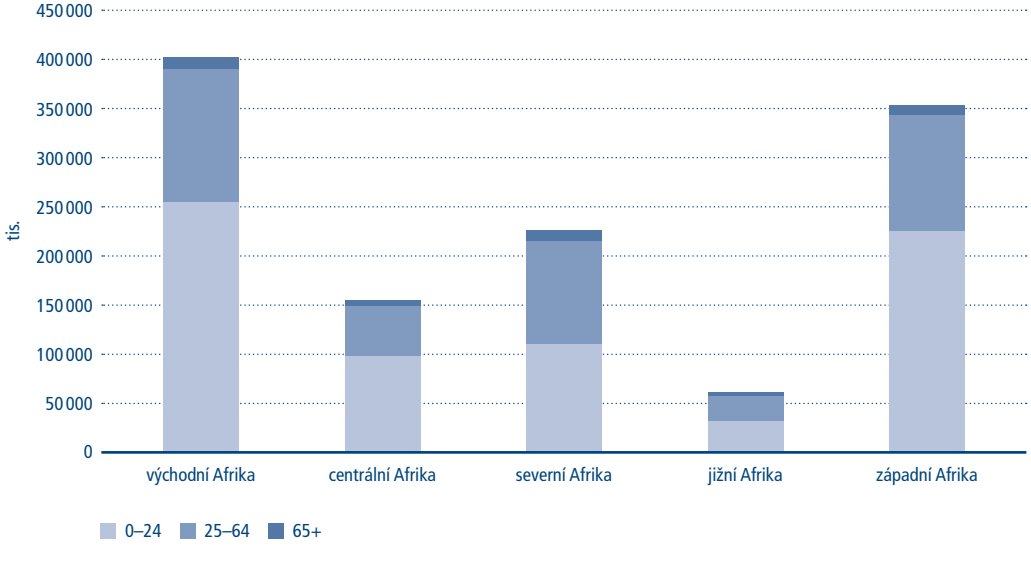
[2] *Southern African Development Community*

Obrázek č. 3 » *Počet obyvatel jednotlivých subregionů Afriky v letech 1990–2015 (v tis.)*



Pramen: IOM (2018a), UN (2017)

Obrázek č. 4 » *Počet obyvatel jednotlivých subregionů Afriky dle věkového rozmezí (v tis.)*



Pramen: IOM (2018a), UN (2017)

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tímco světový přírůstek obyvatelstva se zejména od 70. let 20. století pomalu snižoval až na současnou průměrnou hodnotu 1,19 % (2010–2015), průměrný přírůstek obyvatelstva v Africe se sice snižoval také, ale jen zcela minimálně. Svého vrcholu dosáhl na počátku 80. let (průměr za období 1980–1985 činil 2,82 %), od té doby se snížil jen minimálně (2010–2015 v průměru 2,59 %). Z hlediska regionálního členění patří mezi populačně nejsilnější subregiony východní Afrika s 399,5 miliony obyvatel (2015) a následně západní Afrika s 352,6 miliony obyvatel (2015), více viz obrázek č. 3. Oba dva subregiony také vykazují nadprůměrný přírůstek populace — východní Afrika za období 2,89 % (2010–2015), západní Afrika pak 2,72 % za stejné období (UN, 2017).

Z hlediska věkového složení vykazují západní i východní Afrika absolutně nejvyšší počet osob v produktivním věku (25–64 let), viz obrázek č. 4. Nejvíce jich má východní Afrika (132,7 milionů), na druhém místě je pak západní Afrika (120 milionů, 2015). Zajímavostí je, že východní Afrika má současně i nejvyšší počet mladé populace (do 24 let), a to 254,7 milionů, na druhém místě v západní Africe pak žije 222,7 milionů mladých lidí. Oba dva subregiony mají také nejvyšší, ale současně i téměř shodný podíl mladé populace na celkové populaci (východní Afrika 63,7 % a západní Afrika 63,1 %). Oba dva tak v nejbližší budoucnosti čeká největší výzva, a to umožnit této velmi četné nastupující mladé populaci najít adekvátní uplatnění na tamních pracovních trzích.

1.3. Nezaměstnanost

Rychlý nárůst počtu mladé populace vstupující na pracovní trh s sebou nese zvýšený tlak na pracovní trhy a jejich schopnost tuto pracovní sílu absorbovat. Pokud tato podmínka splněna není, je to jeden z faktorů, který motivuje lidi k odchodu do zahraničí. Nezaměstnanost v Africe se sice s postupným zlepšováním ekonomického prostředí v mnoha zemích zejména pak v období po roce 2000 postupně snižovala, ale stále je třeba mít na paměti, že se jedná o oficiální data a že skutečnost může být jiná. Celoregionální data ILO (ILOSTAT) ukazují, že zatímco ještě na počátku nového tisíciletí (2000) činila průměrná nezaměstnanost dospělých (15+) v africkém regionu 9,4 %, v roce 2018 pak ILO odhadovala její výši již jen na 7,8 %. V celoregionálním srovnání pak podobný vývoj zaznamenala i nezaměstnanost mladých ve věkové kategorii 15–24 let (z průměrných 16,8 % v roce 2000 na 13,4 % v roce 2018). Ale jak obrázek č. 5 naznačuje, regionální rozdíly jsou veliké. Zejména v severní a jižní Africe se jedná o výrazný problém — v roce 2018 činila v severní Africe nezaměstnanost mladých v průměru 29,5 % a v jižní Africe již dokonce v průměru 51,5 %. A i když oba dva regiony nepatří z hlediska početnosti či podílu mladé populace na celkové mezi největší, nedokážou vytvořit dostatek pracovních míst, aby mladou (a často i vzdělanou) pracovní sílu absorbovaly. Stávají se tak potenciálně největším ohniskem mezinárodní emigrace.

Africká rozvojová banka začala v této souvislosti hovořit „o ekonomickém růstu bez práce“, tj. o poměrně rychlém ekonomickém růstu, který ale nevytváří dostatek pracovních příležitostí (Léautier a Hanson, 2013). To v kombinaci se silným populačním růstem a s nastupující početně silnou mladou generací vytváří velký tlak na politické představitele situaci řešit. Africká rozvojová banka také zkoumala na vybraném vzorku afrických zemí elasticitu poptávky po práci ve vztahu k ekonomickému růstu. Na datech z období 2000–2014 zjistila, že pouze 9 ze sledovaných 46 afrických zemí mělo elasticitu poptávky po práci vyšší než 1, tj. že v těchto zemích rostla zaměstnanost rychleji než ekonomický růst. Ve zbytku zemí tomu bylo naopak. Ideální elasticita poptávky po práci je dle zkoumání rozvoje jihokorejské ekonomiky v 70. letech 20. století kolem 0,7, protože jen tak umožňuje efektivní růst produktivity práce (AfDB, 2018a, s. 42). Ve sledovaném období tuto ideální elasticitu vykazovalo jen 6 zemí (Senegal, Kongo, Malawi, Niger, Benin a Mauretánie).

Bez povšimnutí nelze nechat i tu skutečnost, že jak západní, tak východní Afrika, tedy regiony po-

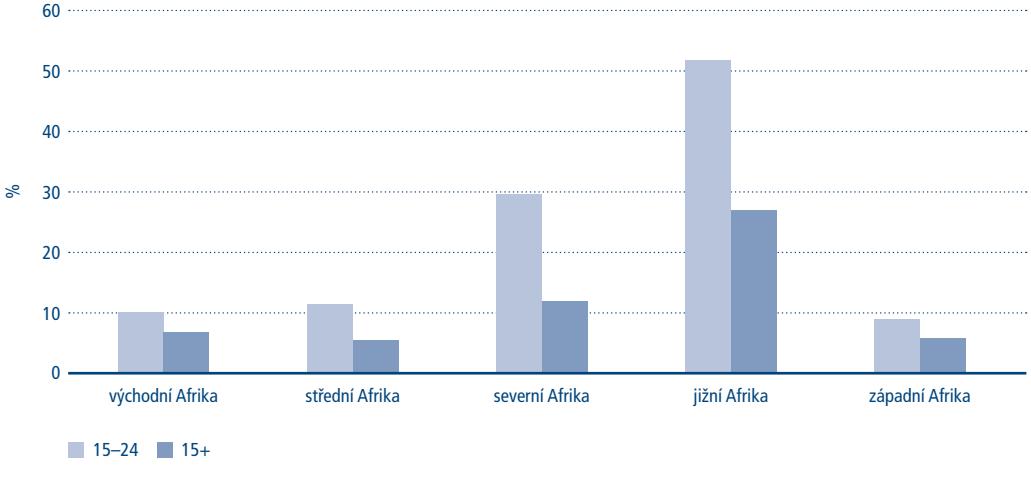
četně velmi silné, co se týče jak populace v produktivním věku, tak mladých lidí, současně vykazují nejnižší míry nezaměstnanosti jak mezi dospělou, tak i mezi mladou populací.

3. Politický kontext mezinárodní mobility pracovní síly v Africe

Myšlenka volného pohybu osob v rámci afrického kontinentu se v jistém slova smyslu objevila již v období vrcholící dekolonizace. Afričtí političtí představitelé tehdy nově vzniklých státních celků (Nkrumah, Nyerere, Touré, Kaunda a další), tj. zástupci myšlenek panafrické jednoty vtělili myšlenku na jednotu a spolupráci afrických zemí do zakládající smlouvy o vzniku Organizace africké jednoty (1963). Explicitní zmínka o volném pohybu osob se ale do této dohody nedostala, a to zejména z toho důvodu, že v daném období bylo prioritou dokončit fázi dekolonialismu, překonat rozpory a konflikty mezi jednotlivými státy (etniky) a podpořit rozvoj jednotné Afriky. Konkrétní myšlenka na podporu volného pohybu osob v rámci afrického kontinentu se tak objevila až přijetím tzv. Lagoského akčního plánu v roce 1980[3]. Tento plán explicitně vyzval státy Organizace africké jednoty (OAJ) k přijetí takových politik, které umožní mobilitu pracovní síly mezi africkými regiony (OAJ, 1980, s. 32). Bohužel jeho implementace byla negativně ovlivněna celkovou hospodářskou situací afrických ekonomik v daném období a nutností přiřadit prioritu národním plánům, které měly zastavit hospodářský propad a podpořit nutné ekonomické reformy (viz např. implementace programů strukturálního přizpůsobování vedených Světovou bankou).

V roce 1991 byla přijata smlouva zakládající tzv. Africké ekonomické společenství[4] (AEC). Jejím hlavním cílem byla podpora ekonomické, sociální a kulturní spolupráce v rámci afrického kontinen-

Obrázek č. 5 » *Nezaměstnanost v jednotlivých afrických subregionech v různých věkových kategoriích — odhad za rok 2018 (v %)*



Pramen: ILOSTAT (2018)

[3] *Lagos Plan of Action for the Economic Development of Africa 1980–2000*

tu, a to zejména formou podpory hlubší ekonomické integrace jednotlivých regionálních bloků (OAJ, 1991, čl. 4). V článku 43 této dohody se pak explicitně hovoří o závazku členských států přijmout opatření, která povedou k volnému pohybu osob zejména v rámci jednotlivých integračních bloků. Tento závazek pak byl naplněn přijetím doplňujícího protokolu o volném pohybu osob, právu na pobyt a právu na usazování. Jednalo se tak o první právní závazek členských států OAJ přijmout rozsáhlá opatření, která mobilitu osob a pracovní síly v rámci afrického kontinentu umožní.

Další impuls přišel s transformací OAJ na Africkou unii (AU) v roce 2002. Od té doby bylo přijato několik dalších opatření, která měla za cíl podporovat již jednotlivé africké regiony (REC[5]) v implementaci volného pohybu osob. Prvním z nich byl dokument s názvem Africká společná pozice týkající se migrace a rozvoje[6], který v roce 2006 přijala Výkonná rada AU. Tento dokument poprvé výslovně zmiňuje problémy, které s nedostatečnou mobilitou pracovní síly v Africe úzce souvisejí, jako například únik mozků. Článek 3.3 pak vyzdvihuje možné pozitivní dopady pohybu pracovní síly v rámci afrického kontinentu — remitence pro vysílající země, či vyřešení nedostatku pracovní síly pro přijímající země (AU, 2006). Následné přijetí tzv. Programu minimální integrace[7] v roce 2009 a hlavně pak rozhodnutí představitelů států AU o založení tzv. Africké kontinentální zóny volného obchodu[8], které bylo přijato na summitu hlav států AU v roce 2012, pak podpořilo další rozvoj opatření přijatých různými integračními bloky na africkém kontinentě právě se záměrem podpořit volný pohyb osob, a prohloubit tak regionální ekonomickou integraci a podpořit ekonomický rozvoj.

V roce 2015 byl na summitu AU přijat další významný dokument s názvem *Labour Migration Governance for Development and Integration Regional Programme in Africa*, známým spíše jako *Joint Migration Labour Programme*. Jeho smyslem bylo podpořit efektivní řešení mobility pracovní síly v Africe a koherenci národních politik v oblasti migrace, včetně například uznávání kvalifikací, jednotné migrační procedury apod., což v konečném důsledku povede ke zvýšení legální migrace a naopak k potlačení té neregulérní. Tato strategie byla podpořena a přijata nejen nejvyššími přestaviteli AU, respektive Komisí AU, ale také Komisí OSN pro Afriku (UNECA) a IOM. V roce 2016 byl pak na summitu AU ve rwandské Kigali představen nový „africký pas“, který by do konce roku 2020 měl nahradit pasy členských států a umožnit všem Afričanům cestovat bezvízově do všech afrických zemí (African Courrier, 2018). A konečně zatím poslední strategický dokument AU (Agenda 2063), který vymezuje plán rozvoje kontinentu na dalších 50 let, jen znovu potvrdil, že volný pohyb osob je integrální součástí rozvoje regionu jako jeden hlavních z nástrojů prohlubující se ekonomické integrace a udržitelného růstu (AU, 2015). Závěrem nelze opomenout ani summit AU konaný v březnu 2018 opět ve rwandské Kigali, během něhož byla podepsána hlavami 50 států smlouva o vytvoření Africké kontinentální zóny volného obchodu, jejíž součástí se stal i protokol o volném pohybu osob (AU, 2018a). Politická podpora a tlak zejména ze strany AU na vytvoření volného pohybu osob v rámci Afriky je tak poměrně veliký. Jak se tato opatření projevila v realitě jednotlivých regionálních seskupení, je analyzováno dále v textu.

3.1. Bezvízový styk a volný pohyb osob — regionální pohled

Umožnění bezvízového styku, či alespoň možnosti získat vízum na hranicích je jedním z prostředků, jak usnadnit mezinárodní pohyb osob, ať již za

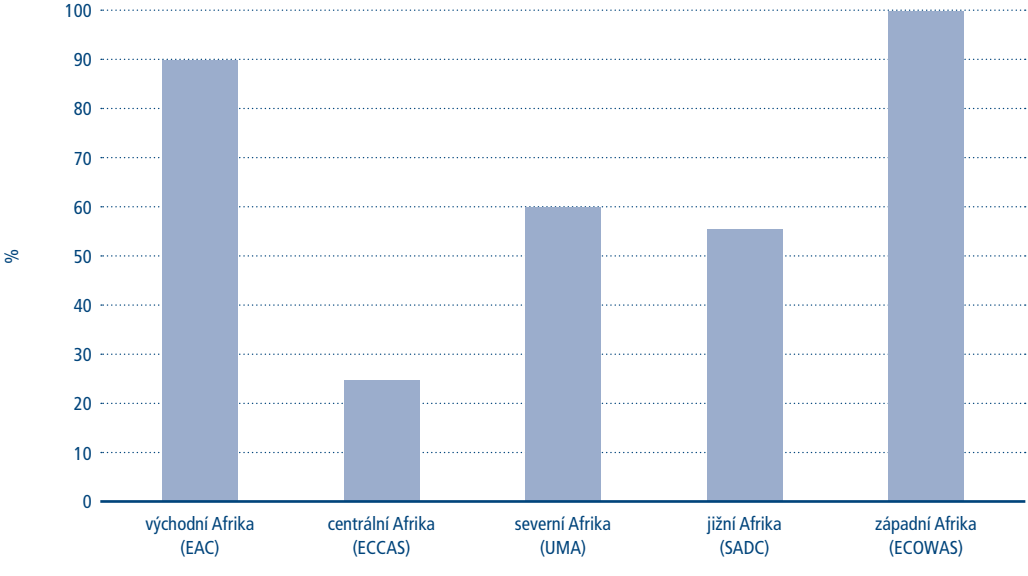
4 *African Economic Community*
5 *REC — Regional Economic Communities*
6 *African Common Position on Migration and Development*
7 *Minimum Integration Programme*
8 *African Continental Free Trade Area*

jakýmkoliv účelem (cestovní ruch, navázání obchodních kontaktů, hledání zaměstnání apod.). Plán AU umožnit bezvízový pohyb všem Afričanům v rámci afrického kontinentu sice nebyl dosud ani zdaleka naplněn, nicméně pokrok v odstraňování bariér je zejména v posledních letech velmi znatelný.

Z celoregionálního pohledu lze konstatovat, že ke konci roku 2018 nabízely dvě africké země (Seychelské ostrovy a Benin) zcela bezvízový styk příslušníkům všech afrických zemí. Dalších devět zemí (Rwanda, Togo, Guinea-Bissau, Mozambik, Mauretánie, Komorské ostrovy, Džibuti, Madagaskar a Somálsko) pak nabízely ostatním Afričanům buď bezvízový styk, nebo možnost zakoupit si vízum na hranicích. Jinými slovy již celkem 11 zemí umožňovalo relativně snadný přeshraniční pohyb osob v rámci afrického regionu. Dalších 11 zemí pak nabízelo už více jak polovině afrických států bezvízový režim, či možnost koupit vízum na hranicích (Uganda, Ghana, Kapverdské ostrovy, Keňa, Mauritius, Senegal, Tanzanie, Gambie, Zimbabwe, Burkina Faso a Malawi), přičemž třem z nich již chybí k přechodu do předchozí kategorie zemí odbourání vízové povinnosti (s nutností žádost o vízum předem) jen v případě jedné země — Uganda má tuto povinnost pro občany Somálska, Ghana a Kapverdské ostrovy pak pro občany Maroka (AfDB, 2018b; AfDB, 2018c). Pokud bude tato bariéra odstraněna, rozšíří se skupina zemí umožňujících relativně volný pohyb osob na celkem 14. Jistou zajímavostí také je, že již 16 zemí nabízelo ke konci roku 2018 formu e-víza, což například oproti roku 2016 znamenalo nárůst o 7 nových zemí (AfDB, 2018c, s. 13). Myšlenka volného pohybu osob v rámci afrického kontinentu se tak naplňuje sice pomalu, ale pozitivní je, že se naplňuje a že politická vůle stále v řadě zemí existuje.

Z regionálního pohledu pak nelze začít jiným regionem než západní Afrikou (obrázek č. 6). Tento region, který je sdružen v Hospodářském společenství západoafrických států (ECOWAS), patří to-

Obrázek č. 6 » *Reciprocita bezvízových politik v rámci jednotlivých integračních seskupení (v %)*



Pramen: AfDB (2018b), AfDB (2018c)

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tiž v této oblasti mezi jednoznačně nejúspěšnější. Mezi 15 členskými zeměmi existuje plně volný pohyb osob. Na pomyslné druhé příčce je pak region východní Afriky, převážně sdružený ve Společenství východoafrických zemí (EAC), které zajišťuje reciprocitu v bezvízové politice z 90 %. Zbylé regiony nejsou zatím ani zdaleka tak úspěšné. Na pomyslném třetím místě je severní Afrika sdružená v rámci Unie zemí Maghrebu (UMA), která zajišťuje reciprocitu z 60 %, na čtvrtém místě jižní Afrika sdružená převážně v Jihoafrickém rozvojovém společenství (SADC), které zajišťuje bezvízovou reciprocitu z 56 %. Nejhůře je na tom region střední Afriky, kde jsou státy sdruženy převážně v Ekonomickém společenství zemí střední Afriky (ECCAS). Jejich vzájemná reciprocita v poskytování bezvízového styku je jen 25 % (AfDB, 2018b; AfDB, 2018c).

Země ECOWAS přijaly již v roce 1979 protokol o volném pohybu osob[9]. Na jeho základě smějí občané členských států pobývat na území jiného členského státu po dobu 90 dnů bez omezení. V současnosti stále probíhá implementace zbylých dvou částí, tj. práva na pobyt a na usazení. V roce 2015 byl dále zaveden společný identifikační doklad NBIC[10], který vzhledem k nedostupnosti národních identifikačních dokladů v některých zemích plní dokonce dvojí funkci — národního identifikačního dokladu a dokladu umožňujícího mezinárodní pohyb osob (AU, 2018b, s. 29). A vedle toho už existuje i jednotná podoba cestovní dokladu (pasu), jehož vydávání zůstává pravomocí členských států. Tento dokument nahradí předchozí speciální cestovní doklad, který byl zaveden již v roce 1985 (ECOWAS, 1985).

Země EAC vstoupily do integrační fáze společného trhu v roce 2010. Protokol o založení společného trhu zemí EAC jednoznačně zmiňoval nutnost odstranění překážek pro volný pohyb osob, zavedení společného cestovního dokladu, uznávání vzdělávání a dalších certifikátů, či sjednocování vzdělávacích osnov jako priority (EAC, 2017). Občané členských států mají na jeho základě právo volného pohybu za účelem zaměstnání, či pobytu, toto se ale nevztahuje na ty, kteří získají zaměstnání v rámci veřejného sektoru, na který se toto právo nevztahuje (Kago a Masinde, 2017, s. 346). Jak již bylo uvedeno výše, reciprocitu v poskytování bezvízového styku pro občany členských států (dnes celkem 6 zemí východní Afriky) naplňuje EAC z 90 %. Problémovou členskou zemí je Jižní Súdán, pro jehož občany státy jako Keňa, Tanzanie a Uganda vyžadují víza, nicméně umožňují jejich nákup na hranicích. To samé vyžaduje Tanzanie i pro občany Burundi. Burundi a Rwanda jsou jedinými zeměmi, které umožňují bezvízový styk pro všechny občany členských států (AfDB, 2018b; AfDB, 2018c). K lednu 2018 bylo spuštěno vydávání nového e-pasu (EAC, 2017). Tento pas by měl postupně nahradit všechny národní cestovní dokumenty a měl by se stát i mezinárodně uznávaným dokladem (zprvu platil pouze v rámci členských států EAC). Jedná se tak o další region, který podobu cestovního dokumentu sladil, a podpořil tak rozhodnutí AU mít do roku 2020 pro všechny Afričany pasy ve stejné podobě.

Zemím UMA patří z hlediska bezvízového styku pomyslné třetí místo z hlediska regionálních seskupení v Africe. Dnes 5 členských států severní Afriky prochází bohužel ve velké většině poměrně složitým politickým vývojem, naděje na brzké zlepšení situace v rámci volného pohybu osob je tak relativně malá. Dalším společným problémem těchto zemí je velký počet (neregulérních) migrantů. Maroko proto požaduje vízovou povinnost hned po dvou členských státech UMA (Egypt, Libye), Alžírsko a Tunisko vyžadují vízovou povinnost po občanech Egypta, Libye a Egypt jsou v tomto ohledu nejméně otevřené země. Libye vyžaduje vízovou povinnost po všech členských státech s výjimkou Tuniska, Egypt dokonce neumožňuje bezvízový styk ani jednomu členskému státu.

[9] *ECOWAS Protocol on Free Movement of Persons and the Right of Residence and Establishment*
[10] *National Biometric Identification Card*

Afrika je většinově vnímána jako kontinent masového exodu, odhady IOM o počtu afrických emigrantů tomu ale nenasvědčují. Dostupná data ukazují, že počet afrických emigrantů sice narůstá, ale současně platí, že minimálně polovina z nich směřuje do jiné africké země.

V případě občanů Libye umožňuje Egypt pouze nákup víza na hranicích (AfDB, 2018b; AfDB, 2018c).

Na pomyslné čtvrté příčce jsou státy jižní Afriky. Tento region má dlouhou historii spojenou s migrací, a to ať už v rámci regionu, či mimo region, zejména pak s východní Afrikou nebo například s Indií. SADC současně tvoří země, které patří mezi velmi heterogenní z hlediska jejich ekonomické vyspělosti, což jen zvyšuje motivaci některých občanů přesunout se do jiné země s vyšší mzdovou hladinou. A zejména tato skutečnost se podepisuje na tom, že volný pohyb osob v rámci SADC je stále relativně omezen. První protokol o volném pohybu osob přijaly členské státy v roce 1996, nicméně již po roce jej nahradily výrazně restriktivnější novelou. Zatím poslední významný dokument byl přijatý v roce 2005. Zaručuje občanům všech členských států bezvízový pobyt na území jiného členského státu v rozmezí 90 dnů (UNECA, 2018). Nicméně v současnosti je to pouze Zimbabwe, která poskytuje bezvízový styk občanům všech členských států SADC. Nejméně otevřenou zemí je pak Demokratická republika Kongo, která má bezvízový styk pouze se Zimbabwe, jinak vyžaduje víza u všech ostatních zemí (AfDB, 2018b; AfDB, 2018c).

A konečně na posledním místě, tj. nejméně otevřeným regionem je střední Afrika. První dokument o volném pohybu osob podepsaly členské země ECCAS již v roce 1983, jeho výrazná inovace pak přišla v roce 2000. Nicméně ratifikace tohoto dokumentu ještě nebyla ukončena. Z 12 členských států jej zatím podepsaly jen čtyři — Středoafrická republika, Kongo, Kamerun a Čad (AUC, 2018). Nejvíce otevřenou zemí je v současnosti Středoafrická republika, která s výjimkou Angoly nabízí bezvízový styk všem ostatním členským státům. Naopak nejméně otevřenou je Rovníková Guinea, která nenabízí bezvízový styk ani jednomu členskému státu ECCAS (AfDB, 2018b; AfDB, 2018c).

4. Závěr

Afrika je většinově vnímána jako kontinent masového exodu, odhady IOM o počtu afrických emigrantů tomu ale nenasvědčují. Dostupná data ukazují, že počet afrických emigrantů sice narůstá, ale současně platí, že minimálně polovina z nich směřuje do jiné africké země. Je to dáno i tím, že dle ILO jen zhruba polovina afrických emigrantů jsou migranti směřující za prací, zbytek jsou migranti z donucení, tj. často uprchlíci. A tito lidé většinově odcházejí do nejbližších, tedy sousedních zemí.

Z pohledu připravenosti řešit, či dokonce podporovat mezinárodní migraci, respektive mezinárodní mobilitu pracovní síly, je na tom nejlépe západní Afrika. Ta dosáhla v rámci své regionální ekonomické integrace plného odstranění bariér pro volný pohyb osob. Vytvořené podmínky pro získávání maximálních výhod z mezinárodní mobility pracovní síly tak byly v tomto regionu jako v jediném již vytvořeny. Zřejmě i díky tomu je západní Afrika subregionem, který vykazuje nejvyšší stupeň vnitroregionální migrace. Současně vykazuje druhý nejvyšší počet imigrantů a třetí nejvyšší počet emigrantů. Zajímavostí je, že i přes vysoký absolutní počet populace vykazuje tento subregion nízkou míru nezaměstnanosti, což může znamenat, že mezi volným pohybem osob v rámci ECOWAS a nízkou nezaměstnaností může být přímá úměra. Potvrzení této hypotézy by ale předpo- →

kládalo detailnější informace, zejména pak o převládajícím typu mezinárodní migrace v regionu — zda se jedná o migraci za prací, či zda se jedná o jiné formy.

Podobně je na tom i východní Afrika. I zde dosáhl stupeň integrace v rámci EAC relativně vysokého stupně, byť zcela volný pohyb osob (bezvízový styk) zde stále ještě neplatí ze 100 %, jako je tomu v případě západní Afriky. Ale bez povšimnutí nelze nechat fakt, že i tento region vykazuje vysoký absolutní počet obyvatel (včetně mladé populace), ale současně vykazuje i poměrně nízkou nezaměstnanost, a to mezi všemi skupinami obyvatel. Ve srovnání se západní Afrikou ale ta východní převyšuje v absolutním počtu imigrantů i emigrantů. Specifikem tohoto subregionu ale je, že vnitrostátní migrace je relativně nízká, neboť velká část pracovních migrantů volí odchod do zemí Blízkého východu, které slibují vyšší příjmy.

Zbylé tři regiony již vykazují vzájemně poměrně velké odlišnosti. Severní Afrika je historicky oblastí, odkud lidé odcházeli za prací do Evropy, případně z Egypta na Blízký východ. Ne jinak tomu je i dnes. Jednou z příčin může být i vysoká nezaměstnanost v subregionu, zejména mezi mladými lidmi. Jistou zajímavostí je, že za posledních 27 let (1990–2017) se zde nezměnil počet imigrantů, současně platí, že jejich počet je absolutně nejnižší z celé Afriky. Naopak z hlediska emigrantů patří tento region mezi největší. Vzhledem k různým omezením v rámci ekonomické integrace UMA a také vzhledem k řadě politických problémů mezi členskými státy platí, že drtivá většina (90 %) emigrantů odchází mimo tento region. A nelze ani očekávat, že se tato situace v brzké době změní, protože opatření, která by situaci změnila, nejsou ve srovnání s ostatními subregiony dostatečná.

Jižní Afrika je také subregionem, který má s migrací mnohaleté zkušenosti. Na rozdíl od jiných ale má mezi sebou zemi, která, jakožto nejvyspělejší ekonomika, přitahuje drtivou většinu imigrantů (4 miliony, což je nejvyšší počet z celého afrického kontinentu). Z relativního pohledu je to ale Botswana, která na svém území hostí nejvíce imigrantů, což je také dáno historicky, neboť řada lidí migrovala a dodnes migruje do Botswany za prací (zejména do diamantových dolů). Zajímavostí je, že tento subregion vykazuje absolutně nejnižší počet mezinárodních emigrantů. A to za situace, kdy některé země jižní Afriky trpí ohromnou nezaměstnaností, a to zejména mladých lidí. Tlak na mobilitu pracovní síly by tak zde měl být větší, ale jsou to zřejmě omezení společného trhu, která tomu brání.

A konečně střední Afrika je subregionem, který vykazuje jak relativně nízkou míru vnitroregionální migrace, tak i nízký počet mezinárodních imigrantů i emigrantů. Jistým specifikem této oblasti je, že velká část migrantů jsou nucení migranti, kteří opouštějí státy jako je například Demokratická republika Kongo, kde již několik desítek let panují nepokoje. I v oblasti pokroku ve volném pohybu osob dosáhly země střední Afriky zatím nejmenších úspěchů, lze je tak z tohoto pohledu považovat za nejvíce problematický region.

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ABSTRAKT

S rostoucím počtem mezinárodních migrantů ve světě roste i počet tzv. pracovních migrantů, jinými slovy roste mezinárodní mobilita pracovní síly. Afrika nestojí tomuto trendu stranou. Cílem článku je zjistit, do jaké míry byla v afrických zemích přijata opatření na podporu volného pohybu pracovní síly, jejíž větší mezinárodní mobilita by mohla přispět k řešení palčivých problémů Afriky, jakým je například početná mladá populace nastupující na pracovní trhy, které ji často nejsou schopny absorbovat. Článek je rozdělen do dvou částí. V první části je stručně analyzována mezinárodní mobilita pracovní síly v Africe. Do kontextu je dán i současný stav demografické struktury tamní populace z hlediska věku a dále pak stav nezaměstnanosti na tamních trzích. V druhé části jsou pak analyzovány jednotlivé kroky, a to jak na celoregionální, tak i na regionální úrovni, které mají v konečném důsledku vést k zavedení volného pohybu osob v rámci afrického kontinentu. Výsledky ukazují, že naplnění závazku členských států Africké unie ohledně volného pohybu osob v rámci celého afrického kontinentu je sice ještě hodně vzdáleno, nicméně existují již subregiony (zejména západní a východní Afrika), které jsou tomuto cíli již velmi blízko.

KLÍČOVÁ SLOVA
Migrace; mobilita; pracovní síla; Afrika

International Labour Mobility in Africa

ABSTRACT
With an increasing number of international migrants in the world, the number of so-called labour migrants, or the international mobility of labour is growing, too. Africa does not stand aside this trend. The aim of this article is to investigate to what extent various measures have been taken in African countries to promote the free movement of labour, which could significantly contribute to solution of pressing problems of the current Africa, such as the large young population entering labour markets, which in some cases are unable to absorb it. The article is divided into two parts. The first one briefly analyzes the international labour mobility in Africa. Analysis of the current demographic structure of African population broke down to age and analysis of development of unemployment in African sub-regions have been included. In the second part, particular measures were analyzed, both at the regional and sub-regional level, which ultimately should lead to the introduction of free movement of labour within the African continent. Results show that the commitment of the African Union member states to the barrier-free movement of labour across the African continent is still far from becoming true, however there are sub-regions such as the West or East Africa which are already very close to it.

KEYWORDS
Migration; international labour mobility; labour force; Africa

JEL CLASSIFICATION
O00; O55

Labor Relations in SMEs: Beyond Trade Unions

Mgr. Josef Horňáček, Ph.D. » Masaryk University in Brno, Faculty of Social Studies, Department of Social Policy and Social Work, Joštova 218/10, Brno 602 00, Czech Republic; e-mail: 65219@mail.muni.cz

* *1. Introduction – research objective*

The aim of this study is to compare labor conditions in unionized and non-unionized companies in the metal sector in the Czech Republic. In the core of labor relations we can see both common and antagonistic interests which are demonstrated as social facts. Those facts are often defined by conflictual relations between their actors, employers and employees, especially on the organizational level. The term labor relations is a tag for processes of cooperative behavior, just as it is for industrial conflict. In this text, labor relations mean the same as both industrial relations and employment relations.

This study is centered on small and medium-sized enterprises (SMEs) in Czech Republic. Although the unionization in large companies in the metal sector is relatively high, in SMEs we find trade unions to be quite rare. From the organizations in the sample, three of seven were unionized, and unionized ones were owned by the same owner. These organizations were covered by collective contracts, so we decided to explore if there are any differences in labor conditions in such categories as income, working hours, work-life balance, skills, satisfaction, participation, and so on. In the metal sector we see specific problems in the workplace (dust, noise, temperature) and difficulties of the social aspects of employees' lives (debt, gambling, and alcohol abuse).

This leads us to the main research question: 'What are the main differences in labor relation outcomes between unionized and non-unionized companies among SMEs in the metal industry in the Czech Republic?' The answer to this question should help us to understand the frames, patterns and processes of labor relations in interactions between actors in the absence of trade unions.

2. Analytical framework

The analysis is based on Dunlop's system theory of industrial relations (Dunlop, 1977). The Industrial Relations System (IRS) is composed of three groups of actors: (a) workers and their organizations; (b) managers and their organizations; and (c) governmental agencies. These groups interacts in specific conditions of technological development, economic constraints, differenced sources of asymmetrical power, and the ideological context of labor management. The outcome of the system is a web of rules which govern the workplace (Dunlop, 1977). Dunlop regarded the IRS as dis-

charging a broadly integrative function for society as a whole (Heery, 2008). One part of the rules is the collective contract.

Dunlop's approach uses an abstraction of many aspects of human behavior but only certain categories of data, and the analysis is intended to explain a limited number of variables. Despite all criticism, the IRS can serve as a tool to explain the link between changes in system elements (technology, economy, actors) and the system of rules to which jobs are subject, including wage rules. Dunlop's model has been highly influential in shaping the discourse and theory in the labor relations field (Kaufman, 2011). The existence of such contracts has an influence on labor market segmentation.

Some authors suppose that workers and other employees covered by collective contracts are positioned in an internal labor market (LM) segment, while those who are not covered are placed in external LM segments. While an internal LM segment offers stable and sufficiently paid positions, external LM segments usually offer part-time, temporary and inadequately paid jobs (Doeringer and Piore, 1971). The existence of collective contracts can make serious distinctions between unionized and non-unionized organizations.

Economic theory describes the labor market as a place where labor force demand and labor force supply matches with effect of 'market cleaning'. Free of other influences, 'in perfectly competitive equilibrium, if all people and jobs were exactly alike, there would be no wage differentials. The equilibrium wage rates determined by supply and demand would all be equal' (Samuelson and Nordhaus, 1992, p. 246).

But there have been factors which determine both demand and supply, such as marginal product, population size, percentage of people gainfully employed or the average number of hours worked as well as other factors of production. Assumptions concerning the uniformity of workplaces are unrealistic, as there are many differentials in wages in labor markets, even in a competitive labor market. Scale in the quality of various grades of labor (Samuelson and Nordhaus, 1992) is probably the most important cause of difference. It contributes to the shaping of partially competing and non-competing groups in the labor market, which have different interests. These groups could be organized to promote these interests, taking the form of trade unions or professional associations. In these conditions, the labor market becomes an imperfect competition.

The presence of unions can influence both the unionized and non-unionized workers. The main features of union effect are described by Ehrenberg and Smith (2012) for the situation in the U.S. as:

- The relative wage advantage of unions appears to fall into the range of 10% to 20% among unionized and non-unionized workers.
- The private sector union wage advantage is larger than that of the public sector.
- The union relative wage advantage in the United States is larger than it is in most other countries — Australia, U.K., Canada, Germany, and France — for which comparable estimates are available.
- Unions tend to reduce the dispersion of earnings among workers, especially men. They standardize within and across firms in the same industry, and reduce the earnings gaps between production and office workers.
- The union relative wage advantage has tended to grow larger during recession. The changes of union members have been less sensitive to business conditions than the wages of non-union workers.

The comparative — not single economic — institutional perspective on various types of national economies is the source of two models of market economy: liberal market economy (LME), and coordinated market economy (CME) presented by Hall and Soskice (2001) as Varieties of Capitalism (VoC). The differences in labor relations on the corporate level are proved between competitive labor markets (US, Australia) and labor markets controlled by different types of regulations (Germany, Japan).

Differences in the institutional framework of the political economy generate systematic differences in corporate strategy and labor relations (table 1). In LME, firms coordinate their activities through hierarchies and competitive market arrangements, while in CME, firms depend more on non-market relationships to coordinate the activities of actors and construct firm core competencies. In both types of economies, skill formation and bargaining reinforce one another and underpin the trajectory of national economic development (Heery et al., 2008).

The VoC classification can by useful for analysing the company level among unionized and non-unionized corporations and can assist in labor relations research in the following ways (Hamman and Kelly, 2008):

- Bargaining coordination, capacity, and coverage, solution of industrial conflict. CMEs display higher levels of bargaining coordination and coverage, as well as lower levels of industrial conflict.
- Understanding labor market outcomes, corporate employment policy, job satisfaction, skills needs in companies with or without collective bargaining.

The state of labor relation in the Czech Republic is country specific and path dependent. The 20th century was a period of increasing and declining social movements, including Trade Unions. The situation has changed since the 21st century, especially in the Central and Eastern European (CEE) countries that joined the European Union (EU). This particular change is generated by the effects of privatization, globalization, EU accession, and joining its legislation.

CEE has been a region of political and socio-economic change since the early 1990s. These countries mostly accepted neo-liberal ideas of political and economic reforms and this has determined their development. Some authors (Bohle and Greskovits, 2007; Drahokoupil and Myant, 2010; Beblavý et al., 2011) identify CEE countries as an example of a neoliberal type of welfare state (except Slovenia) or an embedded neoliberal type, in the Visegrad states (Czechia, Hungary, Poland, Slovakia).

The characteristic attribute of labor relations in the long run is the decline in the political power of the unions (Galbraith, 1967), specifically in the case of CEE and the Czech Republic (Vanhuysse, 2007; Beblavý et al., 2011). This has a range of impacts on social dialog, collective bargaining, and collective contracts. The results of previous research in industrial relations shows us that declining unionization and union density is the same as the transformation of politics according to the ideology of government. This research was primarily interested in changes at the national or sector level, and did not focus on the company level.

The 'wide screen' of Myant's research article demonstrates the decline in trade union membership. Membership reduced from 4.3 million in 1990 to 1.7 million in mid-1997, and down to 471,244 in 2009 only in the Czech-Moravian Confederation of Trade Unions (ČMKOS), while newly

Table 1 » *Main differences of LME/CME models on the corporate level*

Liberal market economy	Coordinated market economy
Capital market orientated decisions	Structural bias toward consensual decisions
Substantial freedom of hire and fire	Long-term employment contracts
No obligation to employee representation	Capable LR institutions/work councils
Profit business strategy	Market-share business strategy

Source: Hall and Soskice (2001)

established unions after 1990 were small and weak (Myant, 2010). The data used in this analysis was derived predominantly from published union sources and interviews with TU officials. Myant concluded, that '(...) unions have perfected methods for influencing national political development, primarily on issues of particular relevance to workplace employment relations but also as part of a broad support for what they see as a European social model' (Myant, 2010, p. 890).

Myant demonstrated the lack of militancy on a number of forms of protest actions from 1997 to 2004 recorded by TU KOVO (trade unions of metal workers). The most important were political demonstrations, but there were only three strikes of any significant length and none of these related to a collective agreement, to union recognition, or to victimization. The protest issues were linked to the financial collapse of privatized enterprises and to their failure to pay wages (Myant, 2010).

On collective bargaining, Myant notes that we do not have any systematic study that makes a quantification of bargaining effects possible. Higher wages, benefits and improving working conditions would depend on other possible reasons, such as skill levels or a firm's economic success. In summary, declining workplace strength has limited unions' ability to influence workplace conditions through collective bargaining, but they retain substantial power in this sphere thanks to their ability to influence labor law (Myant, 2010). In this way, TUs were successful in negotiating the Labor Code in 2006.

For this study, the sector concentration of TUs as documented in the NEUJOBS paper is essential (Beblavý et al., 2011). The concentration is primarily distinguished by sector. Membership density is relatively high in traditional industries, particularly in manufacturing. It is relatively high in public sector services also. In newly-established private sector services, membership is very low, even if there are a lot of collective actors. Bargaining in the private sector covers wages and also frequently other benefits that amount to a supplement to the wage. They often include longer holidays than the minimum provided by labor legislation. Conversely, they rarely go beyond the legal provisions in terms of promoting equal opportunities or vocational training.

Martišková and Sedláková (2016) analysed labor market segmentation in various sectors of the Czech economy. Their findings on precarious work in the metal sector show that it differs firm by firm. A majority of employees are still employed on standard long-term contracts. However, the field of precarious work is growing. The main forms of precarious work are temporary contracts, part-time jobs, and agency work.

The sector level of collective bargaining is quite less important. The bargaining process is essential at the firm level if a trade union organization exists in the workplace. The main differences between the actors are the following: while TUs seek to modify the legislation, employers prefer a stable legislative environment with as few amendments as possible (Martišková and Sedláková, 2016).

3. Research process

The central point from which the research process is derived has been Doeringer and Piore's concept of the presence of internal LM in examined corporations (Doeringer and Piore, 1971). The extent of the internal labor market should be mutable, depending on the robustness of the rules governing the workplace, in unionized and non-unionized firms. Stable rules can modify economic forces when internal LM is formed. In this way, responses to economic forces cannot be predicted simply on the presumptions of labor market cleaning. It is proposed to demonstrate the internal LM on the evidence of:

- Long term, persistent patterns of employment in the industry preserving jobs, skills, and internal relations in the companies;
- Bargaining between employers and employees beyond labor supply and demand and allocation of work.

Table 2 » *Structure of sample*

Organization	Males	Females	Manual	Non-Manual	Unionized
1	82	30	92	25	No
2	135	15	87	66	No
3	65	14	48	29	No
4	141	28	125	44	Yes
5	58	22	27	53	Yes
6	49	11	3	57	Yes
Total	**530**	**120**	**382**	**284**	

Source: own; N=689

We use mixed strategy in collecting and explaining the data. It consists in qualitative and quantitative methods of research, in which qualitative interviews and quantitative questionnaires are used. Additional sources of data were the official statistics from Information on Working Conditions (ISPP, 2019) and other official statistical sources. There was also an opportunity to carry out a content analysis of collective contracts.

The research sample (table 2) was built from seven SMEs from the metal industry, where interviews with the head of firm or with the main person responsible for human resources was conducted. In the same firms, 689 questionnaires from all categories of employees were gathered. The selection criteria was as follows (including the existence of consent):

- similarity in production technology (metal sector);
- similarity in size and structural complexity (firms between 50–249 employees);
- similarity in external environment and LM conditions (free competition and available workforce).

One distinctive difference in the sample was the presence of collective bargaining. Two of seven firms were covered by collective contracts on company level, none on the industry or any higher level.

The research interviews were carried out in the territory of the Czech Republic, in the areas where the metal industry has been more concentrated. Interviews were transcribed and then analyzed using Strauss and Corbin's open coding method (Strauss and Corbin, 1998).

4. Main hypothesis

The arguments above give a framework for the formulation of the following basic hypotheses. (1) We expect that in the firms covered by collective contracts, the internal labor market will be more widespread than in firms without collective contracts. (2) Employees with collective contracts will be more satisfied with labor conditions and companies will be more capable of solving emerging problems connected with working life. (3) Companies who issue collective contracts will develop stable patterns of employment and workers' skills. In this way the presence of collective contracts serves as the independent variable, while the examined labor conditions are the dependent variable.

5. Empirical findings

In the period from 2007 till 2016 various numbers of collective contracts were concluded per year, with the minimum in 2007 and the maximum 626 in 2008 (IPP). Nevertheless, the amount is quite stable; the difference are caused mostly by the fact

that contracts with a period of more than one year are included into statistics only in the year they were signed. In the Czech economy, more than 30% of workforce was covered by collective contracts on the company level in the last decade (Eurofound, 2015). As especially great corporations have been unionized in the metal sector, consequently we can estimate lower rate of coverage among SMEs.

Three collective contracts which were examined overlapped at all main points with labor code. The differences were found only in wage system in night work and overtime supplements. We identified some provisions in the text, which can facilitate participation of employees at workplaces. However, collective agreements, in the vast majority of their provisions, merely reproduce the paragraphs of the Labor Code without extending it in a substantial way. Reiterating the Labor Code might be considered as a tool to ensure the running of the control of each one provision in collective contracts. With regard to the overall redundancy of the text as compared to the Labor Code, it does not contain a larger number of controversial points, which have to be bargained.

In the wage agreements, the most important categorizations of jobs seem to be the tariff level of the remuneration system, the definition of wage supplements, and the rate of wage growth. The wage agreement does not apply a seniority scheme, and wages are not directly linked to the length of employment in the enterprise.

Particular agreements concern working hours of 37.5 hour/week, possibilities for application of working hours accounts (irregular working hours), and 5 week paid holidays. Working hours accounts do not seem to be used frequently, and we did not encounter this model of working schedule in questionnaires filled out by employees.

Many social policy benefits in organizations are provided under conditions of seniority. It could be said that these are seniority rewards, like retirement rewards or work anniversary bonuses. The social conditions of workers in retirement are supported by pension insurance supplements in the relative amount 1 % of the gross income.

5.1 Employee involvement and participation

When we investigate how labor relations are shaped in the organizations, we have to focus on the issue of participation. Integrating the human factor can be seen by management as a response to the increasing competitive pressures in product markets (Lansbury and Wailes, 2008). We perceive participation as a process which extends the involvement of employees into consulting and decision making processes, which then influences organizational outcomes (Dietz, Wilkinson and Redman, 2009). In this sense, participation supports the sharing of organization standards and values, which reduces the cost of monitoring and evaluating the performance of individual workers. As a synergic effect, it reinforces a worker's links to the employer and can act as a balancing power to difficult working conditions (Dietz, Wilkinson and Redman, 2009).

In organizations where research was conducted, the absence of collective bargaining (organizations 1–3) on employment, working conditions, wages and benefits was linked with the increasing importance of bargaining at the individual level. In day-to-day operations, management addresses operational issues according to the urgency of the needs. Business meetings are organized with worker representatives, who inform other employees about the company. Direct commands and indirect commands (message boards, e.g.) are still used as communication tools, in addition to direct communication with line management. In most SMEs, computer communication has not yet been developed. The lack of appropriate communication tools limits the possibility of effective employee participation.

Where labor unions were not in place, labor relationships had no institutional support. Furthermore, it would not be realistic to anticipate any future institutionalization at the companies, because →

worker interest groups cannot be created as institutions that could participate in the negotiations. Interaction between management and employees is more about solving individual difficulties than mediating interests.

The patterns of participation of employees seem to be influenced by the LME/CME model. Close relationships between forms of firm budgeting and labor practices arise. Patterns of participation are likely to vary systematically across production models (Lansbury and Wailes, 2008). In liberal market economies in Central and Eastern Europe, labor management practices tend to be market-based and short term in character. All firms in the sample gain advantages from the low cost of labor and the high degree of market adaptation.

In organizations in which institutionalized bargaining is established (organizations 3–6), negotiations are managed by the HR manager. There are quarterly meetings where the terms of the collective agreement are contested. These discussions are very formal, just as they are in the bargaining process. In parallel with these meetings, monthly meetings with key employees are arranged, where data on recent company development is reported.

5.2 Work-life Balance

In this study we perceive the absence of work-life balance as a part of the new social risks in Taylor-Gooby's approach (Taylor-Gooby, 2004). New social risks (NSR) relate broadly to all employees, but they tend to concentrate and combine within specific groups of people that may overlap, especially among young people, families with young children, people with low qualifications or single mothers. These people are unique in that their social risks are not covered by social security systems, especially in periods of unemployment, child care or interrupted work.

In work-life balance issue, new social risks emerge as a result of changes in the family and in gender roles (Taylor-Gooby, 2004):

- balancing paid work and family responsibilities, especially child care;
- being called on to care for a frail elderly relative, or becoming frail and lacking family support.

The problem of work-life balance is rarely resolved in the surveyed organizations. If some measure is applied, it is not differentiated with regard to the needs of vulnerable groups. Despite the fact that collective agreements do not cover the

Table 3 » *Work-life balance*

Collective contract		Do you agree with this statement? I can easy reconcile my work and family duties					Total
		+ +	+	0	–	– –	
Yes	Count	67	94	116	15	13	305
	Expected Count	63.2	85.3	118.1	19.7	18.7	305
	% within row	*22.0*	*30.8*	*38.0*	*4.9*	*4.3*	*100.0*
	Adjusted Residual	0.7	1.5	-0.3	-1.5	-1.9	
Not	Count	68	88	136	27	27	346
	Expected Count	71.8	96.7	133.9	22.3	21.3	346
	% within row	*19.7*	*25.4*	*39.3*	*7.8*	*7.8*	*100.0*
	Adjusted Residual	-0.7	-1.5	0.3	1.5	1.9	
Total		135	182	252	42	40	651

Source: own; Cramer V = 0.108; N = 689, missing = 38

Table 4 » *Working schedules*

Collective contract		What is your working schedule?			Total
		Regular working hours	Flexible working hours	Irregular working hours	
Yes	Count	272	32	25	329
	Expected count	228.3	34.5	66.2	329.0
	% within row	*82.7*	*9.7*	*7.6*	*100.0*
	Adjusted residual	7.2	-0.6	-7.9	
Not	Count	204	40	113	357
	Expected count	247.7	37.5	71.8	357.0
	% within row	*57.1*	*11.2*	*31.7*	*100.0*
	Adjusted residual	-7.2	0.6	7.9	
Total		476	72	138	686

Source: own; Cramer V = 0.309; N = 689, missing = 3

work-life balance issue, the situation in unionized businesses seems to be a little bit better (table 3).

Moreover, it is visible in table 4 that unionized employees have more family friendly work schedules (regular working hours).

5.3 Skills

The skills, or the lack thereof, are subsumed under new social risk in the same way as work-life balance. Taylor-Goby (2004) defined it as:

- lacking the skills necessary to gain access to adequately paid and secure jobs;
- having skills and training that become obsolete and being unable to upgrade them through lifelong learning.

Dunlop (1977, p. 63) pointed out the importance of market variables in managing economic efficiency. He showed that the theory of industrial relations is not just about market cleaning related to the raw materials market and product sales, but that there is also a market for different types of work with different job skills.

As Osterman (1975) points out, return on investment in job skills associated with differentiated jobs is segmented as well. Using the human capital model, based above all on the crucial role of education in working life, Osterman claims that its returns to employees at higher organizational hierarchy levels and primary labor markets are demonstrable, while the return on investment in the secondary labor market cannot be demonstrated empirically. This leads to the conclusion that, through investment in human capital, it is not possible to increase employee earnings in the secondary LMs.

Only one form of education was evident in the sample. These were the courses and training that led to obtaining the certificates required to work as imposed by the labor standards. No other form of educational development (languages, PC skills, etc.) was provided by the organizations, and thus there was no improvement in labor market status (table 5).

Collective contracts contain only one short agreement on retraining in covered organizations: 'The employer shall ensure the possibility of retraining the employees and their subsequent employment with the employer. Employer will create conditions for further training of employees'. No other provision is evident. It must be noted that firms covered by collective contracts cooperate →

Table 5 » *Education in organizations*

Collective contract		Does your employer offer any courses or education?				Total
		Yes, I took part this or last year	Yes, but I am not taking part	No	Do not know	
Yes	Count	114	82	79	50	325
	Expected count	94.9	67.1	100.7	62.3	325.0
	% within row	*35.1*	*25.2*	*24.3*	*15.4*	*100.0*
	Adjusted residual	3.2	2.8	-3.6	-2.4	
Not	Count	84	58	131	80	353
	Expected count	103.1	72.9	109.3	67.7	353.0
	% within row	*23.8*	*16.4*	*37.1*	*22.7*	*100.0*
	Adjusted residual	-3.2	-2.8	3.6	2.4	
Total		198	140	210	130	678

Source: own; Cramer V = 0.201; N = 689, missing = 11

Table 6 » *Central points of coordination strategies in the sample*

Systematic interaction with employees	O2, O4, O5, O6
Building of skills	O4, O5, O6
Preference for recruiting from external LM	O1, O2, O3
Shifting production to a less developed region	O1
Termination of jobs due to recession	All organizations
Permanent individual contracts	O2, O4, O5, O6
Flexible work schedules	O1, O2, O3
Agency work	O1, O3

Source: own

with schools. They seek to actively prevent workers with specific skills from leaving, as well as prevent the recruitment of employees by other employers in the industry. One of the unionized firms maintains a larger internal LM, which is structured into a number of jobs and workplaces. Jobs are also associated with project and development activities in addition to production lines.

5.4 Strategies of coordination

The interviews with employers showed how a company's adaptation strategies are used and how they are coordinated in some of the aspects of corporate activities (table 6). There are differences in coordination strategies between firms. The differences are manifested both between firms in which collective contracts are in place or not, but

also between firms that apply different forms of adaptation to market conditions

The O2, and O4–6 companies maintained systematic management interactions and company staff, while management in other organizations communicated with staff as needed, often only with written orders. All companies in the sample were forced to cope with a decreasing budget by reducing their labor force. Two organizations (O1 and O3) addressed the situation by dismissing their employees or not extending their expired contracts. In this way, O1 was able to reduce the number of workers by almost 80–90 people, but O3 by only about ten employees. This suggests that a secondary labor market was developed in O1 before the recession began. After the economic situation improved, these companies added workforce from a staffing agency.

In O4–6 the companies sought to keep in touch with the people they had fired and, after the economic situation improved, returned them to their original jobs. They also kept in touch with retired workers and occasionally offered them employment. One can say that O1 and O3 are focused on external adaptation to market conditions, use the possibilities of external labor markets, and operate in the secondary segment of the labor market. O2's market adaptation is conducted differently. It focuses only on limited groups of clients and develops specific business models that include the ability to postpone payment and this allows employees to continue to work, even in turbulent market conditions. The companies O6 and O7 are oriented on their internal labor market and the construction of innovative devices.

5.5 No partnership

In partnership relations, Dietz (2004) conducted the empirical survey to identify the mutual trust of actors as an essential factor. Part of the trust is built on positive mutual expectations, which are much more important than the potential vulnerability of the actors in the interaction. This trust, based on the mutual identification of actors, is accompanied by the predictability of conduct, consistency of words and actions, sharing and delegating control, open communication and acting in good faith. Empirical knowledge, however, brings findings that deviate from the ideal of mutual trust, but confirm its importance.

The organizations reported that they emphasize consensus in order to eliminate issues in the process which center around the mediating the particular interests of the mutually identified actors on the basis of organizational goals and shared values. Based on research among employers, it has become clear that harmonious interaction between management and employees can develop even in those businesses where there are no unions.

Mutual appreciation of both actors is fundamental for reaching a consensus at the organizational level. One can imagine that mutual appreciation could establish a partnership. This model of recognition is not only promoted by legislation, it is directly required by the Czech Labor Code, even if unions are absent. However, these processes were not observed in the surveyed organizations. The bargaining process is fragmented and individualized, no explicit agenda is visible, and communication breaks down.

Structural changes in companies shape new problems not only for trade unions, but also for personnel management and, more precisely, the whole field of HRM. This is no less than a modification of labor relations, and it will become more pronounced with the decline in the importance of trade unions. It is possible (…) that HRM will take over some of the functions and competencies of trade unions.

5.6 The problem of manual workers

From the results of the analysis, it is clear that manual workers, as a group, have worse employment conditions than other groups. These employees express dissatisfaction with their wages, feel limited in their skills in terms of qualifying growth, find it more difficult to reconcile work and family responsibilities and do not have access to equal benefits. Problems occur with manual workers, regardless of whether the organization is covered by a collective contract or not. This confirms the stigmatization of manual work that Galbraith (1998) reported.

Certain groups of employees are pushed into marginal positions in the organization's job market, which may endanger the stability of their job. This knowledge shows the importance of manpower in the metal sector, in conjunction with technology, as a production factor. The division of employees by managers and personnel into 'key employees' and 'others' in the surveyed enterprises may be significant for this stigmatization.

With a high degree of probability, a secondary LM segment is created inside the enterprises, in which at least a certain number of manual workers operate. We can consider this market to be external, with jobs subject to the internal LM (Doeringer and Piore, 1971). Secondary LM thus coexist within the enterprise with the internal LM. It occur among the job positions below the professions through which some employees may enter the primary LM.

6. Conclusions

Our expectations of better working conditions and the dominance of the internal labor market in organizations covered by collective contracts were not entirely fulfilled. The reasons for this could be:

- the size of organizations, because SMEs must adapt closely to the market, and with limited budgets;
- bureaucracy in the bargaining process, when the needs of employees are not well represented, and the interests of the employers prevail;
- the effect of recession, when limited demand hit the entire industry;
- and probably a mix of all of the above.

Nonetheless, some variables revealed favorable working conditions in the covered organizations. This corresponds to the persistence of an internal labor market in some companies in the metal sector.

The consensus on working conditions in the collective contracts is found to be essential for the following reasons. It should (1) standardize work conditions for individual workers and between workplaces, (2) create a unified framework for concluding employment contracts, which will form the labor market within the organization.

We identified the scale of instruments supporting gross income. Better hourly wages and supplements for work in afternoon shifts, at night, on the weekend or in hard conditions improve overall income. Even though they were set up in Labor Code, collective contracts have made them better.

However, new challenges do arise. Structural changes in companies shape new problems not only for trade unions, but also for personnel management and, more precisely, the whole field of HRM. This is no less than a modification of labor relations, and it will become more pronounced with the decline in the importance of trade unions. It is possible (and some aspects of development are already evident) that HRM will take over some of the functions and competencies of trade unions. In SMEs, where trade unions do not usually function, these functions and competencies are often the responsibility of HR managers (see Kochan and Bamber, 2009).

More and more important, HRM will become not only a part of the system of labor relations, including a qualitatively new concept of communication, but also in the negotiation of conditions of work performance, employee benefits and organizational development. HRM will not only become

a senior management body, but it can be assumed that it will take over its own tasks, especially in corporate strategy and planning.

Thus, the existence of collective bargaining is not the cause of the segmentation of the labor market in the metal industry. When certain groups of workers are particularly vulnerable to marginalization, it is due to other reasons. In this context, this is considered to be an explanation of the stigmatization of manual work.

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Labor Relations in SMEs: Beyond Trade Unions

ABSTRACT
The objective of this study is to answer following research question: 'What are the main differences in labor relations outcomes between unionized and non-unionized companies among SMEs in the metal industry in the Czech Republic?' We base our answer to this question on the findings from qualitative interviews and quantitative questionnaires. Our expectation is that differences will be identified in working conditions, and employer strategies are examined. We find the importance of collective bargaining at the organisational level. The difference in coverage of collective contracts does not have quite as high an impact on labor market segmentation and coordination strategy. We can confirm that collective contracts provide some privileges and benefits, but the absence of these contracts is not the single determining factor of the labor market.

KEYWORDS
Labor relations; SMEs; labor market; partnership; coordination

JEL CLASSIFICATION
J53

The Role of the State in Economic Development

Igr. Ing. Lenka Nigrinová, Ph.D.[1] » University College of Business in Prague, Department of Economics, Spálená 76/14, 110 00 Prague, Czech Republic; email: l_nigrinova@centrum.cz

1. Introduction

The study of the role of the state in economic development is the actual topic. Firstly, it will be explored in general, as the role of the state varies in time. In principle, the role of the state is very wide, it changes with a country's stage of economic development as well as changes in the external environment. This article will only deal with aspects that affect the economic development of the country. HDI will be used to assess economic development. After the form and function of the state in the economy is analyzed, the role of the state in China will be reconciled. Values of HDI in China will be compared to the Russian Federation's values for the same period. This paper offers an overview of a critical view of state formation and its influence on the economy.

2. The role of the state

The role of the state and its function are studied by several scientific disciplines, especially law, history, political science, sociology, economics and public administration.Top of Form The role of the state gradually changed in the 20th century and the state sought its place in relation to the market economy. It was necessary to strike a balance between individual freedoms, free market, social solidarity and autonomous civil society.

The state is an institution which create a legal framework, ensures the functioning and application of law, ensures security of the country and its citizens, has social functions, but also economic functions. There is a number of functions that state should perform. The economic functions of the state lie (Samuelson and Nordhaus, 2013):

- in promoting efficiency (government attempts to correct market failure) — allocation functions;
- in the promotion of justice (government uses tax and redistribution costs) — (re) distribution functions;
- in promoting stability (the government seeks to regulate economic cycles, reduce unemployment and inflation and promote economic growth) — stabilization functions.

The state interferes with the behavior of the economy and the role of the market system, its possibilities are different in different states. In →

[1] *This paper was created within the project 'Comparative Methodology and its Application by Examining the Specific International Business Environment (Case study of China)' — project registration number GA AA/09/1018.*

most economies, the state regulates and partly influences the decision-making of companies in both public and private ownership. The state thus achieves its goals such as ensuring economic efficiency, enhancing economic equality, protection of some subjects of the economy, securing justice, enhancing competitiveness, security, the state has social goals and influences health and education.

2.1 The state in relation to the market

The relationship between the state and the market is related to how the political and economic system is organized in different societies. The market environment can and should also be managed democratically, while there is no democracy without a market. For the relationship between the state and the goods and services market, the state creates an environment for the market to function. In order to do this, the state regulates the market through laws and supervises the market. That is the external function of the state towards the market. The state also acts as a market participant, as a buyer and a seller on the market, that is the internal function of the state towards the market.

In some respects, the state is dependent to a certain extent on the business sphere and corporations. Then there is a risk that the decision-making of states is under the influence of certain interest groups and there is room for business lobbing. As regards the interconnection of the state and business entities, it can be stated that the state should supervise and regulate business through the relevant legislation and create conditions for the functioning of the competition-based market. The market is dependent on the political power that should create the rules of the game for business. The state has 3 functions in relation to the market (Sojka and Konečný, 1996):

- Ensures the conditions for a good functioning of the market mechanism (minimizes the adverse effects of the monopoly, eliminates negative or positive externalities, secures sufficient public goods).
- Ensures the fair functioning of the market mechanism by redistributing product in the interests of greater equality.
- Ensures the internal and external stability of the economy through macroeconomic stabilization economic policy.

According to institutional economics, the market is considered to be internally unstable, and therefore there is a need for formal and informal institutions and the state to deal with conflicting situations, which occur on the market and in the company. The state and private sector should act together as partners. Government is needed to regulate market and to ensure competition. Government can avail many of the similar incentive mechanisms that the private sector uses. '*Government can use markets and market – like mechanisms. It can use auctions both for procuring goods and services and for allocating public resources. It can contract out large portions of government activity*' (Stiglitz, 1998).

It follows from the above that the state and the market have their own functions and benefits (the state is more effective in delivering security and social cohesion compared to the market, more effective in implementing policy decisions and regulating and continuity of services offered), but they can act as partners and create the conditions for promoting the country's economic development. Just setting up mutual cooperation between the state and the market is very important and essential for the further development of the country.

2.2 The economic role of the state over time

Mercantilist theory was highly interventionist. It focuses on the system of trade and was applied from the 16th to 18th century. Mercantilists incorrectly thought that the amount of wealth in the world was static and that one state gained wealth at the expense of other nations. According to Mercantilist the state should promote export and restrict import to gain the greatest possible wealth.

Mercantilist theory promote government regulation and use of tariffs (Holman, 2005). Certain thoughts of mercantilist theory can be found in the current economic policies of many states. Most countries support exports by some form of pro-export policy, and at the same time the states apply tariffs or other measures to protect their own market. However, the theory and practice of trade policy show that the greater benefits bring liberal trade policy (as it leads to increased competition in the domestic market) than protectionism. Costs of protectionism are usually borne by consumers.

The UNDP data on HDI indicate that Norway, Switzerland, Australia, Ireland and Germany are the top positions in economic development, meaning democratic states operating on the basis of a market mechanism and where the role of the state is not dominant. It turns out that states such as China and Russia, where the state's position is very strong and active, do not reach such high values of economic development.

Liberals argued for a free market and consider the state as a guarantor of natural individual rights that cannot be ensured by a market. Classical liberals argued that the state should have limited functions. Adam Smith was one of the most important representatives of classical political economics. He was the defender of free market and competition. He studied also the role of government and was critic of state interference because most of the interventions into economic life by state were harmful both to prosperity and freedom (Stigler and Samuelson, 1968). According to Adam Smith the government should protect the society against attacks of other independent countries, protect members of society against injustice, provide and maintain security, infrastructure, education and ensure the environment protection. For the classical economists economic growth is not connected with government and its policy, but depends on labour specialization, human skill and productivity improvements. Economic growth can also be boosted by increasing the volume of capital goods, increasing the quantity of labor and natural resources and the quality of production resources such as technological development and education, which should contribute to the growth of labor productivity (Frait and Červenka, 2002).

Neoclassical theory cannot decide definitely on the potential role of state. According to the neoclassical model, GDP growth depends on the growth of capital, which depends on the growth of savings. Neoclassical theories have been criticized by institutionalists who have emphasized the influence of exogenous factors such as laws, rules, customs and conventions, as well as institutions in society. The ideas of institutional economics were used at the beginning of the 20th century, when the Great Depression hit the world, which the liberal economic policy failed to respond to. As a reaction to this situation, interventionist economic policy arose and its aim was to support the market system through various measures. The most famous of these projects was New Deal. It was a major breakthrough in understanding the function of the state. This created room for widening state intervention in the economy in the years to come. The result was the abandonment of classical liberal ideas and this led to the strengthening of state influence.

After the World War II, the major theoretical basis of economic policy for most advanced states became Keynesian learning. Its influence persisted until the end of the 1970s when economy suffer from stagflation and Keynesian theory could not respond to it. The ineffectiveness of the instruments of their economic policy opened up the possibility for Keynes' opponents. Keynesians support →

a mixed economy and believe in active role of government policies. According to Keynes, fiscal policy and government spending should be used to neutralize the volatility of the business cycle (Holman, 2005). Keynes saw the central role of the state in ensuring sufficient demand and full employment. He considered fiscal policy (government spending and tax rates) as the main instrument to achieve these goals. In terms of the allocation of economic resources, he held a liberal attitude, so it should be left to the market mechanism. Keynesians believe that government intervention can help with solving problems of unemployment and low economic demand. According to the Keynesian model, the growth stimulus is rising demand, the rise may be caused by the rise in consumption, by increasing investment in the corporate sector, by rising government spending or by rising exports.

In the 1970s and 1980s monetarist theory gradually became crucial in shaping the practical economic policy of developed market economies. The main representative of monetarism was Milton Friedman and his followers from the so-called 'Chicago School', they believe in free-market capitalism. They criticized Keynes' policy proposals and instead argue for a more measured monetary policy and smaller government and a slow, steady increase of the money supply. They argued for deregulation in most areas of the economy, calling for a return to ideas of classical economists. Friedman was a critic of government power and was convinced that free markets operated better on grounds of efficiency. '*Our minds tell us, and history confirms, that the great threat to freedom is the concentration of power. Government is necessary to preserve our freedom, it is an instrument through which we can exercise our freedom; yet by concentrating power in political hands, it is also a threat to freedom. Even though the men who wield this power initially be of good will and even though they be not corrupted by the power they exercise, the power will both attract and form men of a different stamp.*' (Friedman, 2012; Friedman, 2002).

Government could not spend money more carefully than the taxpayers. Friedman argued that for every dollar the government spends only about a dollar is added to income, not a wide multiplier that was by Keynesians suggested. In fiscal policy we simply do not know enough to be able to use deliberate changes in taxation or expenditures. In the process of trying to stabilize the economy government almost surely make matters worse. '*The basic role of government in free society is to provide the means whereby we can modify the rules, to mediate differences among us on the meaning of the rules on the part of those few who would otherwise not play the game. Government should basically stay out of the economy. We should have free enterprise*' (Schumaker, 2010). The existence of a free market does not of course eliminate the need for government. On the contrary, government is essential both as a forum for determining the 'rule of the game' and as an umpire to interpret and enforce the rules decided on. Government should define roles of property rights and do what markets cannot do (Friedman, 2012; Friedman, 2002).

Opinions on the role of the state in the economy are changing. The scope and involvement of the state in the economy and the degree of its regulation of the economic behavior of companies and individuals are the subject of economic policy debates. Economists, even at this time, have different views on this role. On one side there is a critique of statehood and its inefficiency is accentuated. These economists advocate the application of laissez faire and minimal intervention of the state in the economy. According to these economists the state has to provide goods that cannot effectively provide the market. The critics of government argue that government interventions are often ineffective, the measures are unaffordable and restrict freedom and competition. The state uses its political power to obtain wealth that belongs to private individuals and is a means of promoting the interests of political parties. The functioning of the state is not governed by generally accepted rules,

but by political goals. According to Rothbard, states would not exist in the ideal world. Rothbard used the concept of a stateless society anarcho-capitalism[2] (Rothbard, 1990). Anarcho-capitalism is a consistent with liberalism. It comes from a single value that is human freedom. According to the anarcho-capitalists personal property is very important. The individual has the right to freely dispose and exchange own property with other people, which is the basis of free market that should not be regulated by anyone.

On the other hand there are supporters of very active government participation. State interventionists argue that a certain degree of regulation of the economy is necessary and its aim is to ensure protection of property rights and competition, justice, correction of externalities and market failures, to stabilize of excessive economic fluctuation, to ensure provision of public goods, to strengthen economic equality and freedom, to increase the international economic competitiveness and to increase the efficiency of the markets.

Critics of government argue: *'Government is unnecessary because anything the government can do, the private sector can do better. Government is ineffective because anything the government does, the private sector can and will undo. The incentive structures inherent in public institutions imply that government actions generally decrease societal welfare, or at the very least, inhibit productive economic activity by taking resources away from one group and giving them to another, often less deserving group*! (Stiglitz 1998). However, these arguments are not entirely correct because the government has powers that the private sector does not have, and it cannot be clearly stated that all government interventions are ineffective. There are Stiglitz's proposals, how to deal with 5 general propositions for improving governance (Stiglitz, 1998):

- Proposition 1 for a better government: Restrict government interventions in areas in which there is evidence of a systematic and significant influence of special interests.
- Proposition 2 for better government: There should be a strong presumption against government actions restricting competition, and there should be a strong presumption in favour of government actions which promote competition.
- Proposition 3 for a better government: There should be a strong presumption in favour of openness in government and against secrecy.
- Proposition 4 for a better government: Government should encourage the private provision of public goods, including through non-governmental organizations, not only as mechanisms for the creation of effective competition to itself and therefore putting discipline on itself, but also as an effective way of conveying voice.
- Proposition 5 for a better government: Government need to achieve a balance between expertise and democratic representativeness and accountability.

Governmental problems and weaknesses of the state can be changed through this proposition. According to Stiglitz the question is not whether a government should get involved in an economy, but what forms of intervention are most appropriate. Today economists are looking at how markets and government can work together and form the relationship between government and markets in terms of a partnership. The capitalist economies were much more unstable before the era of more active government involvement (Stiglitz, 1998). Stiglitz (1998) highlights that it is possible to increase the performance of the state by using mechanisms that the private sector uses.

3. Effects of the state on economic development

Economic development is usually defined as the increase in economic wealth of a state and im- →

[2] *Gustave de Molinari is the founder of anarcho-capitalism, Gustave de Molinari was Dutch economist working in France at 19th century.*

provement in the quality of lives of people in a country. This involves improving the economic and social well-being of people, availability of goods and services such as health care, education, improvement in the quality of life and living standards, people's freedom to take control of their own lives. Economic development is a broader concept than economic growth. There are several different measures of economic development, but measuring is not as precise as measuring GDP, because economic development depends on more factors and it depends which factors are included in the measure. The most used method of measuring economic development is the Human development index (HDI).[3] It provides a means of measuring economic development in three areas — per capita income, health and education. It is a statistical and comparative tool for measuring countries and reconciling the quality of human life, by comparing the data on real income per head — GDP per capita, literacy, education, life expectancy, quality and availability of housing, and other factors. Economic growth is one aspect of economic development, it is not the only condition for economic development. But higher real GDP enables to be spent more on health care and education or other projects which influence economic development (Higson, 2011). HDI index is based on three equally weighted components (UNDP, 2018a):

- longevity, measured by life expectancy at birth;
- knowledge, measured by adult literacy and number of years children are enrolled at school;
- standard of living, measured by real GDP per capita at purchasing power parity.

The current level of economic development of a country is determined by its real income per head — GDP per capita, levels of literacy and education standards, levels of healthcare, quality and availability of housing and levels of environmental standards. What factors contribute to the higher economic development? The state should establish stable legal and institutional infrastructure, the basic legal framework in which economic activities take place and which governs the rights and obligations of all entities in society. Basic principles include creation of the legal framework, maintenance of peace and security, protection and delimitation of property rights, enforcement private contracts, defining consumer rights and protecting competition. The state should ensure fair market practices and prevent monopolistic behaviour. The state is the important regulator and provider of the rules of economic exchange and economic activities. The state has a significant impact on the production and consumption behavior of private entities. By administrative or economic tools, the state tries to change their behavior in order to achieve a variety of goals, greater security, to improve the status of some social or interest groups or to strengthen the competitiveness of the country.

Institutions and institutional environment have a significant stabilizing role in the economy and lead to higher productivity. Political and legal institutions should defend basic rights, guarantee civil and political rights of people, person and property rights and independence of courts, basic rights for firms and ensure effectiveness of legal system. Institutions which ensure education, health care, pension system and standard of housing are also very important for economic development. Economic institutions set rules for the functioning of the economy and guarantee the stable development of economy, they should create effective and transparent regulation, eliminate barriers to entry for new companies which want to entry the market. Good institutions should be fair, efficient, transparent and open. The state also intervenes in the economy by fiscal and monetary policy institutions, thus ensuring the macroeconomic stability of the country. Stabile macroeconomic environment with low and predictable inflation, a sustainable budget balance and stable and competitive currency are ingredients of economic success.

[3] *The HDI was introduced in 1990 as part of the United Nations Development Programme (UNDP).*

Weak political institutions are cause of unstable and disappointing growth.

Economic growth can enhance human development and that is why we will find out sources of economic growth. The sources of economic growth can be divided into human, capital and natural. Natural resources are given and cannot be influenced by economic policy, so we will only deal with capital and labor. Human capital (knowledge and skills of people) contributes to increasing labor productivity by increasing employment and increasing skills. In the case of capital, the growth is given by the stock of real capital as well as the technical level of capital goods. Growth of capital stock is made possible by the deferment of current consumption, which is all that motivates savings and investing affects (Frait and Červenka, 2002). It is therefore necessary to look at what tools of economic policy affect employment and the supply of capital. Therefore, we will deal with fiscal policy instruments that have the potential to influence labor and capital.

The basic element is the taxation system. Direct and indirect taxes has a different impact on economic and social growth. Taxation according Rothbard (1990) always brings two impacts: it distorts the allocation of resources in society which means that consumers can not to satisfy their needs in the most efficient way possible and separates the distribution of wealth from his creation, artificially creates a problem of partitioning wealth. According to Rothbard (1990), the government is forcing consumers to give up part of their income to the benefit of the state that redirects the resources previously served to these consumers into other areas. This leads to a disruption of the allocation of resources (Šíma, 2001). Arnold studied the impact of individual types of taxes on economic growth and found that corporation tax, individual income tax and excise taxes had the biggest negative impact on economic growth. Direct taxes, such as labor taxes, lead to a drop in investment activity. Indirect taxes affect consumption, while direct taxes are levied on individuals and have a significant impact on workload (Arnold, 2008). Income tax is used to tax progression, which also has an impact on the buzz of savings and investment. Higher earnings are taxed at a higher tax rate, and so part of the income of high-income groups is drawn. This part of the retirement is not used to make savings, but is part of the public budget and redistributed or used for government consumption.

The effects of government expenditures are relatively difficult to be hit. However, we can say that the goods are purchased from funds collected from private entities and that they are likely to have a different structure than would have been done by the sole traders. This is a change in the structure of the purchase. Positive growth is mainly due to expenditure on education, health care, as they improve the quality of work and thus increase the productivity of work. Government spending, such as infrastructure investment, expenditure on defence and general public spending is primarily driven by economic growth. As far as social spending is concerned, it usually reduces workload and reduces motivation to work and therefore we can say that it affects economic growth rather negatively. Afonso and Furceri (2010) consider social expenditures and subsidy to be non-productive expenditure, because they restrict motivation to work, invest in human capital and displace private investment. However, opponents emphasize that social spending can also have a positive impact, because they provide the appropriate institutional outreach that can be pro-growth. Financing government spending through increased direct tax revenues has a negative impact on economic development. It is more profitable if they are funded by raising indirect tax revenues.

To sum up, public investment expenditure, infrastructure expenditure and expenditure on education and health system make positive effects on economic growth. According to many economists, regulation, especially for entrepreneurs, and environmental regulation, is hampering economic growth. The resulting impact of individual types of government spending on economic growth de- →

pends on how efficiently the expenditures are used. It depends on the quality of government and the level of corruption. It is obvious that if government expenditures are used for inefficient projects or if they only displace private investment, it is not possible to expect a positive influence on the economic development of the country (Agénor, 2010). Fiscal policies influence relatively significant economic growth, both positively and negatively, and it depends on the structure of the tax mix and government spending (Drobiszová and Machová, 2014). Alesina and Ardagna (2010) in their study add that fiscal expansion in the form of a reduction in the rate of taxation has a more positive effect on growth than rising government spending. We also need to monitor the effects of fiscal policy on economic growth in relation to monetary policy as it depends on the overall fiscal mix.

The state plays a role in determining trade policy of the country. At all times, most states carry out and use tools for export policy. They have an effect on the amount nature of goods passing through the borders, by managing imports and exports through a number of tariffs, quotas and other trade policy measures. Government can promote exports of goods and services necessary for accelerating economic growth. Economic development used to be promoted by liberal export policy. Trade liberalization has an important role in accelerating economic development because create new opportunities for private enterprises. Trade liberalization is usually associated or followed by improvement in structural policies and institutional infrastructures (Tabellini, 2005).

The state may influence economic development by subsidizing private producers. There are many forms and reasons for subsidizing private production. Typical areas where direct subsidies are applied are agriculture or ecology. An indirect form of subsidization is the so-called tax expense. They represent an advantage through the tax system. In general, these are cases where private entities enjoy a different, more favourable tax status than others. Another form of subsidizing private producers is the provision of low interest rate loans by state agencies or the acceptance of guarantees for loans provided by private banks. The state can effort to encourage the consumption of certain commodities (education, housing) through a system of preferential loans or mortgages. Government regulation should provide 'game rules' that give both manufacturers and consumers' confidence in the functioning of the markets and to provide everyone with the necessary information. Government regulation can have two forms: traditional regulation — that stems from Keynesian economic policy. It includes regulation of prices and wages, regulation of public goods, and the stimulation of economic development. The new wave of regulation focuses on the issue of protecting individuals, protecting the environment and striving to reduce risk and uncertainty in the market by promoting dissemination of information.

The state also affects industrial policy of the country by providing incentives for Foreign Direct Investment (FDI). FDI contributes to increased job creation, increased labor productivity, technology transfer, transfer of production and sales organization, managerial processes, improved the state of the institutions, increased the competitiveness of the economy, increasing export performance, complementing domestic private and public savings, enabling affiliated companies to enter foreign markets and reduce unemployment in the target regions. The state should not provide incentives for FDI which has negative impacts. FDI does not lead to economic growth if it pushes existing investments, does not establish links with domestic firms, or if their production is limited to technologically less demanding jobs. Repatriation of profits is a burden on the current balance of payments, preference for imported raw materials and prefabricated products has an impact on the trade balance, and the development of capital-intensive production at the expense of labour-intensive production can lead to rising unemployment.

Recently, another form of public provision of goods and services (in particular infrastructure) —

Public Private Partnership (PPP) has been developed. This is a long-term contractual relationship where the public and private sectors share the benefits and risks arising from the provision of public infrastructure or public service.

The level of education, training facilities, science and health policy have a very important role in the economic development and well-being individuals and society. The quality of education can increase level of literacy and education standards and it has an impact on the level of the workforce, its productivity and qualification which is very important for economic development. Public health is necessary and it is one of the important function performed by the state. The health of people can contribute to increase the efficiency and productivity of labor and increase life expectancy. In recent years, the state has been increasingly devoted to environmental protection. The process of economic development is accelerated by increasing the capital investment and technical knowledge. These processes are usually provided by government or private investors.

The state has an important role in development but its contribution is influenced by other factor, e.g. national specifics and historical and cultural traditions. The ability of the state to focus resources on development of public education and health service investments in infrastructure, human capital and the advancement of technology are important factors in increasing socio-economic development of the country. All programs for their implementation should be checked if the financial resources are used efficiently. Each country determines the role of state in the economy in its own way. The wrong kind of government intervention can reduce welfare of the country.

4. The role of the state in economic development in China

The state in China plays an important and decisive role in the functioning and development of economy. In the last years the role of central government was slightly reduced and the role of private firms and market increased. But the state still has a considerable influence on the private sector and agriculture. There are still many political, regulatory and financial restrictions on private enterprise. The entry of a foreign firm can be subject of numerous conditions, often designated by government. The state and ruling Chinese Communist Party have dominant role. The strength of the Chinese state has stemmed from its single-party control over the state. The Communist Party exercises through joint ventures and other means a great deal of control over foreign companies that are considered decisive for development of China. Chinese Communist Party has the right to make important decisions on economic policies and State Council, State Planning Commission and Ministry of Finance are exercising control over the economy. The actions by the Chinese Government are outlined in 5-years plans. China's 13th five-year plan formulated by Central Committee of the Communist Party of China defines objectives and tasks for economic development in China (2016–2020). Economic plans are implemented by a direct and indirect control. These include output quotas, taxes, and the allocation of scarce resources control. Operational supervision is devolved to provincial governments (Joshi, 2012).

The transition from central planning economy to a market system is gradual. It includes privatization of the state-owned enterprises, changes in the labor market, legal and institutional reforms. All these changes help to raise economic growth and quality of development. China left a phase of rapid growth and focuses on high-quality development. The state focuses on deepening supply-side reform, enhancing of rural development, structural improvements, production and supply more high-quality products. Government want to stimulate more domestic consumption, to maintain or increase volume foreign trade and increase level of investment flowing into country.

The state plays a dominant role in the economy in China and has crucial importance for China's →

industrial development. Government determines and improves macroeconomic policies and controls their policy mix in interest of maintaining a high quality development. State intervention through the implementation of fiscal and monetary policies, financial regulation and state investment ensure the stability and relatively high growth of economy.

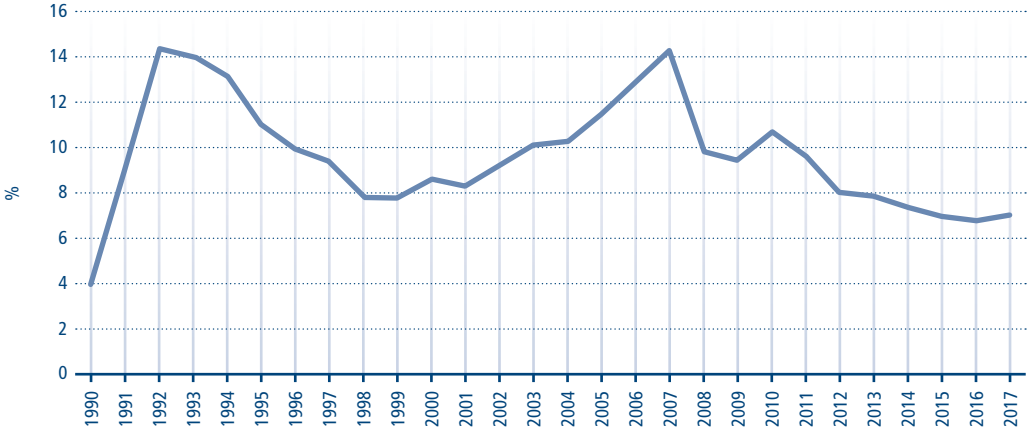
China experienced rapid growth in the last few decades (figure 1), but it creates externalities at the same time. China overcame the global economic crisis quite good because in 2008 the State Council unveiled stimulus package, which helped economic growth. Government investment has been the dominant factor in economic growth in recent years, growth comes also from the government's policy of refunding and reducing taxes on exports, rise in external demand, government macroeconomic policy that combines an active fiscal policy and monetary policy. High level of poverty in western and central parts of country remain a problem.

4.1 Economic development in China

Economic development will be assessed through HDI and we will examine to what extent it is influenced by the strong position of the state. HDI is a tool used to measure and compare countries in its economic and social dimensions. HDI is a summary measure which include health dimension which is assessed by life expectancy at birth, knowledge or the education dimension which is measured by expected years of schooling and mean years of schooling and per capita income which is measured by GNI. Values of HDI in China will be compared to the Russian Federation's values for the same period. Throughout the monitored period (1990–2017), HDI values in China were lower than in the Russian Federation. While we can see that HDI in China has been growing at a faster rate than in the Russian Federation in that particular period (table 1).

HDI has a scale from 0 (no development) to 1 (complete development). An index of 0–0.49 means low development, an index of 0.5–0.69 means medium development; an index of 0.7 to 0.79 means high development; and an index above 0.8 means

Figure 1 » *GDP growth in China*



Source: The World Bank

Table 1 » *Time series of HDI values in China and Russian Federation*

Country	Human Development Index									
	1990	2000	2010	2011	2012	2013	2014	2015	2016	2017
China	0.499	0.592	0.700	0.703	0.713	0.723	0.734	0.738	0.748	0.752
Russian Federation	0.733	0.720	0.785	0.792	0.799	0.803	0.805	0.804	0.815	0.816

Source: UNDP (2017), UNDP (2018b)

Table 2 » *HDI in China and Russian Federation 2015*

Country	Human Development Index	Life expectancy at birth	Expected years of schooling	Mean years of schooling	Gross national income per capita PPP $
China	0.738	76.0	13.5	7.6	13,345
Russian Federation	0.804	70.3	15.0	12.0	23,286

Source: UNDP (2017)

Table 3 » *HDI in China and Russian Federation 2017*

Country	Human Development Index in 2017	Life expectancy at birth	Expected years of schooling	Mean years of schooling	Gross national income per capita PPP $
China	0.752	76.4	13.8	7.8	15,270
Russian Federation	0.816	71.2	15.5	12.0	24,233

Source: UNDP (2018b)

very high development. China was ranked 86th of 189 countries on HDI with score 0.752 in 2017. The low level of Chinese HDI is due to the large differences in economic developments in the different regions of the country. China GNI per capita was 15,270 USD in 2017, life expectancy was 76.4, well above the world's average of 72.2, expected 13.8 years of schooling and 7.8 mean years of schooling. China's achievement include the elimination of illiteracy among young and middle-aged citizens. China's rapid economic growth has played a critical role towards its progress in human development. China became a country with high levels of human development with its HDI score 0.7 in 2010 (see tables 2 and 3). The Russian Federation was ranked 49th of 189 countries on HDI with value 0.816 in 2017. GNI per capita was in the Russian Federation much higher than in China, it was 24,233 USD in 2017, life expectancy in the Russian Federation of 71.2 is lower than in China, expected 15.5 years of schooling, 12 mean years of schooling were higher than in China. HDI in China was much lower in 1990 than in Russia. China's HDI has grown steadily, China's economic growth over the last decades has been a major factor in its HDI growth. Since 2010, China has been ranked among the states with high development. The Russian Federation is now a country with very high development. In the years 1990–2012, the Russian Federation was the country with *high development*.

Life expectancy at birth is much higher in China than in the Russian Federation. Although Chi- →

Table 4 » *Healthcare in China and Russian Federation*

Country	Physicians per 10,000 people 2001–2014	Public health expenditure; % of GDP, 2014	Public health expenditure; % of GDP, 2015
China	19.4	3.1	5.3
Russian Federation	43.1	3.7	5.6

Source: UNDP (2017)

na's major problem is the environment, its impact on this indicator is relatively low and life expectancy at birth is 76 years. Chinese public health expenditure at 3.1 % GDP in 2014, were lower than in the Russian Federation, where it was 3.7 % GDP in 2014 (table 4). In 2015 there was an increase in public health expenditures in both states. The Russian Federation had also twice the number of physicians per 10,000 people in 2001–2014 as China (table 4). Life expectancy in the case of Russia is given by the quality of life of the local population, living standards, quality and accessibility of health care, lifestyle and problems in the fight against diseases and alcohol consumption. The task requires systematic measure. The solution is to increase life expectancy by improving the quality of life and health care in less developed areas, by reducing the incidence of disease, programs for prevention and early detection of serious diseases.

In this area, the role of the state can be traced, as the formulation of appropriate health care for all inhabitants. It can lead to an improvement in the health of the population and their greater involvement in economic activity with an impact on economic development. Government should draft a public health policy, provide equal access of people to medical assistance provided through the public health system, provide basic medical care for everyone and offer the opportunity for above-standard care for those who are interested in it, create a favourable living environment and support mother and child healthcare. Government can also support deployment and expansion of screening programs for prevention and early detection of serious diseases like cancerous, improve quality of healthcare and improve the care of chronic patients.

The situation with education is in Russia better than in China (table 5). Expected years of education are comprehensible in both countries. Greater differences are found in the average grades of school attendance. Mean years of schooling in China is less than 8 years, while in the Russian Federation was 12 years. Mean years of schooling in China was very low compared to the value in the Russian Federation. Both states are countries with significant regional and economic inequalities and that causes significant differences in the level of education in cities and rural areas. Uneducated or under-educated people face workplace obstacles or do non-qualified work and contribute less to the country's economic growth.

Also in the area of education there is a lot of room for the role of the state to be able to guarantee access to quality primary education for all, to raise the quality of education, to provide special conditions for children with health problems and to provide quality education for gifted children. Children who are denied the opportunity of elementary schooling cannot study at secondary school. Population with at least some secondary education and literacy rate adult are in China lower than in the Russian Federation. China nowadays invests in public primary and secondary schools because the state want to everybody has right for education. Literacy rate was very high in the Russian Federation (99.7 %) in 2017 and in China was 95.1 %. The increase could be attributed to higher education availability for people living in central and western China.

China has been supporting the education system in recent years as well research, innovation services and technology programs. Investment in education and health can build strategic advantage in the next period in both states. Standard of living is measured by gross national income per capita. Gross national income per capita is nowadays much higher in the Russian Federation than in China. GNI in China was 43 % lower than in the Russian Federation in 2015 and 57 % lower in 2017. This indicator negatively affects the overall HDI of China.

Tables 6 and 7 show the value of the basic indicators in the distribution to women and men. Women have a lower HDI value in China and in the Russian Federation. The tables show that the highest difference is in life expectancy at birth in the Russian Federation. There are also significant differences in gross national income per capita in both states. Female GNI per capita in China was 67 % of male GNI in 2015 and 65 % in 2017. Female GNI per capita in the Russian Federation was 61 % of male GNI in 2015 and 65 % in 2017. The state's task is to give priority to funding of education which will be available for boys and girls. Qualified people then have better opportunities on the labor market

Table 8 shows the percentage of population satisfaction in 2012–2017 in these aspects of life. The

Table 5 » *Education in China and Russian Federation*

Country	Population aged 25 and older with at least secondary education (%); 2006–2017	Literacy rate adult as the share of population aged 15 and older (%); 2006–2016	Government expenditure on education as % of GDP; 2012–2017
China	77.4	95.1	–
Russian Federation	95.6	99.7	3.8

Source: UNDP (2018b)

Table 6 » *HDI in the distribution to women and men in China and Russian Federation (2015)*

Country	Human Development Index		Life expectancy at birth		Expected years of schooling		Mean years of schooling		Gross national income per capita PPP $	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
China	0.718	0.753	77.5	74.5	13.7	13.4	7.2	7.9	10,705	15,830
Russian Federation	0.809	0.796	75.9	64.6	15.3	14.7	12.0	12.1	17,868	29,531

Source: UNDP (2017)

Table 7 » *HDI in the distribution to women and men in China and Russian Federation (2017)*

Country	Human Development Index		Life expectancy at birth		Expected years of schooling		Mean years of schooling		Gross national income per capita PPP $	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
China	0.735	0.769	78.0	74.9	14.0	13.6	7.6	8.3	12,053	18,295
Russian Federation	0.823	0.808	76.8	65.6	15,9	15.2	12.0	12.1	19,510	29,671

Source: UNDP (2018b)

→

Table 8 » *Percentage of population satisfaction in 2012–2017 in China and Russian Federation*

Country	Education quality	Health care quality	Standard of living	Feeling safe female	Feeling safe male	Actions to preserve the environment	Trust in national government
China	66	65	78	73	87	68	–
Russian Federation	52	35	47	41	67	35	56

Source: UNDP (2018b)

satisfaction of the population in Russia is very low, especially with health care quality, standard of living, feeling safe female and actions to preserve the environment. The state should focus its interventions on these areas.

China's revenue raising, taxation and export levels were an important force for spread public health and education in the country. Government want to reduce poverty in western and central areas and provide education all children in that areas. Public spending help to lessen inequalities in economic development in China.

In conclusion, we can say that economic development in China measured by the HDI indicator has greatly improved over the last decade. The situation differs a lot from one Chinese region to another. Problems persist in education, health care and environment policy in some regions. The state needs to be focused on raising the standard of living, increasing health care and raising the accessibility of education in these regions. The state can ensure stable economic growth in poor regions through FDI, government spending and support of small and medium businesses which give economic and social stability. Small business need a lot of assistance and support from the state because it needs resources and know-how. China still faces environmental problems, disparities by regions and aging population. The state should support approval of law and increase state spending on reduction of pollution, especially air pollution in industrial regions and cities. Government investment should improve pollution controls, monitor emissions and local administration should effectively sanction emission issuers.

5. Conclusion

This paper reviewed empirical research concerning the influence of the state on economic development and identified what kind of policies are good for economic development. The role of the state in the economy changes over time. Even now there is no clear consensus on whether and to what extent the state should intervene in the economy. Critics point out inefficiencies in state interventions and restrictions on freedom and distortion of competition. The supporters of active state policy emphasize that the state has the competences that cannot be fully replaced the market.

Indeed, the state has influence on economic development. The state has the power to influence economic growth, public health and education, science and research, and other factors related to economic development through policies and instruments. The degree of the state's impact on economic development depends on its budgetary funds and effectiveness of its use. The interventions must be carried out efficiently and economically, otherwise they could have a negative impact on economic development.

The state should perform basic functions such as defining the legislative framework, implementing fiscal and monetary policy, providing conditions for competition, peace and security, ensuring public health care, education, research and development, and making the most efficient and economical use of government spending for these purposes. The state can enter the economy directly or indirectly and economic policy offers a number of tools. Legislative instruments provide law and gen-

erally valid business conditions and rules. Administrative tools provide the best possible information. The state should use market-conforming instruments that respect the rules used at the microeconomic and macroeconomic level of economics. There is a variety of tools and measures to promote economic development, growth and production such as ensuring stability of the legislative environment, enhancing public education and health care of the workforce (investment in education and health system), enhancing the flexibility of the labor market on the basis of reforms of labor law, support for research (investment in science and research development) providing incentives for FDI, support for PPP and determining trade policy. Liberalization of markets, reduction of administrative barriers to entry the domestic market or into certain sectors, the development of competition leads to cost reductions. These state functions cannot be fully replaced by the private sector. But the state should cooperate with the private sector and where it is possible to use market-conforming mechanisms to improve its efficiency and contract out some of government activity. Emphasis should be placed on greater transparency, efficiency of improvements, greater flexibility and greater openness the state and public sector. Improving the performance of the public sector can be attracted by recruitment of educated, skilled, trained civil servants and incorrupt administrative management.

However, the UNDP data on HDI indicate that Norway, Switzerland, Australia, Ireland and Germany are the top positions in economic development, meaning democratic states operating on the basis of a market mechanism and where the role of the state is not dominant. It turns out that states such as China and Russia, where the state's position is very strong and active, do not reach such high values of economic development. China was ranked 86th and the Russian Federation was 49th of 189 countries on HDI in 2017. The value of HDI in these states is affected by significant regional disparities. The UNDP data show that the state in China has focused in recent decades mainly to support rapid economic growth, now the structure of economic growth, increase in GNI, education, as well as ecology and environmental protection should be emphasized. The Russian Federation is a country with very high development. Gross national income per capita PPP, expected years of schooling and mean years of schooling reach higher values than China, just life expectancy at birth was less than the world average it does. Therefore, the government should focus more on promoting health care and prevention programs.

Economic development is influenced by the state, but there is no direct link between the power of state influence and the number of interventions or institutions in the economy. It depends on ensuring the competition, protection of individual rights, stable macroeconomic environment. It depends on the proper focus of state interventions, on their efficiency, on the economy of used state expenditures and on the quality of the institutions and services they provide. The economic development of the state is influenced by the conditions and rules of the games that the state as a guarantor of economic policy creates in the market and then, in particular, by effective cooperation between the state and market players.

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The Role of the State in Economic Development

ABSTRACT

This article explores possible ways how the state can influence economic development. The aim of this article is to show which instruments and policies the state can use to influence economic development, to analyse the possibilities and the risks of their use in general and to show how the strong position of the state is reflected in the economic development of China. This paper tried to find out economic development in China and compare it with economic development in the Russian Federation. The aim is to identify areas and policies that the state can positively influence economic development. It was found out that economic development is supported by stable legislative and economic environment, productive spending on education, health, general public spending, security and defence, research and development and quality institutional

settings. From methodological point of view, general methods of socio-economic research (description, analysis, systematization, abstraction and synthesis were used. Human Development Index (HDI) was used as a benchmark for economic development.

KEYWORDS
Economic development; role of state; government; HDI; China;

JEL CLASSIFICATION
O1; O2; O4

Státní rozpočet, veřejný dluh a mandatorní výdaje České republiky od roku 1993 do roku 2017

Ing. Ivana Turková, MBA » Vysoká škola finanční a správní, Fakulta ekonomických studií, Katedra financí, Estonská 500, 101 00 Praha, Česká republika; e-mail: ivturkova@seznam.cz, turkova@mail.vsfs.cz

* *1. Úvod*

Samostatná Česká republika vznikla v roce 1993. Do roku 2017 včetně tedy již 25krát absolvovala samostatný rozpočtový proces — předložení zákona o státním rozpočtu, hospodaření podle schváleného zákona, zveřejnění výsledků hospodaření za příslušný kalendářní rok a schválení státního závěrečného účtu. Dvacet pět let je dostatečně dlouhá doba, aby bylo možno analyzovat rozhodující tendence rozpočtového hospodaření a vyvozovat z nich závěry. Jak konstatují Maaytová, Ochrana a Pavel (2015, s. 20), toto zkoumání může být vedeno na základě nenormativního (pozitivního) přístupu. Výsledkem je deskripce zkoumaného jevu bez hodnotících soudů. Opačný přístup je založen na normativismu. Vychází z toho, že aktéři jsou „zapleteni" v síti společenských vztahů a obklopeni světem hodnot. Proto, domnívají se stoupenci normativismu, má výpověď vědců být „zvýznamněná". Normativisti pak mají podle tohoto paradigmatu také normativně posuzovat daný stav a podávat normativní návrhy změn. V praxi veřejných politik jsou problémy veřejných financí obvykle normativní povahy. Projevují se zejména jako spor mezi liberalisty na jedné straně a socialisty na straně druhé. Liberalisté prosazují nerozsáhlé veřejné finance (malé zdanění, nízké výdaje), kdežto socialisté zastávají opačný názor. To vše má dopady na veřejné finance a na činnosti aktérů veřejných politik a veřejných financí i na konkrétní konstrukci státních rozpočtů a jeho výsledky

Tento článek usiluje především o pozitivní pohled a podává souhrnný přehled, jak se vyvíjely příjmy a výdaje státního rozpočtu a jeho saldo ve sledovaném období (kapitola 1), jaký byl vývoj veřejného dluhu ČR (kapitola 2) a mandatorních výdajů (kapitola 3) v daném období. Text se ale nemůže vyhnout ani normativnímu hodnocení. Poukazuje proto na skutečnost, že v Česku převládá deficitní financování státního rozpočtu i v dobách ekonomické konjunktury, na vysoký podíl mandatorních výdajů na celkových výdajích, stručně upozorňuje i na rizika spojená s budoucím demografickým vývojem a další potenciální negativa.

2. Vývoj příjmů a výdajů a rozpočtového salda státního rozpočtu ČR v letech 1993 až 2017

Nejdůležitější součást veřejných rozpočtů Česka je státní rozpočet (SR) zahrnující příjmy a výdaje ústřední (centrální) úrovně státní správy. Jak se vyvíjely příjmy a výdaje tohoto rozpočtu od vzniku samostatné České republiky, tj. od roku 1993? Jasně to ukazuje tabulka č. 1.

Celkové příjmy SR se ve sledovaném období let 1993–2017 zvýšily z 358,0 mld. Kč až na 1 273,6 mld. Kč v roce 2017. Z celkových příjmů SR jsou daňové příjmy, včetně pojistného na SZ, nejvyšší položkou, v průměrné výši 89,5 % za celé sledované období let 1993–2017, z toho daňové příjmy tvoří 53,7 %, pojistné na SZ 35,8 %. Každoročně docházelo k nárůstu této položky SR, výjimkou byl pouze rok 2008, kdy vlivem ekonomické krize, ale i rozsáhlých daňových úprav došlo k výraznému poklesu téměř o 100 miliard korun. Od roku 2005 nabývá na významu další položka příjmů SR a to přijaté dotace/transfery, jejichž průměrný roční příjem SR představuje 114,1 mld. Kč.

Z celkových výdajů SR jsou výdaje na sociální věci a politiku zaměstnanosti nejvýznamnější položkou, tvoří v letech 1993–2017 v průměru 42,6 %. Dynamika růstu těchto výdajů je ze všech výdajů státního rozpočtu ČR nejvyšší. Na začátku sledovaného období v roce 1993 činily tyto výdaje 155,7 mld. Kč a v roce 2017 už téměř čtyřnásobek 584,0 mld. Kč. Vykazují stabilní meziroční nárůst v průměru o 17,9 mld. Kč ročně, v žádném roce nedošlo k jejich poklesu. V roce 2017 vzrostly tyto výdaje o 20,8 mld. Kč, tzn. nad uvedený průměr a to v době mimořádného ekonomického růstu ČR. Druhou největší položkou výdajů SR jsou služby pro obyvatelstvo, u kterých došlo také k nárůstu o více než trojnásobek původní hodnoty, ale v posledních deseti letech je průměrný roční nárůst jen 4,4 mld. Kč, dokonce v letech 2008, 2011, 2012 a 2016 výdaje na služby pro obyvatelstvo v meziročním porovnání klesly, což není zcela pozitivní výsledek u tohoto druhu výdajů, do kterého patří vzdělávání, zdravotnictví, kultura atd. Třetí významnou položkou výdajů SR je bezpečnost státu a právní ochrana, taktéž s téměř trojnásobkem nárůstu během 25 let, ale průměrný nárůst v letech 2003–2017 představuje jen 2,0 mld. Kč ročně.

Z hlediska salda státního bylo v období let 1993 až 1995 hospodaření českého státu přebytkové. Na přebytcích rozpočtů v tomto období, kromě daňových příjmů, sehrála významnou roli privatizace státního majetku a příjmy z ní plynoucí. Bohužel tento příznivý trend se na dlouhou řadu let obrátil (do roku 2016) a i přes snahy vlády o vyrovnanost rozpočtu, skončil vždy v deficitu. Uplatňovaná restriktivní politika totiž narážela na možnosti ekonomiky. Výsledky hospodaření státu byly v prvním období samostatné České republiky rovněž omezeny měnovou krizí v roce 1997, jež způsobila nižší příjmy, než bylo plánováno.

S nástupem sociálně-demokratické vlády v roce 2000 byl plně přijat model deficitního financování veřejných financí, a již při tvorbě státního rozpočtu se automaticky sestavoval s plánovaným deficitem. Do roku 2002 dosahovaly deficity státních rozpočtů v průměru přibližně 34 mld. Kč. Pro další období je charakteristický růst schodku státního rozpočtu až k hranici 109 mld. Kč v roce 2003, kdy musela vláda v důsledku požadavků EU přistoupit k první reformě veřejných financí s cílem dosažení vyrovnaného hospodaření státního rozpočtu. Bohužel v následujícím roce 2004 byl schodek SR ve výši 93 mld. Kč, v roce 2006 dokonce 97 mld. Kč. Mezi lety 2000–2007 se příjmy státního rozpočtu zvýšily téměř dvojnásobně, ale kvůli zvyšujícím se nákladům na sociální politiku levicových vlád se také stejným tempem navyšovaly výdaje.

V roce 2008 byl konečný deficit 20 mld. Kč, což bylo nejméně od roku 1998. Opačná situace nastala o rok později, kdy se na ekonomice ČR projevila v plné síle světová hospodářská krize. Výsledkem bylo skokové zvýšení schodku SR v roce 2009 na 192 mld., což byl nejhorší výsledek hospodaření České republiky za dobu její existence. Do roku 2012 byl schodek SR sice meziročně snižován, ale pořád dosahoval výše více než 100 mld. Kč. V letech 2013–2015 kleslo saldo SR z hodnoty -81 mld. Kč až na -63 mld. Kč. V roce 2016 bylo poprvé od roku 1995 saldo SR v přebytku necelých 61,7 mld. Kč. V roce 2017 dosáhlo saldo hospodaření SR sice schodek 6,2 mld. Kč, ale jedná se o (pokud zahrneme i údaje za rok 2018) třetí nejlepší výsledek od roku 1996. Jak uvádí MF ČR (2018), na tomto výsledku se podílely zejména daňové příjmy včetně pojistného na sociální zabezpečení, dále také efektivnější výběr daní, a pokračující ekonomický růst →

doprovázený vysokou zaměstnaností a rostoucími platy v podnikatelském i veřejném sektoru. Proti výsledku roku 2016, kdy byl vykázán přebytek ve výši 61,8 mld. Kč, došlo v roce 2017 ke zhoršení hospodaření o 67,9 mld. Kč a to především vlivem poklesu prostředků přijatých z EU a finančních mechanismů (dále jen FM) o 81,9 mld. Kč. Pokud by hospodaření státního rozpočtu bylo očištěno na příjmové i výdajové straně o prostředky z rozpočtu EU a FM, pak by skončilo v roce 2017 schodkem ve výši 1,3 mld. Kč. Přitom v roce 2016 by takto očištěný výsledek představoval schodek ve výši 13,6 mld. Kč.

Tabulka č. 1 » *Celkové příjmy a výdaje státního rozpočtu ČR v letech 1993–2017 v mld. Kč*

Rok	Celkové příjmy SR	Celkové výdaje SR	Saldo státního rozpočtu	Saldo SR / HDP (v %)[1]	Tempo růstu celkových příjmů SR (v %)	Tempo růstu celkových výdajů SR (v %)
1993	358,00	356,92	1,08	0,10	–	–
1994	390,51	380,06	10,45	0,80	9,1	6,5
1995	439,97	432,74	7,23	0,50	12,7	13,9
1996	482,82	484,38	-1,56	-0,10	9,7	11,9
1997	508,95	524,67	-15,72	-0,80	5,4	8,3
1998	537,41	566,74	-29,33	-1,40	5,6	8,0
1999	567,28	596,91	-29,63	-1,30	5,6	5,3
2000	586,21	632,27	-46,06	-1,90	3,3	5,9
2001	626,22	693,92	-67,70	-2,60	6,8	9,8
2002	704,97	750,68	-45,71	-1,70	12,6	8,2
2003	699,66	808,72	-109,05	-3,90	-0,8	7,7
2004	769,20	862,89	-93,68	-3,10	9,9	6,7
2005	866,45	922,79	-56,34	-1,70	12,6	6,9
2006	923,06	1 020,64	-97,58	-2,80	6,5	10,6
2007	1 025,88	1 092,27	-66,39	-1,70	11,1	7,0
2008	1 063,94	1 083,94	-20,00	-0,50	3,7	-0,8
2009	974,61	1 167,01	-192,39	-4,90	-8,4	7,7
2010	1 000,38	1 156,79	-156,42	-3,90	2,6	-0,9
2011	1 012,76	1 155,52	-142,77	-3,50	1,2	-0,1
2012	1 051,39	1 152,38	-101,00	-2,50	3,8	-0,3
2013	1 091,86	1 173,13	-81,27	-2,00	3,8	1,8
2014	1 133,83	1 211,61	-77,78	-1,80	3,8	3,3
2015	1 234,52	1 297,32	-62,80	-1,40	8,9	7,1
2016	1 281,62	1 219,84	61,77	-0,20	3,8	-6,0
2017	1 273,64	1 279,80	-6,16	-0,10	-0,6	4,9

Pramen: vlastní zpracování podle dat (a) MF ČR (2019a); (b) ČSÚ (2019a); a (c) MF ČR (2019b)

[1] *Saldo SR/HDP = podíl salda státního rozpočtu k objemu hrubého domácího produktu v běžných cenách [v %].*

Tabulka č. 2 » *Vývoj příjmů a odvodů do rozpočtu EU v letech 2007–2016 v mld. Kč*

Ukazatel	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Odvody do rozpočtu EU	32,1	35,4	35,8	37,1	41,7	39,8	41,7	44,5	41,9	44,2
Příjmy z rozpočtu EU	47,3	59,2	78,1	85,0	72,5	113,0	126,4	119,8	191,9	123,8
Čistá pozice ČR	15,2	23,8	42,3	47,9	30,8	73,2	84,7	75,3	150,0	79,6

Pramen: vlastní zpracování podle MF ČR (2017)

Pro úplnost dodejme, že SR za rok 2018 skončil mírným přebytkem ve výši 2,9 mld. Kč při příjmech 1 404 mld. Kč a výdajích 1 401 mld. Kč. Z hlediska dalšího vývoje platí, že schválením zákona o stáním rozpočtu na rok 2019 vláda potvrdila, že bude i v příštím roce hospodařit čtyřicetimiliardovým schodkem a s podobnou výši schodku počítá i v dalších letech až do roku 2021, i přes to, že v programovém prohlášení slibovala vyrovnaný rozpočet. V tomto článku se z hlediska normativního hodnocení domníváme, že hospodařit v době ekonomické konjunktury rozpočet se schodkem ve výši desítek miliard je nezodpovědné.

Z předcházejícího textu plyne, že vývoj hospodaření SR významně ovlivňují vztah tohoto rozpočtu k rozpočtu EU. Tabulka č. 2 proto uvádí přehledně vývoj příjmů z rozpočtu EU a zároveň odvodů do rozpočtu EU. Česká republika je od svého vstupu do EU tzv. čistým příjemcem, v období let 2007–2016 získává ze společného rozpočtu EU více prostředků, než do něj odvádí. Tzv. čistá pozice ČR ve vztahu k rozpočtu EU je tedy kladná. Nejvyšší čistá pozice ČR byla v roce 2015, kdy bylo odvedeno do rozpočtu EU 41,9 mld. Kč, ale přijato 191,9 mld. Kč.

3. Vývoj veřejného dluhu ČR v letech 1993 až 2017

Vývoj státního dluhu a dluhu sektoru vládních institucí[2] samostatného Česka je uveden v tabulce č. 3. V souhrnu lze konstatovat, že po zániku Československa 31. 12. 1992 přešly 2/3 dosavadního dluhu federace na nově vzniklý český stát. Státní dluh v roce 1993 činil 158,8 mld. Kč, což znamenalo přibližně pouze 13,2 % HDP a 15 385 Kč na jednoho obyvatele ČR. V průběhu následujících 2 let byl vývoj českého státního dluhu pozitivní s klesající trendovou křivkou, a to především zásluhou tehdejších rozpočtových přebytků. V roce 1996 klesl podíl státního dluhu k HDP na 8,5 %, což byl v té době jeden z nejnižších podílů státního dluhu k HDP v Evropě. Naopak po roce 1996 státní dluh dynamicky rostl. V roce 2001 už dosáhl dvojnásobku své původní hodnoty.

Po roce 2003 nabral růst státního dluhu na razanci, kdy se roční absolutní přírůstky pohybovaly na úrovni 100 mld. Kč. Kromě stále rostoucího deficitu státního rozpočtu se na nárůstu státního dluhu v tomto období podílela významně i ztráta České konsolidační agentury (ČKA)[3]. V březnu 2009 státní dluh poprvé v historii překročil bilion korun. →

[2] *Státní dluh označuje dluh centrální vlády, zatímco dluh sektoru vládních institucí (též veřejný dluh) vyjadřuje dluh všech prvků, které tvoří soustavu veřejných financí a tvoří jej dluh centrální vlády, dluh místní správy a samosprávy, a dluhy parafiskálních fondů. V tomto pojetí, je objem veřejného dluhu vždy vyšší než objem dluhu státního (Dvořák, 2008).*

[3] *ČKA (její předchůdkyně Konsolidační banka) instituce, která byla symbolem polistopadové transformace, založena v únoru 1991, aby převzala problematické úvěry podniků pocházejících ze socialistického hospodářství, s kterými nechtěly mít nově vznikající komerční banky nic společného. Vláda prostřednictvím Konsolidační banky ve snaze pomoci převzala přibližně 110 mld. problematických úvěrů. V rámci privatizace státních bank v devadesátých letech, poskytla vláda garanci při prodeji dalších špatných úvěrů. Největší ztrátou byl však pád IPB v roce 2000, kterou se státními zárukami převzala ČSOB. ČKA zanikla dle ustanovení § 20 zákona č. 239/2001 Sb. dnem 31. prosince 2007 bez likvidace, zbyl po ní závěrečný účet 236 mld. Kč., právním nástupcem České konsolidační agentury je stát zastoupený Ministerstvem financí, na který přešly práva a závazky.*

Tabulka č. 3 » *Vývoj dluhu sektoru vládních institucí a státního dluhu ČR v letech 1993–2017 v mld. Kč a v %*

Rok	Státní dluh	Státní dluh/ HDP	Dluh sektoru vládních institucí	Dluh sektoru vládních institucí/HDP[4]	Deficit/ přebytek vládních institucí	Deficit/přebytek vládních institucí v % HDP
1993	158,8	13,2	–	0,0	–	0,0
1994	157,3	11,5	–	0,0	–	0,0
1995	154,4	9,7	214,6	13,5	-196,4	-12,4
1996	155,2	8,5	210,1	11,6	-55,7	-3,1
1997	173,1	8,8	237,2	12,1	-68,2	-3,5
1998	194,7	9,1	298,5	13,9	-99,5	-4,6
1999	228,4	10,2	340,1	15,2	-77,1	-3,4
2000	289,3	12,2	403,9	17,0	-82,3	-3,5
2001	345,0	13,4	583,8	22,7	-136,8	-5,3
2002	395,9	14,8	693,4	25,9	-167,7	-6,3
2003	493,2	17,5	788,5	28,1	-179,3	-6,4
2004	592,9	19,4	870,0	28,4	-82,9	-2,7
2005	691,2	21,2	912,8	28,0	-101,4	-3,1
2006	802,5	22,8	978,9	27,9	-79,1	-2,3
2007	892,3	23,2	1065,5	27,7	-26,6	-0,7
2008	999,5	24,8	1150,7	28,6	-84,6	-2,1
2009	1178,5	30,0	1335,7	34,0	-216,2	-5,5
2010	1344,1	33,9	1508,5	38,1	-174,5	-4,4
2011	1499,4	37,2	1606,5	39,8	-110,1	-2,7
2012	1667,6	41,1	1805,4	44,5	-159,6	-3,9
2013	1683,3	41,1	1840,4	44,9	-51,1	-1,2
2014	1663,7	38,6	1819,1	42,2	-83,1	-1,9
2015	1673,0	36,4	1836,3	40,0	-28,7	-0,6
2016	1613,4	33,7	1754,9	36,8	34,6	0,7
2017	1624,7	32,1	1749,1	34,6	80,6	1,6

Pramen: vlastní zpracování podle MF ČR (2019c) a ČSÚ (2019b)

Tehdejší politická moc a vláda sociální demokracie neměla zájem na omezování objemu rozpočtových výdajů, naopak docházelo k jejich zvyšování. Změna politické reprezentace v období 2008 až 2012, kdy byly u moci pravicové nebo úřednické vlády v případě vývoje státního dluhu ke změně nevedly — i nadále docházelo k jeho růstu cca o 150 mld. Kč ročně, jak hlavní příčinou byla hospodářská krize

[4] *Dluh sektoru vládních institucí v procentech HDP = podíl vládního dluhu k objemu hrubého domácího produktu v běžných cenách (v %). Podle maastrichtských kritérií by výše dluhu vládních institucí neměla překročit 60 % HDP.*

po roce 2008 a s ní spojené deficity státního rozpočtu. Změnu přinesl až rok 2013, ve kterém státní dluh oproti roku 2012 vzrostl pouze o 15,5 mld. Kč. V následujících letech má potom jeho vývoj stagnující respektive dokonce klesající charakter. Od konce roku 2013 do konce roku 2016 byl snížen státní dluh země z 1 683 na 1 613 miliard korun, tedy o 70 miliard korun. V roce 2013 byl podíl státního dluhu na HDP 41,1 procenta, zatímco koncem roku 2016 již jen 33,7 procenta. I přes to, že se v roce 2017 hodnota státního dluhu opět zvýšila o 11,3 mld. Kč, jeho podíl na HDP klesl na 32,1 % vlivem ekonomického růstu ČR.

4. Vývoj mandatorních výdajů státního rozpočtu ČR v letech 1993 až 2017

Při hodnocení struktury výdajů státního rozpočtu je nutné zkoumat poměr mandatorních výdajů státního rozpočtu k celkovým výdajům. Jak uvádí literatura (Hamerníková a Maaytová, 2010; Maaytová, Ochrana a Pavel, 2015; Hejduková, 2015; MF ČR, 2017) do mandatorních výdajů patří:

- Mandatorní výdaje vyplývající ze zákona: 1. Sociální transfery: dávky důchodového a nemocenského pojištění, dávky pojištění v nezaměstnanosti, dávky státní sociální podpory, dávky pomoci v hmotné nouzi, dávky zdravotně postiženým, příspěvek na péči, platby státu na zdravotní pojištění. 2. Mandatorní výdaje dané dalšími zákony: např. státní podpora hypotečního úvěrování a stavebního spoření:
- Ostatní mandatorní výdaje vyplývající z jiných právních norem a ze smluvních závazků: např. transfery mezinárodním organizacím, odvody a příspěvky do rozpočtu EU.
- Quasi mandatorní výdaje: jejich výplata sice není dána zákonem ani jinou právní normou, přesto mají charakter mandatorních dávek, protože stát se jich nemůže zříci. Patří mezi ně zejména mzdy pracovníků rozpočtových a příspěvkových organizací.

Z hlediska rozpočtového hospodaření ČR je od jejího vzniku typické, že státu zbývá přibližně čtvrtina příjmů státního rozpočtu na financování rozvoje, protože dohromady celkový podíl všech mandatorních výdajů státního rozpočtu České republiky dosahuje přibližně 75 % celkových výdajů SR, což demonstruje tabulka č. 4.

Mandatorní výdaje ze zákona vzrostly ve sledovaném období 4,3 krát z hodnoty 152,6 mld. Kč na 659,3 mld. Kč. Quasi mandatorní výdaje z 88,3 mld. Kč v roce 1993 až na 252,1 mld. Kč v roce 2017, tzn. 2,9 krát. Celkové mandatorní výdaje jsou jednoznačně převažujícím výdajem státního rozpočtu. V první polovině sledovaných let 1993 — 2005 se mandatorní výdaje zvýšily z 245,8 mld. Kč na 677,9 mld. Kč, tzn. o 175,8 %, HDP ve stejném období vzrostlo z 1201,1 mld. Kč na 3264,9 mld. Kč, tzn. o 171,8 %. Dynamika růstu obou ukazatelů byla přibližně na stejné úrovni. V letech 2006–2017 se mandatorní výdaje zvýšily ze 740,5 mld. Kč na 954,2 Kč, tzn. nárůst o 28,9 %, HDP ve stejném období vzrostlo z 3512,9 mld. Kč na 5055,0 mld. Kč, což znamená o 43,9 %. Celkové mandatorní výdaje vyjádřené v procentech HDP zaznamenaly nejvyšší hodnotu v krizovém roce 2009 a to 21,6 %, od té doby hodnota tohoto ukazatele stále meziročně klesá. Z hlediska normativního hodnocení se lze domnívat, že tento trend nebude dlouhodobě udržitelný, neboť momentálně je česká ekonomika ve vrcholné fázi hospodářského cyklu, tzn. v období konjunktury, kdy HDP dosahuje nejvyšších hodnot, roste zaměstnanost atd. Navíc se nejedná jen o samotné mandatorní výdaje, ale také pravidelné valorizace, které každoročně způsobují nárůst těchto výdajů. Ostatní výdaje nemandatorní povahy, které umožňují vládě reagovat na hospodářský vývoj a směřovat jimi rozvoj společnosti a ekonomiky v rámci rozpočtu na rok 2017 představují částku 325,6 mld. Kč, což je pouhých 25,4 %.

Nejvyšší váhu (detaily viz tabulka č. 5) na celkových mandatorních výdajích (posledním desetiletí v průměru 42,4 %) mají sociální dávky, z nichž nejvýznamnější výdajovou zátěží jsou dávky důchodového pojištění. Jejich objem se vzhledem k vysoké citlivosti na současný demografický vývoj nepodaří bez realizace komplexní důchodové re- →

formy stabilizovat. Dávky důchodové pojištění se ve sledovaném období zvýšily ze 72,4 mld. Kč na 414,4 mld. Kč v roce 2017, což je během 25 let nárůst o 472,4 %. Z hlediska budoucího vývoje přitom platí, že tyto výdaje budou v dohledné době růst stále stejným nebo vyšším tempem. Demografický vývoj totiž bude klást stále větší nároky na výdaje státu.

Další významnou skupinou mandatorních výdajů jsou dávky nemocenského pojištění, které vzrostly z 9 mld. Kč v roce 1993 na 28,6 mld. Kč v roce 2017, což je nárůst o 217,8 %. Různými úpra-

Tabulka č. 4 » *Vývoj celkových mandatorních výdajů a podíl těchto výdajů na celkových výdajích SR a na HDP v běžných cenách v letech 1993–2017 v mld. Kč a v %*

Rok	Mandatorní výdaje ze zákona	Ostatní mandatorní výdaje	Quasi mandatorní výdaje	Celkem mandatorní výdaje	Celkový podíl mandat. výdajů na výd.SR (v %)	Celkem mandat. výdaje v % HDP v b.c. (v %)
1993	152,6	4,9	88,3	245,8	68,9	20,5
1994	167,8	6,9	92,2	266,9	70,2	19,5
1995	184,5	9,2	99,7	293,4	67,8	18,5
1996	225,8	4,9	113,3	344,0	71,0	18,9
1997	260,2	6,4	118,6	385,2	73,4	19,7
1998	285,4	14,2	125,9	425,5	75,1	19,8
1999	304,7	6,0	135,1	445,8	74,7	19,9
2000	331,9	4,0	141,1	477,0	75,4	20,0
2001	351,5	3,0	176,4	530,9	76,5	20,7
2002	377,0	5,5	175,6	558,1	74,3	20,8
2003	401,3	25,3	185,0	611,6	75,6	21,8
2004	418,3	34,9	190,8	644,0	74,6	21,0
2005	425,1	46,7	206,1	677,9	73,5	20,8
2006	473,7	49,5	217,3	740,5	72,6	21,1
2007	519,0	35,5	220,1	774,6	70,9	20,2
2008	545,2	36,6	215,8	797,6	73,6	19,8
2009	585,0	36,9	228,9	850,8	72,9	21,6
2010	589,1	39,0	216,2	844,3	73,0	21,3
2011	604,5	48,2	204,4	857,1	74,2	21,2
2012	613,7	39,7	203,5	856,9	74,4	21,1
2013	630,4	40,8	205,3	876,5	74,7	21,4
2014	645,5	39,6	210,3	895,4	73,9	20,8
2015	646,7	41,0	228,1	915,8	70,6	19,9
2016	646,9	43,6	229,3	919,8	75,4	19,3
2017	659,3	42,8	252,1	954,2	74,6	18,9

Pramen: vlastní zpracování z údajů MF ČR (2019d)

Tabulka č. 5 » *Vybrané mandatorní výdaje státního rozpočtu let 1993–2017 v mld. Kč*

Rok	Dávky důchodového pojištění	Dávky nemocenského pojištění	Dávky státní sociální podpory a pěstounské péče	Politika zaměstnanosti
1993	74,24	9,00	22,77	2,17
1994	85,73	9,21	25,22	2,56
1995	106,89	10,16	27,53	2,42
1996	125,56	11,96	30,32	2,66
1997	151,11	19,84	31,23	3,97
1998	166,12	18,58	31,64	5,10
1999	177,85	19,34	33,33	7,63
2000	186,85	27,29	33,86	9,09
2001	201,11	29,69	33,94	9,52
2002	213,67	32,74	35,70	9,88
2003	226,00	34,45	34,18	10,96
2004	230,91	29,73	34,62	11,75
2005	247,40	31,85	34,96	11,96
2006	272,93	32,99	36,05	14,20
2007	289,86	34,88	50,54	15,07
2008	312,53	32,07	43,89	15,68
2009	339,79	26,23	43,09	23,13
2010	346,21	23,00	42,80	22,74
2011	368,07	21,73	36,09	17,84
2012	382,03	19,60	37,47	15,13
2013	382,77	20,35	39,30	17,93
2014	386,15	22,28	39,51	20,08
2015	395,22	24,33	39,65	22,52
2016	398,97	26,51	39,82	20,32
2017	414,37	28,62	39,28	18,40

Pramen: vlastní zpracování podle MF ČR (2019a)

vami v rámci sociální reformy zdravotnictví v roce 2008 se podařilo zbrzdit růst těchto výdajů. V letech 2008–2012 klesly tyto dávky z 32 mld. Kč pod 20 mld. Kč a ani v roce 2017 nedosáhl tento výdaj původní výše z roku 2008.

Dávky státní sociální podpory a pěstounské péče meziročně stoupaly, výjimkou byl pouze rok 2008 a poté rok 2011, kdy poklesl ukazatel o 6,71 mld. Kč, od roku 2013 do roku 2017 se drží tyto výdaje přibližně na stejné úrovni 39,5 mld. Kč. Výdaje na politiku zaměstnanosti tvoří sice z vybraných výše uvedených ukazatelů nejmenší část, ale přesto se jedná o sledovaný výdaj, který ovlivňuje státní rozpočet. V roce 1993 byla hodno tohoto výdaje 2,2 mld. Kč a v roce 2017 18,4 mld. Kč. V rámci celkových mandatorních výdajů v průmě- →

Tabulka č. 6 » *Skutečné čerpání výdajů na státní politiku zaměstnanosti v letech 1993–2017 v mil. Kč*

Rok	Aktivní politika zaměstnanosti	Pasivní politika zaměstnanosti	Insolvence[5]	Příspěvek na podporu zaměstnanosti OZP[6]	Celkové výdaje na politiku zaměstnanosti	Evidovaní uchazeči o zaměstnání, konec roku (tis. osob)
1993	749,4	1 416,7	–	–	2 166,1	185,2
1994	718,3	1 844,3	–	–	2 562,6	166,5
1995	634,8	1 781,8	–	–	2 416,6	153,0
1996	558,1	2 106,4	–	–	2 664,5	186,3
1997	552,0	3 420,0	–	–	3 972,0	268,9
1998	877,5	4 193,7	–	–	5 071,2	386,9
1999	1 718,6	5 709,5	–	–	7 428,1	487,6
2000	2 789,4	5 680,5	135,6	–	8 605,5	457,4
2001	2 980,8	5 228,9	168,7	–	8 378,4	461,9
2002	2 646,4	6 209,7	186,1	244,7	9 286,9	514,4
2003	2 428,0	6 949,3	194,4	524,4	10 096,1	542,4
2004	3 169,3	7 338,4	133,5	649,0	11 290,2	541,7
2005	3 167,9	7 046,8	147,5	736,9	11 099,1	510,4
2006	3 855,9	7 306,6	183,6	1 410,6	12 756,7	448,5
2007	4 181,2	7 014,7	196,0	2 187,4	13 579,3	354,9
2008	3 638,4	7 113,3	150,3	2 283,7	13 185,7	352,3
2009	3 848,2	15 075,7	844,0	2 257,5	22 025,4	539,1
2010	5 664,6	13 352,7	497,8	2 712,3	22 227,4	561,6
2011	3 690,3	10 348,5	389,1	3 282,4	17 710,3	508,5
2012	2 451,1	8 759,7	451,8	3 468,2	15 130,8	545,3
2013	4 251,1	9 674,8	333,2	3 670,2	17 929,3	596,8
2014	6 386,6	9 279,6	391,9	4 018,7	20 076,8	541,9
2015	9 668,8	8 303,4	229,5	4 320,1	22 521,8	453,1
2016	6 860,9	8 254,5	250,3	4 952,5	20 318,2	381,4
2017	4 703,2	7 853,5	167,3	5 675,6	18 399,6	280,6

Pramen: vlastní zpracování podle MPSV ČR (2019)

[5] *Insolvence není od roku 2001 součástí aktivní politiky zaměstnanosti, je stanovena za podmínek uvedených v zákoně č. 118/2000 Sb., o ochraně zaměstnanců při platební neschopnosti zaměstnavatele a o změně některých zákonů, ve znění pozdějších předpisů. Ochrana spočívá v přiznání mzdových nároků krajskou pobočkou Úřadu práce České republiky zaměstnanci, které mu nebyly vyplaceny zaměstnavatelem v platební neschopnosti.*

[6] *OZP = osoby zdravotně postižené.*

ru za posledních deset let tvoří 2,2 %. Podrobněji jsou tyto výdaje spolu s počtem evidovaných uchazečů o zaměstnání analyzovány v tabulce č. 6.

5. Závěr

Ačkoliv v posledních letech klesá podíl státního dluhu i dluhu sektoru vládních institucí na HDP, v textu publikovaná analýza rozpočtového hospodaření Česka od jeho vzniku do roku 2017 včetně odhaluje některé negativní tendence. Příjmy státního rozpočtu se pohybují za posledních dvacet pět let v průměru na úrovni 26,1 % HDP, zatímco průměr výdajů státního rozpočtu ve sledovaném období je 27,8 % HDP. Dlouhodobě by ale vývoj příjmů a výdajů měl korespondovat. Pokud tomu tak není, tak v situaci vyšší dynamiky výdajů se rozpočet musí spoléhat na dluhové financování. Jak ale ukázala finanční krize po roce 2008, ochota investorů financovat veřejné dluhy nemusí být bezbřehá. I země s relativně nízkým podílem dluhu na HDP se mohou octnout v problémech, pokud jim investoři nebudou ochotny půjčit. Česká republika jako země s otevřenou ekonomikou je zde v potenciálně zranitelné pozici.

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Pro vývoj posledních let je dále typické, že státu zbývá přibližně čtvrtina příjmů státního rozpočtu na financování rozvoje, protože dohromady celkový podíl všech mandatorních výdajů státního rozpočtu České republiky dosahuje přibližně 75 % celkových výdajů SR. Z celkových mandatorních výdajů tvoří největší podíl, v posledním desetiletí v průměru 42,4 %, sociální dávky, z nichž nejvýznamnější výdajovou zátěží jsou dávky důchodového pojištění, které se ve sledovaném období zvýšily téměř 6x ze 72,4 mld. Kč v roce 1993 na 414,4 mld. Kč v roce 2017. Jejich objem se vzhledem k vysoké citlivosti na současný demografický vývoj, kdy populace ČR během následujících 40 let výrazně zestárne a počet osob s nárokem na starobní důchod se výrazně zvýší, nepodaří bez realizace komplexní důchodové reformy stabilizovat a tyto výdaje budou v dohledné době růst stále stejným nebo vyšším tempem. Posun věkové hranice odchodu do důchodu tento nárůst nepatrně ztlumí, ale nevyřeší.

V České republice byly po roce 2000 schváleny a provedeny dvě reformy veřejných financí, které tvořily kompletní balík opatření, jak na příjmové, tak na výdajové straně SR. Hlavním cílem reformních opatření v roce 2003 bylo snížení deficitů veřejných financí, v souvislosti s plněním maastrichtských kritérií pod 3 % HDP, což se podařilo již v roce 2005. Vývoj ukazatelů reálné ekonomiky ve sledovaném období se zcela zřetelně vyznačoval růstem ekonomiky ČR. HDP i celkové daňové příjmy do roku 2007 vzrostly přibližně o 35 %. S tímto pozitivním vývojem přímo souvisí pokles obecné míry nezaměstnanosti o 2,5 p. b., naopak průměrná míra inflace vzhledem k rostoucí cenové hladině stoupla o 2,7 p. b. I přes pozitivní vývoj ekonomiky se celkové výdaje SR zvýšily o 283,6 mld. Kč. Plánované omezení dynamicky rostoucích mandatorních výdajů se nekonalo, veškeré reformní úsilí v oblasti důchodového pojištění znamenalo nárůst těchto dávek o 63,9 mld. Kč, omezení některých parametrů zdravotnické péče znamenalo zanedbatelný pokles o 0,4 mld. Kč a dávky státní sociální →

podpory vzrostly o 16,3 mld. Kč. Reforma na příjmové straně SR byla velice úspěšná, naopak na výdajové straně nepřinesla žádné plánované úspory, naopak došlo k dalšímu nárůstu celkových výdajů.

Hlavními důvody vedoucími ke koncipování druhé reformy v roce 2008 byla existence nadměrných deficitů spojená s možností neplnění Maastrichtských kritérií v budoucích letech, riziko neudržitelnosti důchodového systému plynoucí z demografické prognózy a s tím související vývoj mandatorních výdajů. Zvýšil se věk odchodu do důchodu i potřebná doba pojištění, ale dávky důchodového pojištění během následujícího pětiletého období opět vzrostly o 69,5 mld. Kč, což je ještě o 5,6 mld. Kč více než v předchozím pětiletém období. Celkové mandatorní výdaje stouply o 59,3 mld. Kč. Dosud přijatá opatření nevedla ani k zastavení nárůstu podílu mandatorních výdajů na výdajích státního rozpočtu, stoupl o 0,8 p. b. Sociální reforma zdravotnictví byla v tomto období úspěšná, neboť se díky razantním opatřením, zavedením nulové výše nemocenské po dobu prvních tří dnů pracovní neschopnosti a povinnosti zaměstnavatelů vyplácet náhradu mzdy v prvních 14 dnech, podařilo snížit dávky nemocenského pojištění o 12,5 mld. Kč. Účinnými opatřeními se dokonce podařilo snížit o 6,4 mld. Kč dávky státní sociální podpory. Vzhledem k tomu, že se v tomto období potýkala česká ekonomika s recesí, je zřejmé, že nemohla tato reforma na příjmové straně SR dosáhnout plánovaných výsledků, v roce 2009 došlo k poklesu jak HDP, tak i celkových příjmů SR, HDP se dostal zpět na původní úroveň roku 2008 až v roce 2011, celkové příjmy SR nedosáhly původní úrovně ani v roce 2012. Státní dluh stoupl o 66,8 % a snížení salda SR pod úroveň 3 % se podařilo až v roce 2012. Pro úplnost konstatujme, že ČR v oblasti veřejných financí v současné době plní tzv. Maastrichtská kritéria pro zavedení eura — deficit sektoru vládních institucí od roku 2012 nepřekročil 3 % HDP, stejně jako dluh sektoru vládních institucí nepřekračuje 60 % HDP, jeho maximální hodnota byla v roce 2013 a to 44,9 % HDP. Přes tato pozitiva platí, že Česko by mělo přistoupit k dalším reformním krokům v oblasti veřejných financí zejména z hlediska snížení podílu mandatorních výdajů a redukce deficitů veřejných rozpočtů v letech konjunktury.

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ABSTRAKT
Článek podává přehled rozpočtového hospodaření samostatné České republiky od roku 1993 do roku 2017, tedy za období 25 let. Zaměřuje se zejména na vývoj příjmů a výdajů státního rozpočtu, vývoj rozpočtového salda, respektive přebytku či deficitu sektoru vládních institucí, vývoj poměru těchto deficitů k HDP a vývoj poměru dluhu sektoru vládních institucí k HDP. Pozornost věnuje rovněž mandatorním výdajům jako celku, respektive jejich vybraných částí a podílu mandatorních výdajů na státním rozpočtu nebo na HDP. Text poukazuje na některé negativní tendence rozpočtového hospodaření v podobě rozpočtových deficitů i v letech konjunktury, vysoké zátěže mandatorních výdajů a budoucího nepříznivého demografického vývoje. Stručně jsou analyzovány dopady reforem veřejných financí z let 2003 a 2008. Ačkoliv Česká republika v oblasti veřejných financí v současnosti plní maastrichtská kritéria – poměr deficitů veřejných rozpočtů, respektive veřejného dluhu vůči HDP je pod hodnotami 3 % u deficitu a 60 % u veřejného dluhu, text poukazuje, že z hlediska budoucnosti se ČR nevyhne ve veřejných financích dalším reformním krokům.

KLÍČOVÁ SLOVA
Česká republika; státní rozpočet; státní dluh; dluh sektoru vládních institucí; HDP; mandatorní výdaje

Government Budget, Public Debt and Mandatory Expenditure of the Czech Republic from 1993 to 2017

ABSTRACT
The article provides an overview of the state budgetary management of the independent Czech Republic from 1993 to 2017, i.e. over a period of 25 years. It focuses mainly on the government budget revenues and expenditures, the budget balance, respectively the surplus or deficit of the general government sector, the development of the ratio of these deficits to GDP and the development of the debt ratio of the general government sector to GDP. Attention is also paid to mandatory expenditures as a whole, respectively to their selected parts and the share of mandatory expenditures on the state budget or GDP. The text highlights some negative trends in the budgetary management in the form of budget deficits even in the years of GDP growths, high burdens of mandatory spending on total spending and future unfavorable demographic developments. The impacts of the 2003 and 2008 public finance reforms are also briefly analyzed. Although the Czech Republic currently fulfills the Maastricht criteria in the area of public finances, the ratio of public deficits and public debt to GDP is below 3 % for the deficit and 60 % for public debt, the text points out that, in terms of the future, the Czech Republic will not avoid further reform steps in public finances.

KEY WORDS:
Czech Republic; government budget; government debt; general government consolidated gross debt; GDP; mandatory expenditure

JEL CLASSIFICATION
H61; H62; H63

Zavedení koncese pro zprostředkovatele finančních produktů

- Ing. Zuzana Chlumská[1] » Vysoká škola finanční a správní, a. s., Estonská 500, 101 00 Praha, Česká republika; email: zuzana.chlumska@mail.vsfs.cz
- doc. JUDr. Ing. Otakar Schlossberger, Ph.D. » Vysoká škola finanční a správní, a. s., Estonská 500, 101 00 Praha, Česká republika; email: otakar.schlossberger@vsfs.cz
- PhDr. Ing. Václav Kupec, Ph.D. » Vysoká škola finanční a správní, a. s., Estonská 500, 101 00 Praha, Česká republika; email: vkupec@mail.vsfs.cz

* *1. Úvod do problematiky*

Peníze jsou nedílnou a významnou součástí života každého z nás, přestože neprovázejí lidstvo od jeho počátku, jak poukazuje Bertl (2012, s. 9) nebo Jílek (2013, s. 5). Vývoj peněz jako základního platebního prostředku a jeho forma vyřešily problém s naturální neboli barterovou směnou, protože peněžní směna nevyžaduje oboustrannou shodu potřeb (Holman, 2011, s. 462). Od ražby prvních kovových mincí až do současné podoby bankovek a elektronických peněz je nutnost funkčního platebního systému důležitou otázkou peněžních systémů, jak potvrzuje Šenkýřová (2010, s. 86) nebo Revenda (2012, s. 13), který přitom považuje peníze za jeden z nejvýznamnějších vynálezů lidstva.

Peněžní prostředky jsou platebním prostředkem a zároveň uchovatelem hodnoty (Jílek, 2013, s. 15) a lidská společnost, v pojetí podle Svetlíková (2018, s. 350), je v současné době vystavena nelehkému rozhodovacímu procesu, ve kterém řeší otázku rozložení svých financí mezi nákup a úspory. Silné konkurenční prostředí a využívání masových médií (Lukáč, 2015, s. 422) nutí společnost k narůstající spotřebě a zároveň k její okamžité realizaci, což se odráží v masovém využívání úvěrových produktů. Spektrum finančních produktů, které je možné na finančním trhu k tomuto využívat je široké a pro jedince, který se o zmiňovanou oblast aktivně nezajímá je volba vhodných úvěrových produktů či jejich kombinace velmi náročným úkolem.

Pro jednotlivce a domácnosti je však důležité mít řízení osobních a rodinných financí plně pod kontrolou, jak potvrzují Thomas a Spataro (2018, s. 533), a to třeba i s pomocí odborníka, finančního zprostředkovatele. Spolupráce s finančním zprostředkovatelem by v případě jeho dostatečné kvalifikace, odborných znalostí a profesionálního vystupování byla vhodným řešením při rozhodování v otázkách a plánování osobního rozpočtu jednotlivců a domácností. Cílem příspěvku je proto zjištění úrovně odborných znalostí finančních zprostředkovatelů působících na českém finančním trhu a zároveň zjištění zkušeností veřejnosti s přístupem a vystupováním těchto poradců. →

[1] *Výsledek vznikl při řešení studentského projektu* Výzkum finanční gramotnosti v mezinárodním kontextu *(7427/2019/04) s účelovou podporou na specifický vysokoškolský výzkum Vysoké školy finanční a správní.*

Právní řád v České republice přitom pro výkon této profese stanovuje kritéria, která úroveň odbornosti nastavují. Patří sem především podmínka trestní bezúhonnosti, dosažení věku 18 let, vzdělání zakončené maturitní zkouškou, a pokud činnost bude vykonávána pod záštitou finančně-poradenské společnosti, není vyžadována praxe v oboru. Regulační kroky přejímá ČNB od Evropské unie a do českého práva implementuje mj. evropské směrnice např. v oblasti zprostředkování investičních produktů MiFID II[2] nebo v oblasti poskytování úvěrů[3]. Pravidla pro výkon profese finančního zprostředkovatele se v průběhu let zpřísňují. Od ledna roku 2013 je kupříkladu nutné absolvovat odbornou zkoušku pro zprostředkování doplňkového penzijního připojištění podle zákona č. 427/2011 Sb. o doplňkovém penzijním spoření (§ 87), ve kterém je stanovena její pětiletá platnost. Poplatek za získání registrace je upraven zákonem č. 634/2004 Sb. o správních poplatcích.

Dalším regulačním krokem bylo zpřísnění poskytování spotřebitelských úvěrů podle zákona č. 257/2016 Sb. o spotřebitelském úvěru (§ 60). Lhůta pro úspěšné absolvování zákonem požadované zkoušky jsou dva roky. Od ledna 2018 je také povinností složit zkoušku pro poskytování investic, a to dle novely zákona č. 204/2017 Sb. (§ 14b), která upravuje zákon č. 256/2004 Sb. o podnikání na kapitálovém trhu. Pro zprostředkování pojištění byla doposud nutná certifikace od České národní banky, která úspěšnému absolventovi zkoušky uděluje číslo podřízeného pojišťovacího zprostředkovatele, tzv. PPZ. Certifikace stojí 2 000 Kč a je nutné každoročně registraci obnovovat za poplatek 1 000 Kč. Požadavky certifikace se však mění s účinností zákona č.170/2018 Sb. o distribuci pojištění a zajištění (§ 56).

Je tedy zřejmé, že se pravidla pro vykonávání profese finančního zprostředkovatele zpřísňují. Zmiňované zkoušky lze však při neúspěchu kandidátů neustále opakovat až do úspěšného složení, proto zůstává otázkou, zda jsou pravidla a nároky na dostačující. Česká národní banka přitom do českého právního řádu implementuje evropské směrnice a nařízení, ale konkrétní podobu a podmínky pro skládání odborných zkoušek si tvoří nezávisle. Je proto důležité předmětnou oblast kontinuálně monitorovat a předkládat případné návrhy na její zlepšení.

2. Materiál a metodika

Materiálem prvního výzkumu je úroveň odbornosti finančních zprostředkovatelů, která byla zjištěna na základě výsledků zkoušek odborné způsobilosti dle zákona č. 256/2004 Sb. o podnikání na kapitálovém trhu (zákon č. 256/2004 Sb., § 14b). Odborné dovednosti označují schopnost vykonávat určitou pracovní činnost nebo soubor pracovních činností. Jedná se o schopnost aplikovat teoretické znalosti do praxe[4], což potvrzuje i Hájek et al. (2016, s. 88). Nebo je možné chápat odbornost i přeneseně dle teorií Dawsona: „*Na světě neexistuje důvod, proč by lékaři nemohli psát předpisy anglicky, ale kdyby to dělali, zmizelo by trochu jejich kouzla – trocha jejich odbornosti*“ (Dawson, 2012, s. 334). Následně je tedy uveden taxativní výčet definic odborné způsobilosti dle dotčených zákonů a příslušné legislativy.

Zákon č. 256/2004 Sb. o podnikání na kapitálovém trhu definuje odbornou způsobilost jako získání všeobecných znalostí a odborných znalostí a dovedností. Všeobecné znalosti nezbytné pro jednání s klientem se prokazují vysvědčením o maturitní zkoušce nebo dokladem o dosažení vyššího stupně vzdělání. Odbornými znalostmi zákon rozumí znalosti o finančním trhu, subjektech a fungování kapitálového trhu, regulace poskyto-

[2] *Směrnice Evropského parlamentu a Rady 2014/65/EU ze dne 15. května 2014 o trzích finančních nástrojů*

[3] *Směrnice Evropského parlamentu a Rady 2014/17/EU ze dne 4. února 2014 o smlouvách o spotřebitelském úvěru na nemovitosti určené k bydlení*

[4] *Národní soustava povolání*

Žijeme v turbulentní době, ve které svět financí tvoří pravidelně se opakující sinusoidní obrazce a je nutné, abychom byli připraveni na stále se zkracující hospodářské cykly. S tím je spojený jak ekonomický růst, tak finanční krize globálního charakteru. Nové technologie naopak přináší nové obchodní a investiční možnosti, na které je nutné reagovat a stanovovat adekvátní podmínky.

vání investičních služeb, investiční nástroje, jejich emise a investiční strategie, finanční analýzu. Za odborné dovednosti je v zákoně považováno vysvětlení (potenciálnímu) zákazníkovi investiční nástroj, provést analýzu dostupných investičních nástrojů a nabídnout zákazníkovi takový nástroj, který odpovídá jeho potřebám (§ 14b).

Zákon č. 427/2011 Sb. o doplňkovém penzijním spoření specifikuje odbornou způsobilost jako všeobecné znalosti a odborné znalosti a dovednosti. Všeobecné znalosti se rovněž dokládají vysvědčením o maturitní zkoušce nebo dokladem o vyšším vzdělání. Odborné znalosti a dovednosti se dokazují osvědčením a absolvování odborné zkoušky. Odborná zkouška se skládá před zkušební komisí, která má nejméně tři členy a její počet musí být lichý. Osvědčení se vydává na dobu pěti let od data vykonání odborné zkoušky (§ 84).

Odborná způsobilost dle zákona č. 257/2016 Sb. o spotřebitelském úvěru definována získáním všeobecných znalostí a odborných znalostí a dovedností. Všeobecné znalosti se prokazují maturitním vysvědčením nebo dokladem o vyšším vzdělání. Odborné znalosti a dovednosti se dokazují osvědčením o úspěšném vykonání odborné zkoušky a může mít pouze písemnou formu. Odborné znalosti a dovednosti se rozdělují do třech kategorií, první kategorie obsahuje znalosti pro poskytování nebo zprostředkování spotřebitelského úvěru jiného než na bydlení. Druhá část se zaměřuje na zprostředkování vázaného spotřebitelského úvěru a třetí část je pro poskytování spotřebitelského úvěru na bydlení (§ 60).

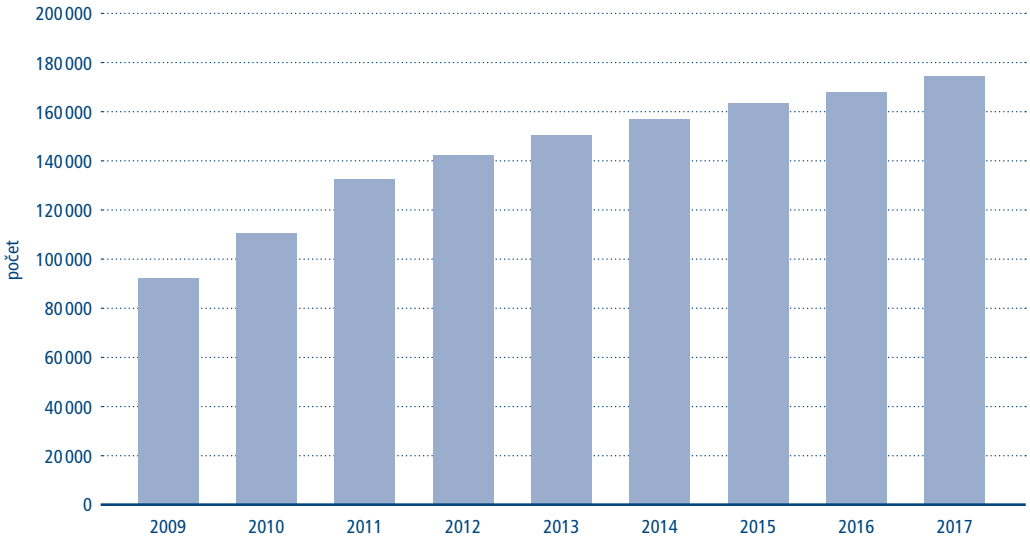
Pro finanční zprostředkovatele je z hlediska odbornosti důležitý také zákon č. 170/2018 Sb. o distribuci pojištění a zajištění, který stanovuje pravidla pro možnost zprostředkování produktů. Odbornou způsobilost zákon rozděluje do dvou částí, a to všeobecné znalosti a odborné znalosti a dovednosti. Všeobecné znalosti se jako v předchozích případech dokazují vysvědčením a maturitní zkoušce. Získání odborných znalostí a dovedností se prokazuje osvědčením o úspěšném vykonání odborné zkoušky, která může mít jen písemnou formu (§ 58). Odbornými znalostmi a dovednostmi jsou oblasti týkající se distribuce životního pojištění, distribuce neživotního pojištění, distribuce pojištění škod na pozemních dopravních prostředcích a s tím spojenou odpovědnost a připojištění úrazu, distribuce pojištění velkých pojistných rizik a distribuci zajištění (§ 57).

2.1 Odborná zkouška

V červenci roku 2017 schválil Parlament České republiky novelu zákona č. 256/2004 Sb., o podnikání na kapitálovém trhu. Novelou se od 3. 1. 2018 zavedlo prokazování odborných znalostí a dovedností distributorů na kapitálovém trhu prostřednictvím odborné zkoušky u osoby akreditované Českou národní bankou, přičemž standardy odborné způsobilosti stanovila na základě zákona Česká národní banka vyhláškou.

Analyzovaným materiálem předkládaného výzkumu jsou proto výsledky zkoušky odborné způsobilosti finančních zprostředkovatelů dle zákona č. 256/2004 Sb. o podnikání na kapitálovém trhu a jejich analýza. Celá analýza probíhala na vzorku 1 095 zprostředkovatelů, což je 1‰ poradců, kteří na českém finančním trhu působí. Záměrem analý- →

Obrázek č. 1 » *Vývoj počtu zprostředkovatelů v letech 2009–2017*



Pramen: vlastní zpracování podle ČNB (2019a), ČNB (2019b)

zy bylo zjistit, jakých výsledků finanční zprostředkovatelé při skládání zkoušky odborné způsobilosti dosahují.

Zkouška odborné způsobilosti má písemnou formu a skládá se z šesti částí, které dohromady obsahují 200 uzavřených otázek, které jsou dostupné na stránkách České národní banky (soubor otázek k přípravě na zkoušku). První oblast obsahuje 15 otázek a je zaměřena na právní předpisy v oblasti finančního trhu převážně na znalosti zákonů. Druhá část zkoušky testuje 35 otázkami znalosti investičních nástrojů jiných než derivátů a jejich emise. V rámci zkoušky je nutné odpovědět i na termíny týkající se derivátů, technické a fundamentální analýzy, ale také na početní příklady.

Třetí část obsahuje 30 otázek a týká se poskytování investičních služeb. Čtvrtá oblast je určena principům a fungování investičních společností, investičních fondů a regulace, fungování významných světových trhů, a to celkem ve 40 otázkách. V páté oblasti musí investiční zprostředkovatelé prokázat vědomosti ve 30 otázkách principů finančního trhu včetně teorie financí. Posledních 50 otázek je zaměřeno na investice, investiční strategie, portfolio a související rizika.

Soubor získaných dat byl zkoumán pomocí analýzy, což je proces faktického rozčlenění celku na části (Molnár, 2012, s. 42). Výsledky byly zkoumány z hlediska úspěšnosti absolvování jednotlivých částí písemné zkoušky, kterých je celkem šest. Výsledek byl zkoumán z hlediska všech zprostředkovatelů a zároveň se pro komparaci sledoval výsledek zprostředkovatelů s vysokoškolským vzděláním pro vyvození následných doporučení.

2.2.Dotazníkové šetření

Druhý výzkum, jehož záměrem bylo zjištění spokojenosti běžných klientů s vystupováním a profesionalitou finančních poradců v České republice, byl proveden metodou dotazníkového šetření, který je podle Havlíčkové nejčastěji používanou metodou pro sběr dat (Havlíčková a Řádová, 2011). Do-

tazníkové šetření je technika poskytující vysoce standardizovaná data a zachycuje lidské názory, mínění, domněnky či znalosti (Sedláková, 2014, s. 158). Dotazníkové šetření je řazeno mezi způsoby kvantitativního výzkumu (Molnár, 2012, s. 44).

Dotazník byl zaměřen na zjištění námětů důležitých atributů pro výkon profese finančního zprostředkovatele. Těmi atributy jsou minimální věk, dosažené vzdělání, praxe v oboru, míra šířky a hloubky znalostí finančních produktů nabízených v rámci České republiky. Dotazník také klade důraz na rozdíl výkonu profese finančního zprostředkovatele a obchodního zástupce. V rámci dotazování byla zjišťována spokojenost veřejnosti s profesionálním vystupováním zprostředkovatelů bez nucení jednoho připraveného univerzálního řešení. Dotazník byl distribuován elektronicky v rámci uzavřené profesní sociální sítě a skládal se ze 14 uzavřených otázek.

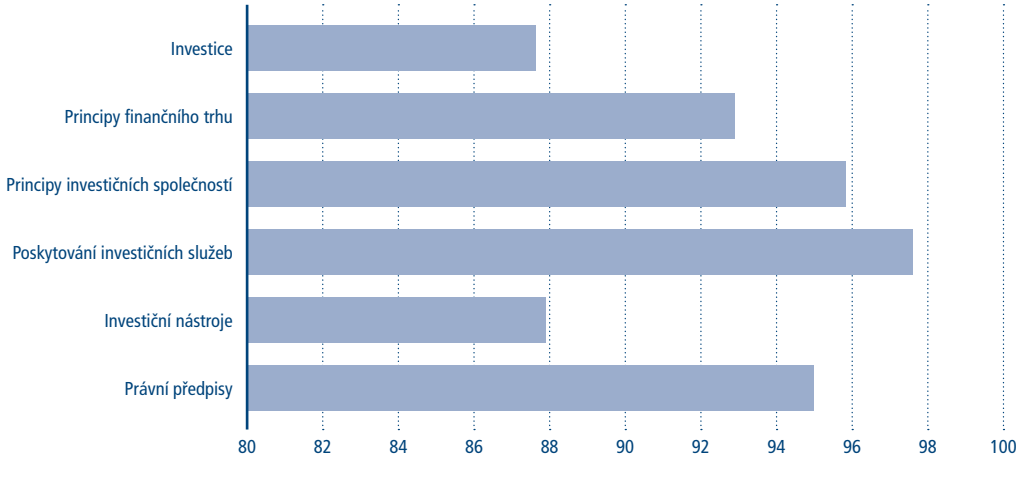
3. Výsledky

Na základě provedených výzkumů jsou předkládány následující výsledky. První výzkum řešil detailní rozbor úspěšnosti odborné zkoušky podle zákona č. 256/2004 Sb. o podnikání na kapitálovém trhu (Chlumská, 2018, s. 92). Druhý výzkum řešil konkrétní představu klientů o odbornosti a profesionálním vystupování finančního zprostředkovatele (Chlumská, 2018, s. 82).

3.1. Odborná zkouška

Pro úspěšné absolvování odborné zkoušky je stanoveno v obecně platných právních normách (v tomto případě vyhláškách k příslušným zákonům), aby byl celkový výsledek zkoušky min. 75 % úspěšných odpovědí, přičemž je stanovena minimální úroveň pro každou oblast. Jak ukázal rozbor výsledků zkoušky (obrázek č. 2), nejtěžší oblastí byla pro zprostředkovatele poslední část, která se týkala investic, investičních strategií, portfolií a souvisejícími riziky. Tuto oblast se nepodařilo splnit 12,4 % zprostředkovatelů. Druhá v pořadí z nejméně úspěšných oblastí byla část, která se nazývá „Investiční nástroje“. V této oblasti činila neúspěšnost 12,1 %. Část „Principy finančního trhu“ včetně teorie financí byla část, která byla nad úroveň požadovaných znalostí u 7,1 % testovaných. Pro 52 zprostředkovatelů, z celkového počtu nece-

Obrázek č. 2 » *Úspěšnost jednotlivých částí odborné zkoušky*



Pramen: vlastní zpracování

lých 5 % byla příliš náročná část zabývající se právními předpisy v oblasti finančního trhu.

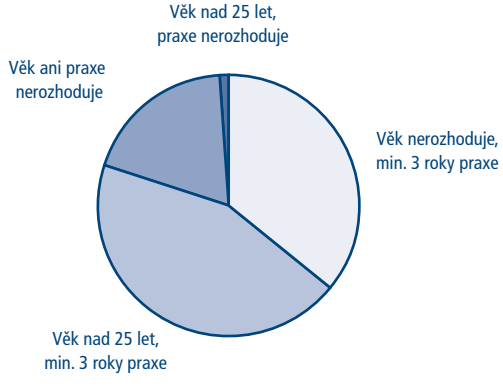
Naopak nejvíce úspěšnou částí byla oblast třetí s názvem „Poskytování investičních služeb“, kterou nesplnilo kritéria pouze 2,37 % účastníků. Druhou nejúspěšnější oblastí byla část „Principy a fungování investičních společností a investičních fondů; regulace a fungování významných světových finančních trhů“. Tato oblast byla neúspěšná pro 4,2 %. Celková úspěšnost u zkoušek tedy dosáhla 74,1 %. Každý čtvrtý zprostředkovatel tedy nesplnil min. jednu z výše uvedených částí. Z celkového počtu 1 095 účastníků má 34,5 % z nich vysokoškolské vzdělání. Oproti celkové úspěšnosti 74,1 % byla jejich úspěšnost o něco málo vyšší, a to 82,8 %. Z toho lze vyvodit, že absolvování vysoké školy není nutně zárukou odborných znalostí.

3.2 Dotazníkové šetření

V rámci dotazníkového šetření odpovědělo celkem 338 respondentů, z toho bylo 222 vysokoškolsky vzdělaných (65,7 % respondentů), 111 středoškolsky vzdělaných (32,8 %) a základní vzdělání mělo pět odpovídajících osob (1,5 %). Nejčetnější věkovou skupinou respondentů se stali lidé od 35 do 50 let (131, tj. 38,8 %), za nimi následovala skupina od 25 do 34 let (101 osob, tj. 29,9 %). Lidé nad 51 let tvořili 18,9 % odpovídajících (64 osob) a věková skupina od 18 do 24 let se dotazníku aktivně zúčastnila v počtu 42, což tvořilo 12,4 % celkového počtu. Z provedeného dotazníkového šetření vyplynulo, že klienti vyžadují profesionalitu jak ve vystupování a chování finančních zprostředkovatelů, tak také na úrovni jejich odborných znalostí a životních zkušeností. Se službami finančních zprostředkovatelů měli respondenti vlastní zkušenost (celkem 53 %). Čtyři pětiny dotazovaných zná rozdíl mezi obchodním zástupcem a finančním zprostředkovatelem (celkem 80 %). Z dotazníkového šetření na druhou stranu vyplynulo, že se zprostředkovatel v některých případech chová jako obchodní zástupce, který nabídne většinou jen jedno připravené řešení a snaží se tím naplnit prodejní kvóty (celkem 15 %).

Zároveň bylo zjištěno, že klienti by rádi využívali služeb finančních zprostředkovatelů starších 25 let s alespoň tříletou praxí (47 % respondentů), kteří kromě výhod produktu upozorní i na možná rizika vyplývající z uzavření finančního produktu (vyžaduje 87,7 % dotázaných). Z hlediska odborných znalostí je představa respondentů taková, že

Obrázek č. 3 » *Požadavek na věk a zkušenosti zprostředkovatelů*



Pramen: vlastní dotazníkové šetření

by lidé vykonávající profesi finančního zprostředkovatele, měli znát prioritně všechny finanční produkty v České republice, a to v návaznosti na světový trend, vývoj a tendence změn (celkem 43 %).

4. Diskuze

Uvedené výsledky je nutné také zařadit do společenského kontextu. V České republice byl počet obyvatel 10 610 055 ke dni 31. 12. 2017 (ČSÚ, 2018), z toho celkem 6 762 548 v produktivním věku, tedy v rozmezí 18–65 let. Ke stejnému datu bylo registrováno u ČNB 117 453 podřízených zprostředkovatelů. Počet registrací se od roku 2009, tedy od doby, od které ČNB vede registr zprostředkovatelů, téměř ztrojnásobil (ČNB, 2019a; ČNB, 2019b). Přesto se počet lidí, kteří se z důvodů finančních potíží dostanou do existenčních problémů a jsou donuceni vyhlásit osobní bankrot, nesnižuje. Za sledované období bylo totiž každý měsíc podáno v průměru 1 202 žádostí o vyhlášení osobního bankrotu, z toho jich 1 108 skutečně bylo vyhlášeno (W4T, 2019).

Výsledky výzkumu potvrzují obecné teorie podle Valenčík et al. (2018, s. 22), že s otázkou měření kvality je spojeno mnoho nejasných otázek. Finanční zprostředkování v České republice je spojováno více s kvantitou nežli s kvalitou. Předkládaný výzkum zároveň ukazuje vysoké procento neúspěšnosti při skládání zkoušek odborné způsobilosti dle zákona o podnikání na kapitálovém trhu, a proto je nutné na tuto skutečnost adekvátně reagovat, což v rámci stabilního ekonomického růstu nutností, jak potvrzují také Samatas, Mikrominas a Moro (2019).

Z provedeného dotazníkového šetření je navíc zcela zřejmé, že klienti profesionalitu a odbornost zprostředkovatelů vyžadují, stejně jako přísná pravidla pro vykonávání profese. Klienti vnímají oblast hospodaření s financemi, alokaci svých prostředků a ochranu před riziky jako důležitou což potvrzují Hanson a Olson (2018), a proto mají o zprostředkovatelích, na které se obrací jasnou představu z hlediska životních zkušeností, dosaženého vzdělání a rozsahu jejich odborných znalostí. Tyto výsledky verifikují teorie o poskytování produktivních služeb (Valenčík et al., 2018, s. 10).

Klient by měl být pro poradce vždy na prvním místě a měl by hájit jeho zájmy před vlastním prospěchem v podobě provize z nově uzavřené smlouvy. Pokud finanční zprostředkovatel respektuje přání klienta, který je spokojený, určitě se na poradce v budoucnu rád znovu obrátí, nebo ho doporučí příbuzným či přátelům.

5. Závěr

Žijeme v turbulentní době (Kupec, 2018, s. 125), ve které svět financí tvoří pravidelně se opakující sinusoidní obrazce a je nutné, abychom byli připraveni na stále se zkracující hospodářské cykly. S tím je spojený jak ekonomický růst, tak finanční krize globálního charakteru. Nové technologie naopak přináší nové obchodní a investiční možnosti, na které je nutné reagovat a stanovovat adekvátní podmínky.

Je proto zřejmé, že je potřeba reagovat na zvyšující se regulaci v oblasti odborné způsobilosti v návaznosti na zrychlující se ekonomický vývoj a nové technologie (Kupec, 2017, s. 28), které využívají obchodníci nejen na finančních trzích. Aktuální opatření regulátora profese mají přitom eliminovat zprostředkovatele, kteří svou práci nevykonávají kvalitně a s dostatečnou odborností. Proto bylo cílem příspěvku zjištění úrovně odborných znalostí finančních poradců působících na českém finančním trhu a zároveň zkušeností veřejnosti s přístupem a vystupováním těchto zprostředkovatelů.

Z výsledků zkoušky, kterou absolvovalo 1 095 účastníků (1‰ všech zprostředkovatelů, kteří působí na českém finančním trhu) se ukázalo, že 25,9 % poradců požadované úrovně nedosahuje. Úspěšnost 74,1 % je v kontextu důležitosti odborných znalostí a schopností nízká. Předložené výsledky potvrzují hypotézu, že úroveň odbornosti finančních zprostředkovatelů není dostatečná a je nutné, aby se zpřísňování podmínek pro výkon →

profese finančního zprostředkovatele věnovala dostatečná pozornost.

Druhý výzkum provedený na základě dotazníkového šetření přinesl odpovědi na požadavky klientů pro finanční zprostředkovatele, kteří poradenských služeb využívají a mezi které patří požadavek na věk, dosažené vzdělání, speciální licenci a rozsah odborných znalostí. Podmínky pro výkon profese by respondenti stanovili na minimální věk 25 let, středoškolské vzdělání s maturitou případně vysokoškolské, speciální licenci a zároveň tříletou praxi v oboru financí.

Předložené výsledky tak umožňují adekvátně reagovat na zpřísnění podmínek pro výkon povolání finančního zprostředkovatele nebo upravit podmínky stávající, což zlepší socio-ekonomickou situaci ve finančnictví (Schlossberger a Budík, 2018, s. 202). Problematika spravování osobních či rodinných financí je totiž důležitou součástí života každého jednotlivce, jak potvrzují také Belás et al. (2016, s. 191). Je tedy nutné, aby společnost měla v této oblasti dostatek kvalifikovaných odborníků s profesionálním vystupováním.

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ABSTRAKT

V ekonomickém prostředí dochází ke stále se zrychlujícímu vývoji, a tím i k řadě společenských a technologických změn. Technologický pokrok navíc poskytuje nové možnosti obchodování s finančními produkty. Díky tomu se více propojují světové finanční trhy a regulatorní orgány zpřísňují pravidla pro fungování těchto trhů. Změny ovlivňují také chování klientů a zároveň vytvářejí nové příležitosti pro obchodníky. V kontex- →

tu uváděných změn jsou kladeny vyšší nároky i na úroveň odbornosti finančních zprostředkovatelů, kteří jsou prostředníky mezi klienty a finančními produkty, jež se také mění. Cílem příspěvku je proto zjištění úrovně odborných znalostí finančních zprostředkovatelů působících na českém finančním trhu a zároveň zjištění zkušeností veřejnosti s přístupem a vystupováním těchto poradců. Lze totiž hypoteticky předpokládat, že aktuální úroveň odbornosti zmiňovaných zprostředkovatelů není dostačující pro výkon této profese. K metodickému zpracování úkolu došlo analýzou výsledků zkoušek odborné způsobilosti a dotazníkovým šetřením. Výsledky následně potvrzují hypotézu, že úroveň profesních znalostí není dostačující pro výkon zmíněné profese, což lze následně využít k regulačním doporučením.

KLÍČOVÁ SLOVA
Finance; koncese; odbornost; regulace; zprostředkovatel

Introduction of the Concession for the Providers of Financial Products

ABSTRACT
The economic environment is constantly accelerating due to a number of global social and technological changes. Moreover, technological progress has provided new opportunities for trading with financial products. Due to these changes financial markets worldwide are more closely interconnected and regulatory authorities have tighten the rules for functioning in these markets. Changes also affect client's behavior while, at the same time, create new opportunities for traders. In the context of these changes, higher demands are also placed on the level of expertise of financial intermediaries who are negotiators between clients and financial products, which are being also changed. Therefore, the main aim of this article is to find out the level of expertise of financial intermediaries operating on the Czech financial market and, at the same time, to find out the experience of the public with the access and performance of these advisers. Hypothetically, it can be assumed that the current level of expertise of the mentioned intermediaries is not sufficient for the exercise of that profession. Analyzing the results of the expert examinations and the questionnaire survey carried out the methodological processing of the task. The results subsequently confirm hypothesis that the level of professional knowledge is not sufficient to perform the profession, which can then be used for regulatory recommendations.

KEYWORDS
Finance; concession; expertise; financial intermediaries; regulation

JEL CLASSIFICATION
D14; G20; I22

Impact of Data Science on the Modern Trends in HR Processes

PhDr. et Mgr. Barbora Pánková, MBA » NEWTON College, Department of Human Sciences, Václavské náměstí 11, 110 00 Prague, Czech Republic; email: barbora.pankova@newton.cz

Bc. Sonja Kešelj » Vinohradská 33, 120 00 Prague, Czech Republic; email: sonja.keselj@yahoo.com

1. Introduction

Over the past decade, there have been revolutionary changes in the way we do business, prompted by the introduction of social networks, as well as large quantities of data being collected and available for in-depth analysis. The insights that can be gathered using advanced analytics methods carry vast opportunities to improve various areas of business and optimize overall performance of an organization.

The first part of this paper serves as an introduction to Data Science, as a modern-day interdisciplinary field, covering briefly its history and definition. Furthermore, significance of Big Data for the economy of today is portrayed on a historical analogy to oil, with additional brief discussion on the perils of using the outcomes of Data Science irresponsibly.

In the second part, the article summarizes the impact of applying analytics-based approach to management of human resources, both in a broad overview of potential advantages and on specific examples of recruiting and employee attrition. The most common obstacles to better implementation of Data Science tools in HR are analyzed as well, with recommendation on how to address some of them.

This paper is largely based on the Bachelor degree thesis *Use of Data Science for Optimization of Human Resources Management*, successfully defended at Newton College in June 2018.

2. Data science: a modern-day discipline

As one of the numerous advantages of living in the Age of Technology, we are privileged to witness the birth of many new disciplines, propelled into existence by our new ability to harness the computing power of machines. Data Science is one of the recent interdisciplinary fields that developed as a response to the newly discovered need to process and understand large quantities of information. To be able to obtain insights from the large amounts of both structured and unstructured data, it was necessary to combine knowledge and skills of several quantitative fields, most notably statistics, mathematics and computer science.

2.1 A brief history

The term Data Science has only recently become a part of general public vernacular, but the development of this interdisciplinary field, has been in the making for half a century. Furthermore, Marr (2015) concludes that the discipline behind it must →

include as a part of its history a long evolution of data storage and analysis, of which the earliest records are ancient. Equally important is the emergence of Statistics, whose beginnings can be traced back to the 17th century. The first half of the 20th century recorded multiple advancements in technologies that enabled development of modern data storage and computing power, both of which are indispensable components of the mechanism in the core of Data Science. In this period the first concepts of Business Intelligence emerge as well, creating economy-driven demand for developing and utilizing analytical skills (Marr, 2015).

The last decade of the 20th century will undoubtedly be remembered for the birth of Internet, which fundamentally changed the process of accessing data, as Marr (2015) points out. In this period further research is concentrated on estimating digital data storage effectiveness and expected web growth. The first five years of the new millennium had two main contributions — firstly, based on the conducted research, it was widely recognized that there were no adequate means of analyzing such large quantities of stored data, which would otherwise be of little use, and therefore it became evident that process changes needed to be implemented. Secondly, Marr notes that the terms 'Data Science' and 'Big Data' became more commonly used phrases (Marr, 2015).

According to Marr (2015), from 2007 onward the concept of Big Data becomes familiar to the wide public due to multiple articles covering the topic. The ever-increasing amount of data generated every year is discussed globally and its quantification helps creating a better public understanding of the importance of its processing (Marr, 2015).

2.2 Definition

The importance and potential of data analysis for obtaining powerful insights had been discussed in the scientific community much before the computing power had met its needs. In his 1962 article about the future of data analysis, John W. Tukey argues that the theory of mathematical statistics needs to be combined with a more scientific, empirical approach, as it plays a necessary role in data analysis, thus creating the first bridge between science and data processing (Tukey, 1962).

According to Tukey (1962), while statistics can be considered as one of the branches of mathematics, data analysis, which utilizes it, is rather qualified as a stand-alone science, as it fulfills the following criteria:

- The main goal of data analysis is to provide useful outputs, which makes the empirical approach prevail above the security of proof. This does not mean that the results at any confidence level should be taken as certainty, but rather to use the obtained results when it seems reasonable, accepting that a reasonably small portion of them will be generally wrong.
- Data analysis allows a certain space for errors, in favor of answering as many questions as possible.
- The mathematical approach in data analysis is used in the decision-making process, but the validity of the results is not judged solely based on it.

This supports the validity of use of term *Data Science* as a truly scientific branch, rather than just a modern-day buzz word.

One of the first official definitions was provided by Peter Naur, according to whom Data Science is 'the science of dealing with data, once they have been established, while the relation of the data to what they represent is delegated to other fields and sciences' (Naur, 1974, p. 397).

In a slightly different approach to defining the concept of Data Science, Hayashi puts emphasis not only on the use of different methods combined, but also includes their result. Alternatively, 'the aim of data science is to reveal the features or the hidden structure of complicated natural, human and social phenomena with data from a different point of view from the established or traditional theory and method. This point of view

implies multidimensional, dynamic and flexible ways of thinking' (Hayashi, 1998, p. 41).

In accordance with these principles, Hayashi (1998) further divides the processes behind Data Science into three categories: data design, data collection and data analysis.

2.3 Significance of Big Data and limitations of its use

In the most recent years, the much-discussed technology advancement has reached such a level, where almost every human activity leaves a digital trace. As a consequence, massive amounts of data are gathered daily from various sources. One prominent characteristic of Big Data is that it serves as powering source for modern business, but its flow is managed by the largest AI companies on the market. In an attempt to better understand this new concept, a comparison was drawn between the data as a resource of today and oil, as the resource of the previous century. This analogy emphasizes the fact that data is a very valuable commodity, much like oil was a hundred years ago, but also the fact that both commodities need to be processed in order to gain value from them.

Swinfen-Green (2018), however, argues that although we are surrounded by data, there are different sorts of data and it may be quite difficult or expensive to get access to the right kind, which can produce valuable results after analysis, much like it is in the case of oil. The author also points out that data should be thoroughly reviewed before use, in order to insure they are accurate, complete and relevant. Furthermore, even with the best quality possible, data analysis should be used only to support business decisions and not drive them (Swinfen-Green, 2018).

However, many experts believe that this analogy is not suitable and may, in fact, create false perception on how data should be handled.

For example, according to Marr (2018), in contrast to oil, data is unlimited and reusable resource that can produce further value by repeated processing or by being reused as feed for training machine learning algorithms. More importantly, obtaining data does not become more difficult and costly over time, but due to rapid advancement of technology, it becomes rather easier and more efficient (Marr, 2018).

An important question that inevitably arises is the ethical side of utilizing Data Science in making business decisions, as it is important to arrive to conclusions based on the data analysis results, rather than try to produce the data outputs that will support the already made decision.

Ullman and Rajaraman (2011) describe that one of the main concerns of analyzing large quantities of data is arriving to conclusions of dependence, when none could be assumed. In other words, if we were to look for a certain type of events within extensive amount of random data, we would expect those events to manifest with a growing number of occurrences for increased amounts of data. The challenge lies in the fact that random data have some characteristics that may resemble a pattern, but in reality are not significant (Ullman and Rajaraman, 2011).

If an ethical and responsible approach to Data Science is assumed, its potential can be enormous in virtually any aspect of business, which we will try to showcase on some of the operations in Human Resources management.

3. Application of Data Science in HR

As the labor market inevitably becomes dominated by the generation that was brought up in the digital era, the organizations that rely on them comprising the main portion of their workforce will have to quickly adapt to the new conditions, if they want to be perceived as relevant players on the market. Over the last decade, there has been a significant increase in number of companies that use advanced analytics methods as an important tool for their business decisions. Considering the fact that the fueling power behind every successful business is talented and productive human work-

force, it comes as no surprise that human resources management is taking important part in this revolutionary change.

3.1 Benefits of using advanced analytics in HR

Human resources field is one of the branches of business that produces and collects the largest amounts of data, which hide immense potential for unlocking game-changing insights into many issues related to all the standard HR processes.

According to Biro (2016), cited below are some of the most common areas of human resources management that can be improved using advanced analytic methods:

- turnover — predicting the highest risk of attrition based on job position, function or location, in order to take steps on specific direction, to avoid possible losses;
- retention — similarly, the goal is to predict the highest risk of churn, to help redistributing resources accordingly;
- risk — monitoring performance levels and job satisfaction do determine potential losses or performance drops;
- talent — predicting performance levels among new hires, in order to adjust onboarding process for them individually;
- future-casting — modelling possible changes across organization, in order to identify necessary adjustments in various HR processes.

The positive influence of analytics-based approach to talent management does not end at these areas of HR that are commonly observed as important. According to Bengochea, among many of the responsibilities of HR, onboarding is one of the processes with the highest potential to influence the entire organization, as it can significantly shape the subsequent satisfaction and motivation, as well as retention of an employee. In a case of unsuccessful onboarding period, the loss of a new hire represents a dire financial loss for the employer, as well as a potential negative impact on the brand in case of social media involvement. Therefore, regulating the onboarding period should be considered not only as core HR process, but rather as a crucial part of strategic HR management (Bengochea, not dated).

In a case study conducted by Avature, a company that provides software solutions that help improve talent acquisition and management operations, the advantages of digital tools implementation is discussed on the examples of Siemens and Accenture. In the case of Siemens, having such a solution has allowed the company to shift its approach to talent acquisition from reactive to proactive by forming a global talent pool, instead of position-specific one. This enabled easier identification of the right talent across different positions, but locations as well, maximizing the effectiveness of recruiters' time.

Similarly, Accenture uses an AI tool that matches the referrals obtained from employees to the role that is best fitting recommended person's skills, as well as scraping the social network connections of current employees, in search of potential fit. This encourages employees to take active role in broadening the firm's talent community, allowing recruiting teams to plan more strategically (Avature, 2017).

According to the abovementioned article, with the increase of strategic approach to talent management, the recruiting operations have the potential to advance more in the following five years than they did in the past twenty. Organizations must adapt to such rapid advancement by constantly learning and practicing agile approach. Successful companies of today are all leveraging the power of analytics, making data-based decisions to reevaluate and, if necessary, change their approach (Avature, 2017).

In a case study of a US healthcare company's hiring process, Bafaro, Ellsworth and Gandhi (2017) demonstrate how significantly an organization can benefit by embracing a strategic role in talent acquiring and management, based on an in-depth analysis of the hiring market. In this ex-

ample, the analysis showed unexpected correlation between the tenure, compensation and performance of nurses. As a response, HR leadership changed the rewards distribution across different tenures, which resulted in higher retention of well-performing individuals and significantly improved overall productivity of the nursing sector (Bafaro, Ellsworth and Gandhi, 2017).

Bafaro, Ellsworth and Gandhi (2017) argue that most of the steps in the HR process map should be replaced with embedded analytics, which would provide a more consistency to many aspects of talent management, such as attrition and succession planning. On the example of succession planning, the authors portrait the main differences between traditional and analytics-driven approach.

In the traditional approach, the talent management team would lay out the needed processes and prepare tools and training of stakeholders. In cooperation with line managers, potential successors are identified and individual development plans are then designed for them, enabling selected employees to eventually fill vacancies, should the manager follow the devised plan. In contrast to this approach, analytics-driven succession planning would rely on machine-learning algorithms that would tap into the succession data gathered through the years, revealing potential correlations of succession to various factors. The organization can subsequently use the obtained insights to identify top five candidates for the role in question and devise custom made development for those individuals, providing basis for strategic decisions (Bafaro, Ellsworth and Gandhi, 2017).

3.1.1 Using analytics to optimize recruiting

According to Cook (2017b), gathering and analyzing employee data and tracking relevant metrics is key to acquiring and retaining needed talent at optimum price. The very process of recruitment produces considerable amount of data, that could be analyzed in depth, yet in many cases the data is dispersed across different systems within organization, which could make the potential locked behind it seem less attainable. However, the effort of putting the data together to enable analysis and construction of data-driven strategies for recruitment, have the potential to yield multiple benefits, not only for HR department, but business in general (Cook, 2017b).

One of such benefits is the resulting increase in the quality of the acquired talent. To achieve this, however, it is necessary to track multiple metrics that track the effectiveness of methods used to obtain high-performing employees, resignation and involuntary turnover during the onboarding months, characteristics of top talent, as well as performance of newly hired employees.

Furthermore, data analytics can provide valuable insights concerning the time needed for recruiting employees to specific roles, which allows HR professionals to inform stakeholders more precisely, or to detect processes that could potentially slow down the hiring process and in return eliminate or improve them.

Another important benefit that can be obtained by using Data Science methods to analyze hiring processes is improving candidate experience throughout the period of recruiting. Although this has been one of the focus topics in recent years, there is much room left for improvement, as factors influencing candidates' impressions are not necessarily intuitive. Predictive analytics, however, allows identifying significant factors which may lead to quality candidates withdrawing from the process.

Cook introduces another positive impact of data-driven recruiting, which is reflected in increased diversity oh new hires. Analytical approach can provide constant overview of hiring trends and help insure that high level of diversity is sustained across all significant demographic indicators. This, as a result, can assist in creating and maintaining positive public image of the organization.

Finally, data-driven approach can be very useful in keeping the hiring rate balanced, by creating more precise hiring strategies. Maintaining such balanced recruiting plans could ensure keeping →

both productivity and hiring costs at optimum level (Cook, 2017b). Insights obtained from the advanced analytics of employee data can yield conclusions that are surprising or even counter-intuitive from the perspective of recruiters that are accustomed to an experience-based approach to talent management.

De Romree, Fecheyr-Lippens and Schaninger (2016) offer two such examples, where people analytics was the driving force of the recruiting process. The first was an example of an Asian bank that opted for data-driven approach to identifying new roles and potential high-performing employees. In order to do that, data on employees' demographics, performance, professional background, tenure and branch were collected. In-depth analysis revealed the profiles of employees that would best fit given roles, but it also identified the key roles that had the largest impact on the overall business success. This helped the organization to redefine the positions that were opened, as well as the whole organizational structure. Furthermore, the bank newly determined the sources where it searched for talent, as the effectiveness of recruiting process depends largely on correctly identifying the talent pool that will be used for filling positions. The mentioned changes resulted in significant increase in branch productivity and conversion rate of new recruits, as well as the very net income of the organization.

On another example, the authors showcase the benefits of deploying machine learning algorithms to maximize the effectiveness of the initial candidates screening process, as well as to eliminate potential biases, such as unequal representation of genders among candidates. After automatization, selecting the candidates most likely to succeed did not require any human input and surprisingly it even increased gender diversity, contrary to initial assumptions (De Romree, Fecheyr-Lippens and Schaninger, 2016).

3.1.2 Analytics-based approach to managing attrition

In case of thriving job markets, where the attrition is typically very high, having means to predict employee turnover can become extremely valuable for making business decisions and developing strategies for future periods. Depending on the resources an organization is willing to invest into addressing the issue of attrition, analytical methods with different levels of complexity can be applied. Monitoring applicable metrics may be useful, yet with predictive tools it is possible to build a model that will reliably forecast the attrition trend of the given market.

High employee attrition results not only in financial strain due to increased recruiting and workforce costs, but it can have a lasting impact in case key employees leave the organization, as that may lead to a shift in productivity, company's vision or relationships with customers and business partners.

According to De Romree, Fecheyr-Lippens and Schaninger (2016), factors influencing the attrition rate within an organization do not necessarily have to be intuitive, which is where the analytics-based insights become invaluable. Gathering and analyz-

Over the past decade, there have been revolutionary changes in the way we do business, prompted by the introduction of social networks, as well as large quantities of data being collected and available for in-depth analysis. The insights that can be gathered using advanced analytics methods carry vast opportunities to improve various areas of business and optimize overall performance of an organization.

ing data on various dimensions of employee's profile, such as their educational, professional and demographical background, as well as their performance and compensation levels, can provide insights that are indispensable in identifying high-risk employees. Once the potential leavers are singled out, it is possible to devise specific efforts in order to motivate them to stay in the company. Very often, the appropriate incentive may hide in providing better development opportunities or managerial support, rather than being financial in nature, as would be intuitively assumed (De Romree, Fecheyr-Lippens and Schaninger, 2016).

Furthermore, according to Cook (2017a), the importance of workforce analytics and data driven hiring decisions is higher than ever. Understanding of human capital dynamics enables HR to optimize the size and cost of the workforce ensuring it is aligned with business needs. A lack of understanding and data behind the workforce turnover metrics has long limited the role of HR in creating informed decisions — therefore, in order to reduce the turnover, the HR needs to become more data-driven, using not only descriptive, but also explanatory and predictive analytics. A limited set of analytics is not sufficient to make crucial business decisions and, occasionally, can be even misleading. The companies need not only to understand the trend, but also why is something happening and what will happen next in order to be able to align their workforce strategies to the business objectives.

The employee turnover includes both voluntary (retirement, resignation) and involuntary leavers (redundancies, poor performance or other cases when the employees are forced to leave organization) and might not be necessarily negative, as the leaving of the employees that are not a right fit or in the case when there is a more suitable candidate might lead to workforce skills optimization. Therefore, according to John Boudreau, a professor at the Marshall School of Business, the deployment of HR analytics in a framework akin to inventory optimization enhances not only the reduction of the turnover, but also a long-term workforce value. The key steps in a selection of a right workforce analytics framework are the following (Cook, 2017a):

- Identify the retention problem by analyzing the resignation rate and its impacts on business metrics — i.e. understanding which category of employees are leaving (business leaders, top performers, etc.) and how it affects your business targets (e.g. revenue, profit) and morale.
- Analyze the root causes of the workforce turnover — it is important not to follow single metrics here, but also to analyze the correlation between resignations and compensation ratio, promotion wait time, pay increases, tenure, performance, and training opportunities.
- Determine who can be saved — it is important to determine, which the key groups of employees are to keep by analyzing the retention rate across locations, functions, tenure, age, diversity groups and performance level. The one-size-fits-all retention programs are strategically ineffective and Visier analytics tends to be 17× more accurate than the intuitive decision making in identifying the risk of exit, which significantly reduces the costs.
- Tailor a retention program to address career advancement, learning & development and onboarding needs, as well as to predict retirement trends and ensure the junior workforce is enabled and prepared to take over the tasks from the senior leavers.

3.2 Obstacles to implementing data-driven approach in HR

Biro (2016) points out that numerous obstacles can present themselves when trying to implement data-driven approach to decision making in HR. It is of utmost importance to first secure a unified platform where data from all sources can be gathered and, therefore, create the ground for a detailed and complete analysis (Biro, 2016).

Furthermore, Avature (2017) indicates that two of the most common reasons for companies not us- →

ing the data-driven technology in their talent acquisition operations are lack of designated budget and adequate internal capabilities, both of which are decided on the higher levels of management (Avature, 2017).

In order to advance HR from an experience-driven to a systematic and consistent, data-driven phase, companies will have to take specific steps, one of which is appropriate use of people analytics. However, Bafaro, Ellsworth and Gandhi (2017) suggest that, despite visible progress in many organizations in the form of creating centers of excellence and assigning strategic HR partners to line managers, there is still a considerable gap between the conceptual acceptance and practical implementation of strategic approach. A large portion of HR professionals still find it difficult to understand the connection between the business impact and what they consider a poorly defined and quantified approach to strategic decisions. The predictive power of data is often not utilized in decision-making process, as the analytical component is represented by mare reporting of metrics (Bafaro, Ellsworth and Gandhi, 2017).

Similarly, in the research report of Harvard Business Review from 2014, the following reasons are stated as the biggest obstacles to effectively using Analytics in HR (Biro, 2016):

- inaccurate, inconsistent, or hard-to-access data requiring too much manual manipulation;
- lack of analytic acumen or skills among HR professionals;
- lack of adequate investment in necessary HR/talent analytical systems;
- lack of perceived value of a data driven culture; not a data-driven culture;
- lack of support or expectations by C-suite executives;
- HD not knowing how to talk about HR data to relate it to business outcomes.

As seen in the list above, the lack of analytic acumen among HR professionals and budget restrictions are again cited as some of the most frequent limitations of data-driven approach implementation. However, in the conducted research, the most commonly perceived obstacle to better use of analytics in HR lies in the inadequacy and inconsistency of data storage system implemented in current HR platforms (Biro, 2016).

Throughout an employee's lifecycle within an organization, from recruiting to the moment of termination, data on many different aspects of their profile is gathered. However, according to Bengochea, all too often this information is stored across multiple platforms that are not well interconnected, making it difficult to transfer the crucial information among different divisions. This disrupts the potential of data to positively affect the management and processes rollout, especially when it comes to international organizations that also have to accommodate various regulations, as well as cultural and linguistic differences. Therefore, unifying data collection under one platform can significantly reduce the barrier of accessing the information globally across the firm, but also improve the user experience for all the parties involved (Bengochea, not dated).

4. Conclusion

In the most recent years, the much-discussed technology advancement has reached such a level, where almost every human activity leaves a digital trace. As a consequence, massive amounts of data are gathered daily from various sources, creating a need for a discipline that would be able to harness the immense power locked in the collected information. Although its development has span across several decades, an interdisciplinary field of Data Science has only recently become a term familiar to broader, non-scientific public.

The potential of Data Science is becoming more obvious every day, as the companies that embrace it as a strategic management tool showcase incredible, quantifiable change in both overall productivity and in the results of specific areas of business. Human resources management is one of the fields that can benefit the most from this analytics-based

approach, whether it concerns recruiting, retention, motivation or a less obvious issue of succession planning.

Although the success of implemented methods of Data Science is visible, there are still many companies that hesitate to embrace the new approach to addressing HR-related issues. The reasons for this can be numerous, but the most common ones refer to the inadequacy of data storage systems that lack cross-sector communication, as well as budgetary restrictions and the lack of analytical skills among HR professionals.

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Impact of Data Science on the Modern Trends in HR Processes

ABSTRACT

The main goal of this paper is to introduce Data Science as a modern, interdisciplinary field that can significantly influence business performance of a company, via applying the results of in-depth analysis of data gathered across various levels of the organization on the level of strategic management. The paper places focus on application of analytics-based approach to talent acquisition and management, with special emphasis on recruiting processes and managing employee attrition. The final part of the paper is dedicated to analyzing the main obstacles to implementation of advanced analytics in HR and understanding the steps that may prevent them.

KEYWORDS

Data Science; advanced analytics; HR; employee attrition; talent management and acquisition

JEL CLASSIFICATION

C10; C18; C60; M50

Gender and Age as Determinants of Perceived Leadership Competencies

- Ing. Mgr. Jiří Čeněk, Ph.D. » Mendel University, Faculty of Regional Development and International Studies, třída Gen. Píky 2005/7, 613 00 Brno, Czech Republic; email: jiri.cenek@mendelu.cz
- Bc. Kateřina Kadlecová » Mendel University, Faculty of Regional Development and International Studies, třída Gen. Píky 2005/7, 613 00 Brno, Czech Republic; email: katerina.kadlecova@mendelu.cz

* *1. Introduction – gender and age as determinants of perceived leadership competencies*

The goal of this paper is to identify possible influence of gender and age on the perception of leadership-related qualities and competencies. Gender belief system comprises all beliefs and ideas connected to men and women and their mutual similarities and differences (Deaux and LaFrance, 1998). It includes three separate components: gender stereotypes, gender attitudes and gender identity. Fiske (1998) defines gender stereotypes as typical psychological and physiological characteristics, social norms and behavior, etc., that depict men and women as social groups. They need to be understood as generalizations that do not have to necessarily reflect the reality, but influence our expectations, emotions and behavior nevertheless. Gender stereotypes are a function of both direct and mediated experience. They are maintained by tradition, implicit, and highly prescriptive in the means of social control, and thus highly resistant to change. The function of gender (and any other) stereotypes is to allow a rapid categorization and structuring of complex social environment (Wyrobkova, 2007).

Gender stereotypes seem to be related to personality characteristics and skills. In one study, men were evaluated as more competitive, more logical, more self-confident and more enterprising, on the other hand women were evaluated as more emotional and compassionate (Lippa, 2009). The perceived gender differences in skills or personality can have especially severe career-related consequences. Čeněk (2013) identified four main areas of gender stereotypes that might influence the managerial career of men and women in both positive and negative way:

- Potential to lead, managerial and other professional skills – these stereotypes are related e.g. to the potential to lead their subordinates and motivate them, or to the preferred leadership styles of men and women (Eagly and Karaou, 2002; Kent and Moss, 1994).
- Personality characteristics of a 'good manager'
- Focus on career vs. focus on family – these stereotypes are related to the perceived loyalty to the company (women leaving the organization in order to give birth and start a family) or to the limited amount of time that can be given to work (taking care of the family).
- General skills and competencies – these stereotypes are related to the gender differences in →

various psychological characteristics such as the quality of facets of intelligence, quality of attention, quality of memory, emotional stability and control, ability to make decisions, general competency, assertiveness, flexibility of behavior, etc.

Another category of workplace-related stereotypes and a possible source of workplace discrimination are age stereotypes. In their comprehensive review, Posthuma and Campion (2009) identified several most commonly investigated areas of age stereotypes:

- Poor performance — according to 'poor performance stereotype' the older workers have lower abilities, are less motivated and productive than younger workers.
- Resistance to change — older workers are supposed to be less flexible, less adaptable, avoiding changes and harder to train.
- Lower ability to learn and less potential to development
- Shorter tenure — according this stereotype the older workers tend to leave organizations after relatively shorter tenure and are therefore more costly (training expenses, etc.)
- Higher costs — due to higher turnover, shorter tenure and higher salaries older workers are supposed to be generally more costly than younger employees.

The career-related effects of these stereotypes are magnified because they are not only shared by younger workers (heterostereotypes), but they are also employed by older workers (autostereotypes) and implemented into their decision making processes (Chasteen, 2005; Chasteen, Schwarz and Park, 2002). Both gender and age stereotypes play a role during the processes of personnel selection, promotion and contract termination. When managers decide, whether a certain candidate will be selected for a specific position within an organization, they match the candidates (e.g. gender and age) characteristics with the perceived "correct" or "desired" gender and age for the specific job (e.g. Cleveland, Festa and Montgomery, 1988; Glick, Wilk and Perreault, 1995).

The goal of this research was to investigate the role of gender and age of a target person-manager in perceived leadership competencies among young Czech adults. In order to achieve this goal, we developed a test using pictorial stimuli of people-managers, in which respondents subsequently evaluated their competencies.

Figure 1 » *Stimulus material*

Source: Kadlecová (2017)

Table 1 » *List of competencies*

Positive extreme	Scale	Negative extreme
Competent	1-2-3-4-5-6-7	Incompetent
Loyal	1-2-3-4-5-6-7	Disloyal
Self-confident	1-2-3-4-5-6-7	Self-conscious
Diligent	1-2-3-4-5-6-7	Indolent
Persistent	1-2-3-4-5-6-7	Yielding
Credible	1-2-3-4-5-6-7	Incredible
Objective	1-2-3-4-5-6-7	Biased
Brave	1-2-3-4-5-6-7	Cowardly

Source: Kadlecová (2017)

2. Methods — materials and procedure

The data were gathered using Hypothesis platform that is suitable for browser-based mass data gathering (for more details see Popelka et al., 2016). The research materials consisted of 40 pictures of people divided by two dimensions (gender: male vs. female; age: younger vs. older) into four categories: (a) younger males; (b) younger females; (c) older males, and (d) older females (see, figure 1).

Each picture was presented for 3 seconds with an instruction that the pictures represent people on managerial positions and that the respondent was supposed to evaluate managerial/leadership competencies of the particular person. The stimuli were presented in pseudo-random order. Seven-point scale of semantic differential was used for the stimuli evaluation. The items were selected on the basis of previous researches on managerial competencies (Hogan and Kaiser, 2005; Maxwell, 1999; Steingauf, 2011). The whole scale consisted of eight competencies (see table 1) — (1) Competence; (2) Loyalty; (3) Self-confidence; (4) Diligence; (5) Persistence; (6) Credibility; (7) Objectivity; and (8) Bravery.

The research sample consisted of 40 respondents, all students of Mendel University in Brno. All respondents were between 21 and 25 years of age (mean age = 22.7), 68% were females.

3. Results

The mean values were calculated separately for all for categories of stimuli. The means for each competence by stimulus category are summarizer in table 2. We can see that the scores are generally lower (the lower the score, the more positive is the evaluation) for older categories of respondents.

To test the significance of these differences in each competence we performed series of one-way ANOVAs with type of stimulus as independent and subjective evaluation as dependent variable (see table 3). We found statistically significant differences in seven out of eight managerial competencies (for detailed results see table 3; df between groups is 3 in all cases). Self-confidence was the only competence, in which we found no statistically significant difference in subjective evaluation across the four categories of stimuli.

When we take look at effect sizes ($\eta 2$; partial eta-squared), we can see that there are large effect sizes in competencies Competence, Diligence, Persistence, Credibility and Objectivity. Medium effect sizes were detected in Loyalty and small effect sizes in Self-confidence and Bravery (Miles and Shevlin, 2001). Although the ANOVA results are in the case of Bravery statistically significant, because of their small effect size, we will consider that the differences in evaluation of this compe- →

Table 2 » *Descriptives*

Competence/skill	Younger women	Older women	Younger men	Older men
Competence	2.60	2.03	2.50	1.96
Loyalty	2.51	2.01	2.55	2.03
Self-confidence	2.13	1.99	1.94	1.87
Diligence	2.34	1.83	2.45	1.83
Persistence	2.35	1.86	2.38	1.79
Credibility	2.68	2.04	2.99	2.23
Objectivity	2.63	2.10	2.73	2.10
Bravery	2.47	2.21	2.20	2.11

Table 3 » *Differences in evaluation of stimuli*

Competence/skill	df within groups	F	significance	η2
Competence	156	10.27	> 0.001	0.165
Loyalty	156	8.36	> 0.001	0.138
Self-confidence	156	1.67	0.176	0.031
Diligence	156	10.82	> 0.001	0.172
Persistence	156	11.89	> 0.001	0.186
Credibility*	141	17.22	> 0.001	0.249
Objectivity	156	12.30	> 0.001	0.191
Bravery	156	2.72	0.047	0.050

* Results of Brown-Forsythe test

tence across the stimuli are not large enough to be practically relevant.

The results of LSD post-hoc tests will be tested against an adjusted significance level (Bonferroni correction). The adjusted significance level is set at $p = 0.008$. Post hoc tests revealed relatively uniform pattern in the results of the six dimensions with statistically significant results and with medium or large effect sizes. There were no significant differences between the evaluations of younger men and younger women, and between the evaluations of older men and older women. On the other hand we found significant differences between stimuli depicting older and younger managers. These results can be interpreted that while gender does not influence the perception of competencies of leaders, age does. Older managers are perceived as more Competent, Loyal, Diligent, Persistent, Credible and Objective.

Additionally, we tested for potential differences according to the gender of respondents. We conducted a series of t-tests, in which we compared evaluations of every competence according to the type of stimulus. No significant differences were found between men and women in any of the evaluated dimensions apart from the evaluation of older men in Self-confidence and Bravery. Women compared to men evaluated older men as less self-

confident (t(38) = 2.125, p = 0.04) and less brave (t(38) = 2.404, p = 0.02).

4. Summary

The aim of current research was to evaluate the role of gender and age of leaders in the perception of leadership competencies. The respondents evaluated a series of photographs of leaders in eight competencies on a 7-point scale of semantic differential. We conducted a quantitative data analysis using a series of ANOVAs and t-tests. We found significant and large enough differences across the stimuli types in six out of eight competencies. In competencies Competent, Loyal, Diligent, Persistent, Credible and Objective age was identified as an important factor. Older leaders were evaluated as more competent, loyal, diligent, persistent, credible and objective. Age had no effect on the perception of competencies Self-confidence and Bravery. Gender of the leaders did not influence the perception of their competencies. Gender of respondents did not influence the evaluation of the leadership competencies apart from the evaluation of Bravery and Self-confidence, where older men were evaluated by women as less self-confident and less brave.

Our study has several limitations mainly regarding the research sample. Research sample consisted of only 40 students. Further research using the same methodology should try to increase the sample size in order to increase test power and gather the data on the more representative samples. Additionally, in the future research should focus on the evaluation of other leadership competencies.

Gender of the leaders did not influence the perception of their competencies. Gender of respondents did not influence the evaluation of the leadership competencies apart from the evaluation of 'Bravery' and 'Self-Confidence', where older men were evaluated by women as less self-confident and less brave.

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Gender and Age as Determinants of Perceived Leadership Competencies

ABSTRACT
The goal of this research was to discover the role of gender and age in people's perception of leadership qualities and competencies. In order to achieve this goal we designed a quasi-experimental study. The quasi-experiment consisted of 40 photos of people, with instruction that they are depicting leaders. We manipulated the age (younger vs. older) and gender (male vs. female) of people in the pictures. Each stimulus was presented for three seconds, followed by 7-point semantic differential scale with eight selected leadership-related competencies. Data from 40 students were gathered. Subsequent statistical analysis discovered age-related differences in the perception of competencies of leaders.

KEYWORDS
Leader; leadership; competencies; age; gender

JEL CLASSIFICATION
J24

Selected Issues of Further Education of Professional Soldiers in the Czech Republic

- PhDr. Ľubomír Kubínyi, Ph.D.[1] » University of Defence, Faculty of Military Leadership, Kounicova 65, 662 10 Brno, Czech Republic; email: lubomir.kubinyi@unob.cz
- Mgr. Radim Vičar, Ph.D. » University of Defence, Faculty of Military Leadership, Kounicova 65, 662 10 Brno, Czech Republic; email: radim.vicar@unob.cz
- Mgr. Tomáš Zbořil » University of Defence, Faculty of Military Leadership, Kounicova 65, 662 10 Brno, Czech Republic; email: tomas.zboril@unob.cz

* *1. Introduction*

Education or, if need be, lifelong learning also plays an important role in professional soldiers, which is expressed in the legal obligation of the Ministry of Defence to create conditions for continuous training and the qualification enhancement of soldiers in the interest of service. The education of professional soldiers takes place within the framework of accredited and non-accredited training, among other things, at the University of Defence in Brno. In the period of 2016 and 2017, the research has been carried out at the Faculty of Military Leadership related to identifying the decisive reasons for the participation of selected groups of professional soldiers in further professional training. Some of the results are presented in this paper.

2. Starting points of professional education

Lifelong learning is ideally considered a continuous process or, if need be, constant readiness of a person to learn. It plays an important role in the (professional) life of a professional soldier (MoEYS, 2007). It encompasses all learning opportunities (whether in traditional educational institutions within or outside the education system) that are perceived as the only interconnected entity enabling the acquisition of qualifications and competencies in different ways and at any time during life. Lifelong learning can be divided into two basic stages — initial education and further education (MŠMT, 2010).

A professional soldier[2] in the employment relationship in the Czech Republic, just as an employee in an employer/employee relationship, needs, for the exercise of his/her profession, a certain level of education he/she regularly acquires when completing his/her initial education. The initial education is defined by Act No. 179/2006 Coll., on verification and recognition of further education results and on the amendment to some other acts (the Act on recognition of further education results). It is pre-primary education, basic educa- →

[1] *The paper has been elaborated within the framework of dealing with the long-term plan for an organization development entitled The Development of Social Competencies of a Soldier — Leader.*

[2] *According to Act No. č. 221/1999 Coll., on professional soldiers, as subsequently amended, it is a citizen who performs military active service as his/her employment.*

tion, secondary education, education at conservatories and higher vocational education, implemented according to a special legal regulation in kindergartens, basic schools, secondary schools, conservatories and higher vocational schools, and in the study in accredited study programs organized by universities or their components according to a special legal regulation. Education as a final level that a person will achieve in the initial training period is *conditio sine qua non* for a professional soldier's duty performance in a certain service assignment (e.g. for the assignment to the rank level of enlisted personnel, the level of secondary education with an apprenticeship certificate is required, for the rank level of warrant officers, the upper secondary education level is required and the assignment to the rank level of officers and generals, university education is required)[3]. Education or, if need be, the minimum level of education and training represents qualifications defined for a professional soldier's duty performance in a particular service assignment.

This level of a professional soldier's education acquired within initial education does not have to be a final level and can be increased in the education process or, more precisely, in the process of the so-called further education. According to Armstrong and Taylor, education can be perceived as a process, which ensures that the organization employs educated, skilled and committed people it needs (Armstrong and Taylor, 2015). It is, therefore, a process of conscious and active acquisition, transmission, mediation and formation of the system of knowledge and skills of a person (a professional soldier). Further education then includes different forms of professional and vocational training during the active working life of a professional soldier, i.e. after the end of initial education in the school system. The abovementioned Act defines further education negatively — as educational activities that are not initial education. Initial education, i.e. before the first entry into the labour market, is a part of the lifelong learning process (education) along with further education, after entering the labour market.

Education as part of the professional training of a professional soldier has to be perceived as an integral part of his/her professional career, within which he/she is prepared regularly and deliberately for the development of skills in the framework of his/her duties (Bednář and Binková, 2017). Further education, just as initial education, includes formal education, non-formal education and informal learning (Vychová, 2008). Further formal education represents adult education at schools and in the case of professional soldiers, e.g. the study at the University of Defence in Brno in the combined form of study, the successful completion of which leads to attaining a higher level of education — university education (bachelor, master or doctoral). On the other hand, further non-formal education does not lead to a (higher) level of education. It is focused on acquiring knowledge, skills and competencies that can help a professional soldier improve his/her position. Therefore, further non-formal education can take place both inside and outside educational institutions. It usually includes, e.g. professional courses, foreign language courses, computer courses, retraining courses, but also short-term trainings and lectures (MoEYS, 2007). In the case of professional soldiers, this may be studying foreign languages in the courses with the English language priority focused mainly on the preparation for the NATO STANAG 6001 examination. Further informal learning, just as non-formal education is not aimed at obtaining a (higher) level of education. As distinguished from formal and non-formal education, it is unorganized, usually unsystematic and institutionally uncoordinated (MoEYS, 2007). Informal learning can be characterized as a process of gaining knowledge and acquiring skills and competencies from

[3] *See Ministerial Decree No. 217/2010 Coll., on determining qualifications for professional soldiers' service assignment, as subsequently amended.*

everyday experience and activities at work (in service), in the family or in the spare time. In professional soldiers it may represent self-education, e.g. by studying internal regulations within the MoD, watching TV or listening to radio.

Besides education and military training, further education of professional soldiers includes basic components of a professional soldier's training and development throughout his/her employment relationship. The training helps soldiers acquire practical skills that are necessary especially for accomplishing their active military service obligations required for the use of assigned military material, i.e. equipment. Education can be defined as a set of measures aimed at transforming the mental and moral qualities of a professional soldier to the level required from the members of the Armed Forces (Karaffa, 2014). In connection with further education of professional soldiers, Act No. 221/1999 Coll., on professional soldiers, as subsequently amended on professional soldiers, establishes two concepts, i.e. increasing education and extending education. Increasing education means achieving a higher level of education, extending education is intended to meet other qualifications without achieving a higher level of education.

Education, further education and lifelong learning are complemented by another important concept from the so-called Education Act, andragogy or from human resource management — the concept of culture (in the sense of a human and communal growth to maturity). Culture is generally perceived as an expression of maturity and the cultural level of the state and belongs to the attributes of a modern democratic rule of law. According to Průcha and Veteška, culture is the 'overall level of maturity of a particular population (nation, ethnic group, professional group) arising as a result of high-quality education', not excepting military professionals (Průcha and Veteška, 2014). Further education of professional soldiers

According to the Act on professional soldiers, the Ministry of Defence is under the obligation to create conditions for continuous training and the qualification enhancement of professional soldiers in the interest of service. The Ministry may also provide retraining for soldiers, whose employment relationship ceases after more than five years of service, to be better prepared for a new career.

The system of military personnel training within the Ministry of Defence is based on the concept of lifelong education and training. Expanding this concept is one of the possibilities how to achieve a closer link of educational outcomes to the processes of career planning and career management.

Within the Ministry of Defence, education comes under the State Secretary Division and is organizationally secured by the Education Policy Department. The State Secretary of the Ministry of Defence annually publishes an overview of educational and training activities at the Ministry of Defence. This document is published in the Bulletin of the Ministry of Defence as a normative decree and is, therefore, an internal regulation[4] of the Ministry.

This internal regulation establishes a procedure for planning educational and training activities aimed at meeting the qualifications, qualification requirements and providing the retraining of soldiers as well as civilian employees and civil servants of the department. Educational and training activities are considered to be the activities that →

[4] *Order of the Minister of Defence No. 1/2017 Bulletin, on the preparation of drafts, assessments and approvals of internal regulations and the Bulletin of the Ministry of Defence (on the preparation of internal regulation)*

take place in educational or training facilities. These activities are focused on meeting the qualifications or qualification requirements. It includes especially accredited or non-accredited training of personnel (soldiers).

The departmental educational facilities are the University of Defence, the Department of Military Physical Education at the Faculty of Physical Education and Sport, the Charles University (here, the physical education experts are trained for the Ministry of Defence), the Military Secondary School and College in Moravská Třebová and the Training Command — Military Academy in Vyškov.

The training aimed at meeting qualifications is usually conducted within the framework of accredited studies at secondary and tertiary schools. An applicant for a job in the Armed Forces has to meet the qualifications on the date of starting his/her employment relationship or on the date of his new service assignment. Specific conditions are set by Ministerial Decree No. 217/2010 Coll., on determining qualifications for professional soldiers' service assignment. It includes a list of levels of education, the attainment of which is necessary for a soldier to be able to serve in a particular service assignment. The levels of education come from the legal regulation of regional[5] and higher educational system[6]. The basic attained level of education for duty performance in the rank level of enlisted personnel and non-commissioned officers is secondary education with an apprenticeship certificate. Attaining the upper secondary education level with a school-leaving examination is required for the assignment of a soldier to the rank level of warrant officers. Officers must attain the tertiary education level; junior officers have to graduate from the bachelor's study program and senior officers and generals have to attain university education in the master's study program. In addition to the abovementioned military schools, a soldier can, of course, attain a higher level of education at civilian schools in the Czech Republic or abroad. The State Secretary Division sets out the departmental requirements for education in the accredited study and educational programs and passes them to military schools for consideration. Subsequently, these educational requirements in the following calendar year are published on the intranet (the MoD Staff Information System).

Education and training focused on meeting the qualification requirements are mainly implemented in military career courses, language courses and other professional courses. The qualification requirement is, in particular, to complete a military career course, to acquire the language knowledge and other professional knowledge necessary for duty performance in a designated position. There are a total of six types of military career courses, which copy the levels of rank levels. These are the non-commissioned officers' course, the basic warrant officers' course, the higher warrant officers' course, the junior officers' course, the senior officers' course and the General Staff's course, which is the highest course in the hierarchy of career courses. The last two courses take place at the University of Defence, the other career courses are held in Vyškov. The Ministry of Defence pays great attention to the language knowledge of soldiers and has established the knowledge of English language to be one of the basic qualification requirements. Among other things, the internal regulation of the Ministry[7] specifies expressly the level of English language knowledge required for the service assignment to certain rank levels or command positions. Therefore, the Ministry of Defence provides language courses, in which

[5] *Act No. 561/2004, Coll., on pre-primary, basic, secondary, higher vocational and other education (Education Act), as subsequently amended*

[6] *Act No. 111/1998 Coll., on higher education institutions and on amendments and supplements to some other acts (the Higher Education Act)*

[7] *Order of the Minister of Defence No. 108/2014 Bulletin, on language education of personnel within the Ministry of Defence*

the Language Centre of the University of Defence or other non-departmental educational facilities are involved. To meet qualification requirements, various professional courses are also organized. They most often take place at the Training Command — Military Academy in Vyškov. It is a whole series of courses that are organized depending on the expert knowledge needed for duty performance of a soldier in a certain position. These courses may also be completed by soldiers in an active reserve or soldiers in a non-active reserve. The requirements for providing the courses are determined by administrators of military occupational specialties; by the end of June, the State Secretary Division of the Ministry of Defence sends these requirements to the chiefs of educational and training facilities to consider them and state whether they are able to provide these courses in the next calendar year. An overview of career, language and professional courses is published by the Educational Policy Department at the intranet address (MoD Staff Information System).

The Act on professional soldiers stipulates that the Ministry of Defence can provide the retraining of a soldier, whose employment relationship will be terminated and has taken at least five years. The Personnel Agency of the Army of the Czech Republic is entrusted with the responsibility for retraining. Every year, an offer of retraining courses for the next calendar year is published. Soldiers may enrol for these courses so that they can complete them before the termination of their employment relationship. The costs of these courses are borne by the state and the participation of soldiers in them is considered to be the duty performance period. This is the benefit of the state to allow former soldiers to enter the labour market more easily after the termination of their service in the Armed Forces.

Soldiers can also participate in educational activities abroad. They can study mainly in language courses; however, it is also possible to take part in professional or career courses. Of course, the achievement of required language knowledge and skills before their sending to a course is a necessary condition. The list of planned foreign courses is also published on the intranet of the Ministry.

3. Methodology

In the period of 2016 and 2017, the research has been performed in several stages at the Faculty of Military Leadership of the University of Defence in Brno. It has been aimed at identifying the decisive reasons for the participation of selected professional soldiers' groups in further professional education. The selected results are presented in the text.

With regard to the set objectives, the combination of quantitative and qualitative approaches has been used. The data collection has been carried out using questionnaires. The questionnaire contained a combination of 21 closed and semi-closed questions focused on establishing respondents' opinions and attitudes.

The theoretical starting point of the research project has been the concept of lifelong learning and the economic-sociological theory of rational choice. The implementation of research has been based on the assumption that the participation of adults in educational activities is influenced by motivation. The willingness of the respondents to participate in education has been considered to be a basic internal motivating factor for the research needs, the support provided by the supervisor has been considered to be an external factor. The research project is focused on clarifying three main research questions.

The basic set was formed by the random selection of professional soldiers proportionally representing all rank levels. In total, 240 professional soldiers were asked to fill in the questionnaires. Due to their incomplete completion, 36 questionnaires were excluded. In total, 204 questionnaires of respondents were evaluated as they were completed correctly and submitted by the date stated. →

4. Interpretation of selected data

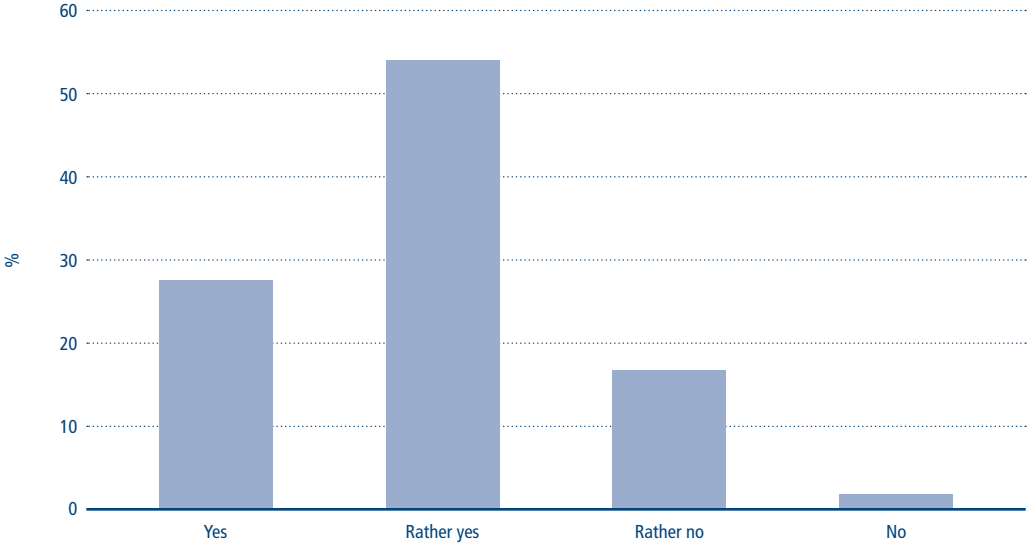
In total, more than four fifths of respondents consider the knowledge attained in the previous period to be sufficient for fulfilling the specified activities resulting from the description of their service activities (figure 1). Only 18.62 % of respondents assess their knowledge critically and evaluate it as inadequate in terms of a given service assignment.

Another important motivating factor is the possibility to apply the acquired knowledge in the performance of specified service activities. A statistically significant part of the respondents (79.9 %) have stated that they have a possibility to apply the acquired knowledge in the performance of their professional tasks. Only 11.76 % of the respondents have stated that they would rather not have a possibility to use their knowledge and 8.33 % of the respondents have stated they do not have a possibility to use the acquired knowledge (figure 2).

In the first round of data collection in 2016, a relatively unfavourable development became evident, when monitoring the conditions for attending the courses of further professional training on the part of superiors; only 40 % of respondents answered yes or rather yes. As the number of respondents increased, the evaluation of support for the creation of conditions for further professional training was fundamentally corrected. A total of 71.57 % of respondents answered the question positively (figure 3).

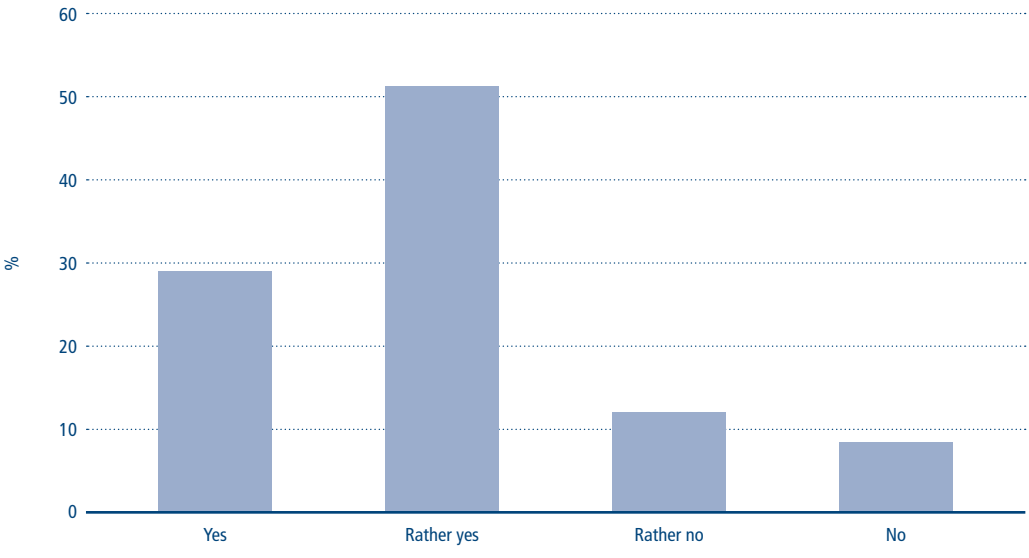
An important motivating factor is the fact, which respondents consider so important that it is a reason for them to be engaged in professional training. The superior's request was a reason for participating in training activities for a total of 24 professional soldiers. A total of 120 respondents consider the participation in the courses as a means of acquiring new knowledge that is necessary for their exercise of activities. A total of 45 respondents comment on their participation in professional training pragmatically; they consider it a tool to meet the prescribed qualification requirements, i.e. in relation to the decision of the author-

Figure 1 » *Ideas of the sufficiency of knowledge for the performance of service activities*



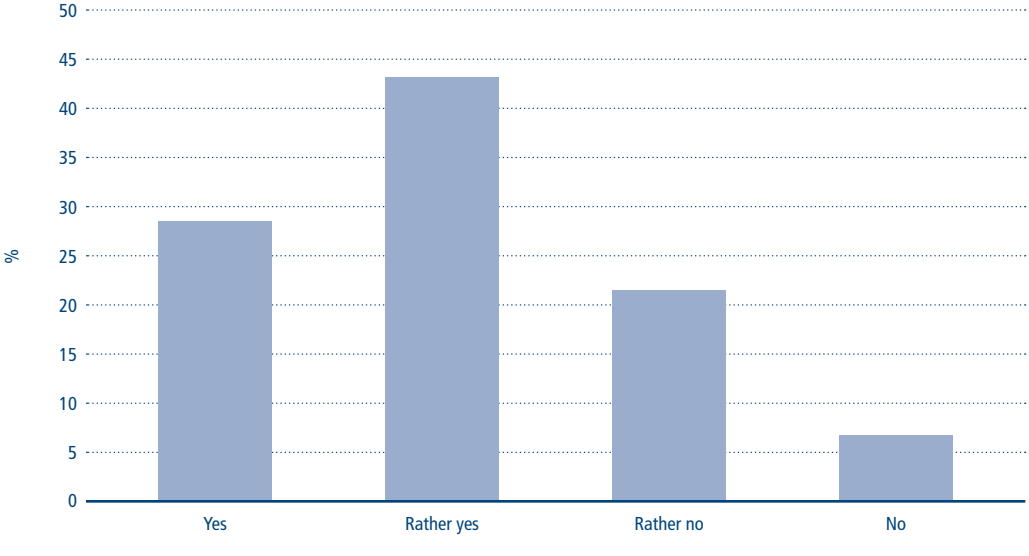
Source: Social competencies of a soldier-leader; University of Defence, Faculty of Military Leadership, 2017

Figure 2 » *Possibility to apply the knowledge acquired in the further professional training*



Source: Social competencies of a soldier-leader; University of Defence, Faculty of Military Leadership, 2017

Figure 3 » *Creation of conditions for further professional training*



Source: Social competencies of a soldier-leader; University of Defence, Faculty of Military Leadership, 2017 →

ized service authorities to extend the duration of their employment relationship. A total of 47 respondents consider participation in career and professional training to be important, namely in relation to a possible change in the job assignment. A total of 2 soldiers say that the personality and professional development is a decisive reason for participation. It should be noted that some respondents (34 soldiers in total) have selected more than one option from the offered portfolio of possible answers.

5. Summary

Professional training of workers is crucial to the success of an organization; as a rule, it is linked to the human resource management strategy and career policy because professional and personality development is a prerequisite for the career advancement.

The system of military personnel training within the Ministry of Defence is based on the concept of lifelong education and training. Expanding this concept is one of the possibilities how to achieve a closer link of educational outcomes to the processes of career planning and career management. It is an approach that can theoretically justify and help in creating prerequisites and conditions in practical activities for acquiring and developing qualifications through diverse study paths, namely in the combination with corresponding educational strategies. Further professional training in the conditions of the department is influenced by the specific environment and the nature of the required service activities. Besides education and military training, further education of professional soldiers includes the basic components of training and development.

The research has proved that the education and the development are a decisive tool to acquire and develop knowledge and skills in the specific area of security and military affairs. The majority of respondents are aware of the importance of education for their professional development and consider it an important prerequisite for further career advancement in the network of careers, namely in view of the fact that the career advancement of soldiers is linked to the service assignment to a position with a higher rank, which corresponds to higher demands on the level of qualification requirements and qualifications.

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Selected Issues of Further Education of Professional Soldiers in the Czech Republic

ABSTRACT

This article deals with selected aspects of further education of professional soldiers in the Czech Republic. The method of description, analysis and questionnaire survey has been mainly used. The paper is divided into three logically arranged parts. The first part provides a clear overview of the key concepts of further education, including the use of legal definitions. It includes the definition of concepts, e.g. education that can be generally perceived as a process ensuring well-educated and qualified human resources for an organization as well as further professional education, which identifies different forms of vocational and professional education during the active working life, i.e. after the end of initial education in the school system. Further professional education, which aims to develop not only knowledge, but also attitudes and skills to exercise a particular profession, is important for the competitiveness and prosperity of an organization. Therefore, it is linked to the human resource management strategy and career policy, including systematic education and the development of workers. Further education belongs to the basic components of training and development of professional soldiers throughout their employment relationship, in addition to military education and training. The second part of the paper focuses on the specifics of further education of professional soldiers in professional and career courses both on a theoretical and practical level. A specific system in this segment of further (non-formal) education represents the education and development of professional soldiers, which is in the Czech Republic under the authority of the Ministry of Defence. The management of the Ministry of Defence devotes adequate attention to the area of personnel work and education of all categories of personnel. The training system is adapted to the requirements of the Armed Forces and the needs of work in international organizations. Therefore, the compatibility of NATO and the European Union systems is increasing even in the field of education. The basic document defining the requirements and strategic objectives of the Army development is the Concept of the Build-up of the Armed Forces of the Czech Republic 2025 (2015). The priority is to increase the attractiveness and competitiveness of military profession, to apply the elements of career management systems in personnel work, to ensure the conditions for comprehensive training and staffing. Professional training is influenced by a specific environment and the number of people. It is implemented in educational institutions, facilities and military units. Finally, the third practical part of the paper deals with the issue of further education of professional soldiers in the Army of the Czech Republic in the context of lifelong education and learning. It brings selected research data that has been focused on tracking and exploring aspirations, the motivation of soldiers to participate in further professional training. The aim of the presented research results has been to identify the soldiers' key reasons for participating in further professional training, especially in career courses, language education, specialized training and within self-study.

KEYWORDS

Competency; career courses; further education; professional soldiers; concept of soldiers' training; research

JEL CLASSIFICATION

J24

Silent Handling of the Case in Administrative Proceedings

Dr. Karolina Muzyczka » Kolegium Jagiellońskie Toruńska Szkoła Wyższa, Prosta Street 4, 87-100 Toruń, Poland; email: kontakt@kj.edu.pl

* *1. Introduction — admission*

The institution of silence of public administration is a problem regulated in a very diverse way in the Member States of the European Union, still arousing many polemical scientific discussions, especially in the field of its classification within the legal frameworks of public administration bodies. The silent settlement of the case is of a different nature, namely it takes the form of both positive and negative decisions, takes the form of a general and specific solution. Such solutions exist in Germany, France, Italy, Spain (Kubiak, 2009), Portugal (Snażyk, 2015), as well as in the Netherlands or in Romania, Albania and Serbia (Sześciło, 2016). It should be noted that the institution of silent settlement is regulated in administrative procedures at the EU level in Directive 2006/123/EC of 12 December 2006 of the European Parliament and of the Council[1]. The silence of the public administration body in the Polish administrative procedure has been regulated in the Act of 7 April 2017 amending the act — Code of Administrative Procedure (k.p.a.) in Chapter 8a of Section II[2]. In the Polish legal system, the silence of the administration produces legal effects, if the provision of the substantive law so provides. Silence understood in this way is a legal institution separate from omission, which is understood as inactivity of the organ. The inaction of the public administration is based on the failure to act by the body in a situation where the legal norm requires it. The excessive length of proceedings is a separate phenomenon from the silence of public administration that has a legal effect that has legal effects. It consists in undertaking actions by the authority, which, however, in an unjustified way lead to the extension of the deadline for settling the matter. The Polish legislator accepts the principle that the silence of public administration is a fiction of a positive decision, whereas in many European countries the fiction of the silence of public administration is equated with a negative decision or inactivity of the body[3], which requires special protection of

[1] *Dz. Urz. UE L 376 z dnia 27 grudnia 2006 r., it is so-called service directive. On the solutions adopted in the directive, see Kurach (2012, p. 333–335) and Sześciło (2016, p. 269–270).*

[2] *The Act of 7 April 2017 amending the act — Code of Administrative Procedure and some other acts, Dz. U. of 2017, item 935. Justification to the Act of 7 April 2017 amending the Act — Code of Administrative Procedure and certain other acts. Sejm print no. 1183.*

[3] *Gronkiewicz (2017, p. 231) indicates, however, that the regulations in force in the specific administrative law provisions show*

the individual against this form of administrative failure[4].

The issue of silence of the public administration body is a considerable issue, however, the number of studies on this subject is still insufficient. For many years, there has been a discourse in the doctrine concerning various definitions of the silence of public administration bodies. In the light of the first of them, the entity's performance of activities that could lead to the silent formation of rights (eg notification of construction works, notification of the intention to purchase shares of the domestic bank) triggered administrative proceedings of general jurisdiction[5] (Frankiewicz and Szewczyk, 2005; Bochenek, 2003; Kruś, Szewczyk and Szewczyk, 2014; Wajda, 2012, p. 53).

In the light of the second view, the abovementioned activity of the individual (ie the application) could not have the effect of initiating administrative law-wide administrative proceedings, because the kpa did not foresee a silent form of resolving the matter. Hence, this regulation could not be found in principle in such cases. Making an application or notification by an entity resulted in the body's obligation to carry out control activities. The administrative jurisdiction could be initiated ex officio, when in the course of these activities the body came to the conclusion that in the analyzed case an administrative decision would be necessary, for example to file an objection which analyzed the issue of compliance with the Constitution of the Act amending the Act — Prawo construction, extending the scope of construction works requiring prior notification, instead of obtaining a building permit. The Tribunal accepted in this judgment that the application does not initiate administrative proceedings within the meaning of the provisions of the code of A similar viewpoint has been adopted by adjudicating panels of administrative courts. Even if, on the basis of the current regulations, adopt the first of the discussed concepts, it should be noted that before introducing the commented provisions of chapter 8a kpa did not ensure system consistency, since it was not foreseen that individual case could be dealt with in a different way than by issuing an administrative decision or exceptionally terminating the proceedings. Introduction by the legislator of the provisions of art. 122a–122g undoubtedly removes this incoherence[6].

Such a state causes opposing interpretations of the substantive law norms that determine the legal consequences of administrative silence, and also leads to a lack of coherence in views as to the classification of silence of public administration bodies. From the point of view of the science of legal forms of administration, it is important to determine the place of the administration's silence in the system of legal forms of performing (acting) →

that it is difficult to clearly indicate that in the case of tacit consent, it is always a fiction of a positive decision, because proceedings that are not jurisdictional but only technical or mixed, which makes it a fiction to undertake material and technical activities.

4 *In France, art. 21 of Law No. 200-321 of 12 April 2000 on the rights of citizens in their relations with the administration (Loi no 2000-321 du 12 avril 2000 relative aux droits des citoyens dans leurs relations avec les administrations) provides that, subject to in which the acceptance decisions are based on tacit consent, the silence of the competent authority for a period of two months in the administrative case initiated at the request of the party is tantamount to a refusal. In Italy, the legal system distinguishes the silence of administration in the positive sense (silent approval) and in the negative sense (refusal, rejection of the party's application) and silence understood as inaction, with which the law does not bind any legal effect — this is art. 2 para. 1, 5 and 20 „of Act No. 241/1990 on administrative proceedings of 18 August 1990. In Germany, failure of the administration to act is a negative phenomenon and this is a phenomenon that is illegal, as stipulated in § 113 para. 5 of the Act of 21 January 1960 on the system of administrative courts and proceedings before them. In Spain, the law provides that in some cases the administrative silence is positive, which means that the application is recognized as demanded. However, the rule is that the silence of the administration is tantamount to a refusal, and the citizen knows that after the deadline for the decision, he can appeal the refusal. This regulation is included in art. 43 of Act No. 30/1992 of November 26, 1992 on the legal system of public administration and the common administrative procedure.*

5 *This view was presented in case law: wyrok WSA z dnia 6 listopada 2007 r., VI SA/Wa 988/07, niepubl; wyrok NSA z dnia 27 września 2012 r., II OSK 1010/11, legalis nr 552311; wyrok WSA z dnia 17 listopada 2005 r., II OSK 197/05, legalis nr 80730.*

6 *Wyrok WSA z dnia 23 października 2015 r., legalis nr 1372214; wyrok WSA z dnia 29 kwietnia 2015 r., II SA/Go 5/15, niepubl.; wyrok WSA z dnia 2 kwietnia 2014 r., IV SA/Po 1074/13, legalis nr 978716.*

public administration. All the more so because the Act of 14 June 1960 — the Code of Administrative Procedure, after changes made as of 1 June 2017, provides in art. 1 point 1 in fine, that a silent manner is a form of solving an individual case in the jurisdictional proceedings.

2. Institution of silence as a special legal form in administrative proceedings

The legal character of the institution of silence of the administrative organ within the meaning of substantive law is expressly permitted by law and is aimed at creating, transforming or removing basic material and legal relations. Silence is a specific, legal way of the administrative organ expected by the law. However, in some cases, the notion of silence will overlap with the concept of inaction. This happens when the provisions, in the event of non-performance of a basic form of action at a given date, focus on the legal mechanism of producing substantive legal effects, usually positive for the administered entity, rather than indicating the administrative and systemic effects of the administrative organism. legal rights that are vested in the administered entity in connection with the omission of the body (Dobosz, 2011). In this situation there is silence related to inaction. In the event of such a method of settling the matter, no liability of the administrative organ should arise, since it is authorized by law (Dobosz, 2011). After the amendment to the p.p.a. the current statement remains that the fiction of positive resolution of the case is the construction of substantive administrative law, normalized by both procedural and substantive law (Wasiutyński, 1926, p. 201). The silence of the administration has not been defined in the provisions of Chapter 8a of Section II of the k.p.a. In art. 122a k.p.a. only the division of the administration's silence into two conceptual categories was made. However, there is a lack of regulation of the definition of the notion of silence, which means that changes introduced to the Code of Administrative Procedure are difficult to consider as revolutionary (Wasiutyński, 1926, p. 204). As the legislator uses the notion of silence of the administrative organ in many provisions of various acts. Dobosz (2011, p. 350) assumes that 'one can speak of a generalized type of public administration behavior — hence it is only a step to fully legitimate statement that it is a form of public administration activity'. he institution of silence is identified with the form of activity of administrative bodies belonging to the current classification, i.e. a concluding act (Majchrzak, 2007, p. 158) and a materialistic activity (Ostrowska and Stelmasiak, 2010, p. 601). Also, the institution of silence in administration is defined as a form of action that breaks out of traditional classifications and defines, as a kind of legal event, triggering a legal effect that results directly from the provisions of the Act (Kubiak, 2009). Dobosz (2011, p. 204) specifies silence as 'a form of administrative action, applicable in a situation defined by the hypothesis, a universally applicable material and legal norm in which the manifestation of the will of the administrative body in the form of silence produces a specific legal effect, in principle positive for an individual administered entity located in specific facts'. This author emphasizes that the legislator uses the substantive law form of silence when he wishes to have legal effect against the subject administered in a form other than an administrative decision. For the separation of the administration's silence in the sphere of substantive law, other representatives of the doctrine, including M. Stahl (Stahl, 2013, p. 393) or indirectly B. Adamiak (Adamiak, 2009), who, referring to the concept of administrative authority, provides for the possibility of the legal construction of material silence leading to the effectiveness of the material and legal activities of the individual. In the opinion of J. Zimmermann, the silence of the administration should be understood as a kind of administrative body, consisting in expressing will through silence (Zimmermann, 2016, p. 448).

When adopting the concept of legal form of the administration's activities for silent settlement of

the matter, it is necessary to consider what is legal in law: failure by the administrative authority to raise the opposition in a material law from the date of the party's intention to take a legally determined act or not to make a decision or decision ending proceeding in the case within the time limit set by law, from which the legislator ends the effect in the form of a positive conclusion of the case. The failure of the public administration body to take action is a manifestation of the organ's informed decision, and therefore a deliberate lack of action, i.e. a form of behavior of the public administration body. The silence of the administrative body is related to the failure of the body to take the form of public-law activities. In a specific situational context with the organ's silence consisting in the non-implementation of a particular form of action, certain material and legal effects are involved. So the question here is whether this is a special form? And if it was possible to talk about it as a special form, before adding chapter 8a to k.p.a., then after the amendment, the conscious failure to public administration body can be included in the ordinary forms of administration activity? Representatives of the ordinary form of the administration's operation indicate that it is a factual activity in the external material and technical sphere (Kubiak, 2009). Such a classification can be applied to the very certificate of the body confirming the legally effective passivity of the administration, but in the case of tacit resolution, it is a kind of act of administration inaction directly resulting in legal effects. Within the mainstream, according to which the silence of administration is a special legal form of its operation, it is indicated that silence is a concluding act, which consists in the fact that the end of the proceedings or the lack of objections within the prescribed time limits the legislator's effects. This is the expression of will by the authority, i.e. an implied administrative act that is the basis for establishing an administrative-legal relationship (Dobosz, 2010, p. 148).

Interesting are also views that do not contradict the above considerations, but indicate that the silence of public administration is a legal form of action that breaks out of the traditional classification, because it is the cause of legal effect determined by the disposition of a legal norm (Masternak and Szalewska, 2010, p. 491). Silence is not a source of legal effect, but its cause is an element of the factual state with which substantive law has a certain legal effect. Refraining from taking an administrative act is understood by those authors as an element of the facts with which the norm binds legal effects. Such an understanding of a silent settlement of the matter consisting in leaving the unit to determine its legal rights or obligations as a result of a specific legal action (eg notification, registration) and granting the authority the competence to check the compliance of this activity within the period specified by the law confirms the specific character of this institution de facto a legal act, but also a non-material and technical activity, but a legal event with which the norm involves a legal effect. T. Bąkowski was somewhat different in the subject of silence of the administrative body. He pointed out that silence is not the result of the application of the norm of administrative law, because the materialized result of applying the norm, and consequently it can not be subject to judicial review. This author pointed out that silence is a legal event with which the norm of substantive law is binding legal effect (Bąkowski, 2010, p. 108). The norm that determines the authority's authority to silence causing a legal effect shapes the legal situation of addressees. An interesting concept of silence was also presented by B. Adamiak, who stated that silence is a form of public-law authority, which means granting the effectiveness of the individual's actions taken as a result of the silence of public administration, as being consistent with the law. This author points to three behaviors of administrative bodies shaping the legal situation of the administered entity, ie silence, issuing decisions and material and technical activities. Silence guarantees the durability of the substantive actions of the unit, which is not subject to verification (Adamiak, 2009, p. 27). In further deliberations, →

the author distinguishes two constructions of the activities of public administration bodies. First, when an individual's activity shapes his rights and obligations directly, provided that the authority does not interfere. Secondly, when the material and legal activity of an individual requires the right to undertake legal action by the body or factual activity of a material and technical nature. The concepts of classification of legal forms of administration in this way show that B. Adamiak also counts the silence of the administration to specific (atypical) legal forms of public administration bodies that are not legal or factual activities (Adamiak, 2009).

3. Institution of silence in the provisions of substantive law

During the Kingdom of Poland, and then after Poland regained its independence, the legislator gave legal significance to the institutions of silence of administrative bodies. There are some examples of tacit deal, such as the decree of 4 February 1919 on municipal government in the Congress Kingdom[7]. In art. 39 of the decree constituted an institution of silence in the internal sphere, in relation to acts of general administrative bodies, i.e. indicated that municipal council resolutions requiring the consent of the supervisory authority are put into exercise, provided that the supervisory authority within two weeks from receiving these resolutions they will not suspend them or prohibit their implementation. Another example of silence regulated in the Decree of February 7, 1919 on printing plants[8], regarding undertaking business activity, in art. 4 stipulated that if within two weeks of the notification of the intention to establish a bet there was no negative response from the administrative authority, this is equated with the issuance of a positive act. In the decree of February 7, 1919, regarding temporary press regulations[9]. In art. 17 of this dektrtu, the administrative authority was authorized to forbid issuing a magazine for reasons in the Act listed within seven days of submitting a declaration of intention to publish a magazine. If the ban was not issued within the specified period, the magazine could go out. It was an example of active tacit consent, by not putting a ban on it. In turn, the Act of July 18, 1924 on changes in building regulations for the village[10] in art. 2 made the erection of new single-storey buildings dependent on the permission of the commune head. Unless a response was received within three weeks of the request, the permit should be deemed to have been granted on the terms specified in the request. This is an example of passive silence. As early as 1926, Wasiutyński (1926, p. 214) pointed to two forms of silence of administrative bodies, stressing that '[t]he laws, if they wish to replace the possible lack of a manifestation of the will by the administration, use a positive form in the interpretation of silence. And this in two forms. They order silence to be considered as consent to a resolution, notification, application, or the silence of power is considered to be a non-use of the law of prohibition, which means indirectly a positive consent to settle the matter'. The two forms of silence indicated by B. Wasiutyński are active / active silence as well as passive / passive silence. Silence for a certain period of time that constitutes consent to the applicant's actions is an example of passive silence, while non-exercise of the right to prohibit, refuse, and submit objections constitutes an active tacit agreement. The above leads to the conclusion that as early as in the interwar period, the legislator saw the need to regulate the administration's silence as a guarantee for the administrators that the administration would not stop their activities for a long

[7] *Dz. P. 1919 Nr 13, poz. 140.*
[8] *Dz. P. 1919 Nr 14, poz. 146.*
[9] *Dz. P. 1919 Nr 14, poz. 186.*
[10] *Dz.U. 1924 Nr 73, poz. 715.*

time. Regulating the silence of the administrative body with legal provisions was aimed at improving administration. At that time, it was debated whether a manifestation of will can be attributed to silence, if the substantive law does not explicitly mention it. B. Wasiutyński categorically indicated that while the silence in private law can be regulated in a general way and produce legal effects, administering is a permanent and uninterrupted process. One can not presume without proper legal basis that passive administration should be attributed with positive legal effects. The lack of power, without a clear legal basis, can not be translated, justified and considered as a form of action (Wasiutyński, 1926). In these cases, refraining from the decision would not be lawful. This concept has guided the Polish legislator to this day. Therefore, it is extremely important to analyze the regulation of substantive law standards that allow for the attribution of legal effects to the silence of public administration bodies. For years, the institution of silence in Polish administrative law was a structure regulated in substantive law laws, but it was of a material and procedural nature. The substantive law provisions contain also procedural provisions. The phenomenon of administrative silence after the Second World War was not very common and functioned as an exception to the rule (Kubiak, 2009, p. 35). Interestingly, substantive law also provided for the fiction of a negative decision by the authority as a result of silence. Article 12 para. 1 of the Act of July 31, 1981 on the control of publications and performances[11] It provided that the dissemination of publications and performances required the consent of the competent authority, which should have been reported to the inspectorate. The inspection authority issued a decision on this subject within 30 days from the date of delivery of the notification, it will not raise objections by way of a decision. This is the active silence of the public administration body. The second regulation concerns silent cooperation in issuing decisions regarding: (1) mining plant operations — they require agreement with the director of the competent district or specialized mining office; (2) maritime protective belt — require agreement with the relevant director of the maritime office. Not accepting the position within 14 days by the competent authority to agree means no comments or reservations. The regulation of passive silence is included in the legal regulation of art. 38 par. 2 and 3 of the Act of 21 March 1985 on public roads[12], which in essence means that the road administrator must issue an administrative decision only if he wants to refuse to give his consent for the renovation or reconstruction of the so-called existing road lane. non-road construction facilities and equipment. It is not necessary to issue a decision to agree. The effect of a positive decision is here, by law, with the expiration of a fourteen-day material period. The expiration of this term means the legal silence of the road administrator, which results in a positive settlement of an individual administrative case. In addition to such situations of silent settlement of the matter, numerous cases of tacit consent can also be found in substantive law (Staniszewska, 2018, p. 65), Another group of regulations concerns the implementation of economic and construction investments. In art. 85a paragraph 3 of the Act of 9 June 2011 — Geological and Mining Law[13], the legislator is an active silence consisting in the lack of expressing by the minister competent for environmental issues an objection to the submission of a draft geological work. The structure of silence is used by the legislator in art. 14o of the Act of August 29, 1997[14] — tax ordinance introducing the so-called tacit interpretation of tax law. Pursuant to →

[11] *Dz.U. z 1981 Nr 20, poz. 99.*
[12] *T. j. Dz.U. 2017, poz. 2222.*
[13] *T. j. Dz.U. 2017, poz. 2126.*
[14] *T. j. Dz.U. 2018, poz. 800.*

this provision, in the case when the competent authority does not interpret individual tax law provisions within 3 months from the date of receipt of the application, it is considered that on the day following the date of the expiry of the interpretation, an interpretation was issued stating the correctness of the applicant's position in full. The regulation constituting an example of the organ's silence already in force before the amendment of the code was Art. 6 par. 2–4 of the Act of November 7, 2008 on the European Grouping of Territorial Cooperation[15], stating that for the accession of a local government unit, public law entity, public enterprise or enterprise, the consent shall be expressed by a minister competent for foreign affairs in agreement with the minister competent for internal affairs, the minister competent for public finance and the minister competent for regional development. The authority to which the minister competent for foreign affairs has requested a decision to be agreed shall hold the position within 21 days from the date of receipt of the statement. Failure to take a position on time is considered as a reconciliation of the decision. The minister competent for foreign affairs may apply to another minister for expressing his opinion on the consent to join the grouping or to approve its convention if it is justified by the nature of the group's activities. Not accepting the position within 14 days from the date of receipt of the request for expressing opinion is considered a positive opinion, which is an example of silent cooperation. However, the most controversial issues arise from the provisions of silence under construction law. In the Act of 7 July 1994 — construction law[16], the regulation of silence was amended by the Act of 16 December 2016 on amending certain laws to improve the legal environment of entrepreneurs[17]. The legislator decided to shorten the deadline for the use of tacit consent, which was aimed at enabling the commencement of construction in an even shorter time j. Before 21 days from the date of filing, and not after 30 days, and provided the opportunity to obtain a certificate of no grounds for appeal. An investor, having such a certificate, may legally start construction or construction works without waiting for the 21-day deadline to expire. The silence of the body is contained in art. 30 para. 5 and 5aa, art. 39 par. 4, art. 54, art. 56 sec. 2, art. 67 sec. 4 and art. 71 par. 4 construction law. As it results from the first of the aforementioned provisions, before the date of intended commencement of construction works, a construction notification should be made to the competent authority. Building works may be commenced if within 21 days from the date of delivery of the notification, the competent authority, by way of a decision, does not raise any objections. However, art. 30 para. 5a stipulates that the architectural and building administration body may ex officio, before the deadline of 21 days from the date of delivery of the application, issue a certificate on the lack of grounds for lodging objections. The issuing of the certificate excludes the possibility of opposition and authorizes the investor to com-

The institution of silence of public administration is a problem regulated in a very diverse way in the Member States of the European Union, still arousing many polemical scientific discussions, especially in the field of its classification within the legal frameworks of public administration bodies.

[15] *Dz.U. Nr 218, poz. 1390.*
[16] *T. j. Dz.U. 2017, poz. 1332.*
[17] *Dz.U., poz. 2255.*

mence construction works. This regulation is to simplify and speed up construction proceedings. This regulation of silence aimed at simplifying the procedure and accelerating the possibility of starting a construction investment. Acceleration causes a person whose subjective rights or interests may be affected by the construction works covered by the application, i.e. a person who meets the conditions specified in art. 28 k.p.a., can not participate in the proceedings initiated as a result of filing a construction declaration, it is not a party to this proceeding. It should be noted that the regulation of silence in the pp.a. excludes the application of the general provisions of the procedure, and the authority, which received the notification, only takes steps provided for in the construction law — of course, this is an example of active silence. This raises the question whether the interests of the party, eg a neighbor interested in settling the matter other than the applicant, ie the interests of the party interested in issuing the objection by the administrative body, are sufficiently secured in the case of inactivity of the body or confirmation by the authority of no objection. Certainly, such a party should demonstrate activity at the stage of proceedings before the first instance authority and provide arguments for expressing objections. However, she may not know in good time about the running of the deadline for a silent handling of the case. In such a case, after the deadline, the case will be resolved in accordance with the content of the applicant's application, but to the detriment of the party concerned by another decision. According to art. 54 of the Construction Law Act, the active silence of the body consists in not raising the objection by way of a decision within 14 days from the date of delivery of the notification of completion of the construction of a building for which construction permit is required. No objection causes the applicant to proceed with the use of the object. The law does not express the conditions for objections raised by the authority. In case law, however, it is pointed out that the basis for filing the objection may be the significant withdrawal by the investor from the building project or other conditions of the building permit[18], failure to complete the notice of completion of the construction despite the summons being called by the authority, despite[19] the fact that the authority fails to perform all construction works[20]. Among these premises, the case-law does not distinguish the interest of an entity located in the area of the object's impact. As in turn, it is art. 71 par. 4 of the Building Law, before making a change in the way of using a building object or its part, a notification must be made. The change of use may take place if within 30 days from the date of delivery of the notification, the competent authority does not raise objections by way of a decision and no later than after 2 years from the date of notification. This is another example of active silence. When changing the use of an object or its part, in each case the authority, in the public interest, should carry out a detailed assessment of whether the intended new use of the facility or its parts will not interfere with the interests of the users of the building, but also primarily whether there is a violation of legitimate interests of third parties, because in this proceeding, as in the proceedings referred to in Article 30, apart from the reporting entity, there are no other parties, although the matter may concern their legal interest. It is obvious that a change in the way the object or its part is used may result in unfavorable effects for the environment, in particular in the sphere of health, sanitary and hygienic conditions for neighboring properties. Therefore, the silence of the administration should be preceded by broad arrangements of the body, especially taking into →

[18] *Wyrok NSA z dnia 21 września 2007 r., II OSK 1535/06, lex nr 425357; wyrok WSA z dnia 20 maja 2009 r., II SA/Gd 104/09, lex nr 547305.*

[19] *Wyrok NSA z dni 31 stycznia 2007 r., II OSK 267/06, lex nr 315985.*

[20] *Wyrok NSA z dnia 27 marca 2007 r., II OSK 520/06, lex nr 503755.*

account the lack of the possibility of appeal from such a positive decision by third parties. New regulations that came into force after the enactment of the amendment to the p.p. introducing institution of silent settlement of the matter, are: art. 53b par. 3 of the Act of 23 January 2009 on the National School of Judiciary and Public Prosecution[21], concerning the appointment of teachers, and art. 9o paragraph 5 of the Act of 28 March 2003 on rail transport[22], which stipulates that the draft decision on locating the investment of a railway line will be agreed by the Director of the Regional Water Management Board of the Polish Water Pol- ish State, within 14 days from the date of delivery of the draft decision on determining the location of the railway line. In the event of failure to accept a position by the indicated date, the reconciliation is considered to have been made. The regulation contained in art. 423 par. 2 of the Act of 20 July 2017 — Water Law[23] is an example of active silence. This provision stipulates that water, legal actions, works or equipment subject to water-legal notification may be commenced if, within 30 days from the date of delivery of the notification, the competent authority for water-law applications does not lodge, by way of a decision, objection and no later than after 3 years from the date of their commencement specified in the application. Making a water-legal declaration does not exempt from the obligation to obtain the agreements and decisions required under separate regulations. The completely new regulation is art. 43 par. 9 of the Act of 25 May 2017 The completely new regulation is art. 43 par. 9 of the Act of 25 May 2017 on the Restitution of National Cultural Property[24], stating that permission to permanently export a monument abroad and to permanently export a cultural object abroad is issued after obtaining the opinion of the minister competent for foreign affairs. The minister's opinions are issued within one month from the date of the request for an opinion. Not taking a position on time is considered a positive opinion. The existing special statutory provisions, which were in force before the entry into force of Chapter 8A of the Code of Administrative Procedure, apply according to the general lex posterior generali non derogat legi priori specialis. In contrast, the new substantive provisions of the specific laws have and will apply according to the rule lex specialis derogat legi generali (Wiktorowska, 2017, p. 193). The legislator, therefore, took the trouble to pass new regulations constituting the silence of public administration bodies to fulfill the objectives set out in the amendment act of the Administrative Procedure Code. The amendment, however, did not affect in any way the increase in the number of cases tacitly resolved on the basis of material laws in force before the amendment of the kpa was in force[25]. On the basis of construction law, many complaints are made about the silent handling of the case. The organs of architectural and building administration, despite granting them the right to issue certificates of no grounds to lodge objections, do not issue such certificates ex officio, because the deadline for tacit acceptance of a large number of such cases is too short to reliably check the enclosed documentation (Kafar, 2017). Changes in k.p.a. were to facilitate and accelerate the examination of cases in public administration bodies, but this effect, unfortunately, was not achieved on the ground of construction law. The parties to the proceedings have problems with distinguishing

21 *T. j. Dz.U. 2018, poz. 624.*

22 *T. j. Dz.U. 2017, poz. 2117. Regulacja art. 9o ust. 5 obowiązuje od 1 I 2018 r., a dodana została art. 498 pkt 1 lit. c ustawy z dnia 20 lipca 2017 r. (Dz.U. poz. 1566), zmieniającej przywołaną ustawę z dniem 1stycznia 2018 r.*

23 *Dz.U., poz. 1566.*

24 *Dz.U., poz. 1086.*

25 *For example, the number of tacit confirmed cases in the period from June 1, 2017 to March 31, 2018, pursuant to art. 30 para. 5 of the construction law in comparison with the period from June 1, 2016 to March 31, 2017 has not increased (see statistics on matters resolved tacitly by the Mayor of Poznań obtained in the mode of access to public information on April 24, 2018.*

the application procedures, i.e. ordinary applications and applications with an obligatory project. For this reason, despite the possibility of using simplified forms of construction consent (applications with the project), they still prefer the proceedings concluded with the issuance of an administrative decision. As A. Gronkiewicz points out, individuals often avoid using the mode of silent handling of the case due to the feeling of uncertainty about the silence of the administration, which is why the author of this study proposed an appropriate information campaign, indicating that silence is tantamount to dealing with the case (Gronkiewicz, 2017, p. 240).

Undoubtedly, such actions constituting organizational activities of the administration would be a useful tool for increasing the effectiveness of the institutions of administration silence. This shows that the introduction to k.p.a. regulation of a silent settlement of a case does not solve all problems connected with this legal institution once and for all. An important factor to increase the number of matters dealt with tacitly is the regulation of the possibility of applying silence in simplified proceedings. Simplified characterized speed operation authority restricted formalism steps nieobszerną legal regulation and the wide availability of the procedure subject to subject. Public administration body can do the job in a simplified procedure only if it results from special provisions, and therefore extends the catalog of cases in which the body can be used silence. In simplified proceedings, rules on tacit settlement are generally applied, unless specific provisions have excluded such possibility. This means that the application of simplified proceedings silent about settling the matter can be treated, as a rule, unless it is limited by the specific provisions beyond the Code of Administrative Procedure. It should be stressed, however, that art. 163b k.p.a. is not the sole basis for applying the simplified procedure in a given proceeding. It is necessary to allow special regulations to settle matters of a given type in this mode. Special provision within the meaning of the provision is commented provision of the Code or any other provision of the Act, indicating the possibility of doing things in a particular type of simplified proceedings. Due to the fact that before the legislator another challenge of proper selection of cases proceeded in a simplified procedure. The above analysis of the Polish examples silence public authority reveals that the provisions of the Code, unconnected with the activities of the legislature on the basis of substantive law, will not contribute to the proper practice of this form of action by the public authorities, and especially the realization of its main objective, which was to accelerate proceedings administrative (Gronkiewicz, 2017).

4. Silence of the administrative body in the light of the amendment to the code of administrative procedure

In the literature, de lege ferenda conclusions were drawn against institutions of silence of the public administration body (Dobosz, 2011, p. 64): (1) the need to find a golden mean between material and formal aspects of silence, the need to protect legal interests not only of the beneficiary of this silence, but also of third parties whose legal situation affects the legal consequences of silence and protection of the public interest; (2) optimal consideration of the procedural aspect of administrative silence, which would provide administrative and judicial-judicial control over the legal effects of silence, while considering whether the legal consequences of silence can be guaranteed or eliminated by civil / private law'.

Full procedural regulation of the silence of the administration, as: silent termination of the proceedings, when the authority does not issue a decision or provision within a certain time — art. 122a § 2 point 1 k.p.a.) and tacit consent, when the authority does not object to the deadline of art. 122a § 2 point 2 k.p.a., entered into the Code of Administrative Procedure only on 1 June 2017, nevertheless the substantive construction of the silent settlement of the case has long been the second, apart →

from the administrative decision, the legal form of settling the case of an individual administrative case. Importantly, settling the matter in this way took place and continues in both the administrative procedure itself and outside the classical administrative (jurisdictional) proceedings. In the provisions of the code of k.p.a. it is currently expressed in art. 1 point 1. The Code regulates (describes) only the procedural side of this material and legal phenomenon, expressly stipulating in art. 122a § 1 of the Code of Administrative Procedure that the matter can be settled tacitly if the special rule so provides. This form of dealing with an individual case can be described as administration failure. This is, of course, a lack of action in the sense of issuing an individual administrative act that will resolve the individual case, the lack of issuing activities. Silent handling of the case may be a consequence of the fact that the public administration body deliberately or unconsciously did not take any action in the case and the deadline expired, however, it may also be a consequence of the body undertaking a number of different procedural and evidence (verification) steps that result in this body to believe that nothing stands in the way of satisfying the party's demand and then at the last stage of the proceedings, deliberately not taking any active steps to issue an individual administrative act, by law, leading to a silent settlement of the individual case. The effects of this legal form of non-operation of public administration have been equated with the effects of the administrative decision (material effect and procedural effect).

In the justification to the act amending the Code of Administrative Procedure and other acts of 7 April 2017, it was indicated that 'silent settlement of the matter consists in introducing some kind of fiction of a positive resolution of the matter by the public administration body — silence of the body after the statutory deadline for settlement the matter is considered to be settled in a manner that takes full account of the party's request'[26]. A silent settlement can only be avoided by issuing the administrative act required by law, such as a decision. In turn, tacit consent, expressed in the absence of an opportunity for the authority to raise objections within a specified period, is to constitute a simplification of proceedings[27]. Not submitting an objection shall constitute a conscious act of the body's will expressing positive acceptance of settling the matter in a manner indicated by the party in the submitted application. Gurba (2015, p. 12) pointed out that in the area of forms of silence one-phase and two-phase proceedings can be distinguished. In connection with this, it can be stated that in the case of tacit closure of the cases, there is a single-phase nature of the proceedings, and with regard to tacit agreement, a two-phase nature of the proceedings. In the first case, the authority does not conduct procedural steps to assess whether to settle the matter on time, or may, however, lead to self-dealing. In this case, the public administration body is passive, even passive. Two-phase proceedings regarding tacit consent consist in the body conducting procedural activities involving the examination of a case in order to determine whether or not to object. Conscious non-objection is preceded by the action of an administrative body. In the light of the justification to the draft law, the tacit consent should be classified as a conclusive / implicit administrative act dependent on the will of the administrative body, constituting one of the traditional forms of administration activity[28]. However, with regard to the silent settlement of the matter, the legislator no longer uses the term of the act, nor does it indicate that it is an act dependent on the will of the body[29].

[26] *Rationale for the act amending the act — The Code of Administrative Procedure and some other acts, Sejm print 1183 / VIII term, pp. 45–46.*

[27] *Ibidem.*

[28] *Rationale for the act amending the act - Code of Administrative Procedure…, op. cit., p. 47.*

[29] *Ibidem.*

The concept of silent settlement of a case in this approach suits the definition of it as a legal event being the action of an administrative body that does not issue an administrative act. Such inconsistency within one legal institution not only raises doubts as to whether the legislator has deliberately specified in the justification for the bill amending the act — the code of administrative procedure and some other laws in a different manner classifying individual figures of silent settlement of the matter, whether such inconsistency was not his intention. In this connection, the question arises whether in the case of tacit consent, any individual and specific administrative act is issued? For this purpose, the definition of K. M. Ziemski, who established the full definition of an administrative act as a legal act which is aimed at provoking direct legal authority, directed outside the administration by a declaration of will of a competent entity performing public administration tasks, expressing the legal consequences and consequences of the norm or general norms, for personalized from the subject and the actual state of affairs, regarding individually indicated entities, setting them behavior in specific situations, directly causing the intended legal effect and thus handling the case (Ziemski, 2013). In this approach, it is difficult to make a tacit agreement, which does not express a decision as to the legal consequences and consequences of the norm or general norms for the individualized from the subjective and objective aspect, because these legal consequences result from the very act and even no individual act and concrete can not be issued. Article 122c of the k.a. provides that the silent settlement of a matter in which the concept of tacit consent is placed shall take place on the day following the date on which the time limit stipulates for the issue of a decision or order terminating the proceeding or raising objections (Staniszewska, 2018, p. 60).

In connection with the above, the framework code regulation of the silent settlement of the case adopts the concept of silence as a legal event that is the organ-dependent act of public administration, which produces legal effects under the act constituting a substantive law. The silence of the public administration body, in addition to the decision deciding the individual case as to the essence, and the decision to discontinue the useless procedure, is the third way of settling a case that is not an act, an exception to the principle that this decision or provision is a legal form of dealing with the matter. The above approach does not pose a threat of dehumanising the administration, the administration is to be aware of its choice of action consisting in abandonment in the form of termination of the case or non-objection. 'Undoubtedly, the correct definition of the institution of silent settlement of the matter in the Code of Administrative Procedure by means of the equality — classical definition would eliminate many divagations about the classification of the silence of public administration. Meanwhile, the nature of such definition is not regulated by art. 122a § 2 k.p.a!'. Unfortunately, the legislator does not explain the legal nature of silence of a public administration body. As far as it does not currently raise doubts that silence is a separate category in relation to the inactivity of the body, the same silence, despite the introduction of the framework regulation of this institution, still remains divergent in the doctrine. However, such discrepancies will have an impact on the assessment and the way in which the Code of Conduct of the silent settlement of the case is put into practice (Staniszewska, 2018).

5. The procedural aspects of the regulation of the institution of silence of a public administration body in the code of administrative procedure

Considering the legal consequences of introducing procedural regulation of silence of a public administration body, as a way to settle an individual case, it should first be emphasized that it is possible only in the jurisdiction proceedings initiated at the request of a party, when the administrative case is already pending before the competent administra- →

tion. This possibility is excluded in these proceedings, which may be initiated ex officio. It is, therefore, about the sphere of individual rights, not the sphere of its duties. The Code specifies the procedural conditions for the silent handling of a case, which must be met jointly and are always identical, regardless of the substantive legal basis of the authority's operation. First of all, it is the delivery of a party's request to the competent public administration authority in the form of an application. Secondly, the expiry of a one-month period from the date of delivery of this application, or more often another date specified in the special provision. Thirdly, the factual and legal failure of the public administration body to act on this date, i.e. the lack of response to this demand. Of course, the causative power to initiate proceedings in a case that can be settled silently has only an application that is not affected by formal deficiencies, and its content, as to the scope of the request (application) is unambiguous and does not raise any doubts. In this context, the importance added to the code of change as a result of the amendment is art. 122c § 2. In accordance with this provision, if the application does not meet the requirements specified in the regulations or it is necessary to clarify the content of the request, the provision of art. 64 k.p.a. The date referred to in art. 122a § 2 of the Administrative Code (the term, which expires silently settling the case), runs from the day of completing the deficiencies or clarifying the content of the request. If the party does not fill in the gaps or does not specify the content of the request, the competent authority will leave the application without recognition. This means that the silent settlement will not take place then. The introduction of this solution is important because in the past there is no explicit reference to art. 64 k.p.a. caused interpretation doubts as to whether the effect of a silent settlement was taking place (it was recognized) even when the application was affected by formal deficiencies and whether the formal activities of the authority aimed at removing these deficiencies stopped the materiality period. A very important issue is the clarification by the legislator in art. 122b kpa of what is actually the moment of refusal or moment of objection. Considering that in each case this must take place before the specified material period has expired, the problem has arisen in the past whether it is enough to issue a decision (objection) or whether it should be served before the expiry of that period. In the resolution of October 15, 2008, the Supreme Administrative Court accepted that in order to prevent the silent settlement of the matter, the competent authority must deliver the decision or object to the party before the specified substantive deadline. The current regulation addresses this problem a bit differently. The day of the decision or order closing the proceedings in the case referred to in art. 122a § 2 point 1 of the Code of Administrative Procedure, or filing an objection referred to in art. 122a § 2 point 2 of the Code of Administrative Procedure, the date of sending an objection, decision or decision ending the proceeding with the receipt by the postal operator within the meaning of the Act of 23 November 2012 — postal law[30] or the day of service upon receipt of the opposition, decision or decision terminating the proceedings in the matter by employees of the public administration body or other authorized persons, or the day of introduction of the objection, decision or decision closing the proceedings in the matter to the ICT system in the case referred to in art. 391 k.p.a. or art. 392 k.p.a. At the same time, what is very important, the date of the tacit deal (actually the deadline to object or refuse) in both forms, in all cases, stops the actions taken by the competent public administration authority in the mode of art. 64 k.p.a., as well as the period of suspension of proceedings ex officio and at the request of a party (Article 122d § 2 k.p.a). A silent settlement of the case takes place on the day following the date on which the time limit laid down for the issue of

[30] *Dz.U. z 2012 r. poz. 1529 z późn. zm.*

a decision or order terminating the proceedings in the case or raising objections expires. In the event that the body before the deadline for settling the case informs the party about the lack of objection, the silent settlement of the case takes place on the day of delivery of this notification (Article 122c § 1 of the Administrative Procedure Code). A significant novelty is the exclusion of the principle of active participation of the party (parties) in administrative proceedings in which the individual case can be resolved tacitly (Article 122d § 1 of the Administrative Code). It is a logical solution. From the point of view of the party who wants to achieve the effect of a silent settlement of the case — obtaining the right — deprivation of rights under Art. 10 kpa does not matter. However, it also has significance from the point of view of a public administration authority that would intend to issue a refusal or appeal. The necessity to precede the issuance of such an act with the activities described in art. 10 k.p.a. would lead to the failure of the material deadline, and consequently the inability to issue a negative decision or to express objections. In turn, issuing a decision or expressing objection with a breach of art. 10 k.p.a. would lead to their repeal by the appeal body. The introduced solution does not infringe on the interest of parties other than the applicant within the framework of material participation admitted by law. The remaining pages of a silent matter can, because they use extraordinary procedures of administrative proceedings against the effect of silent settlement of the case. A silent settlement of a case is not a form of activity (form of action) of a public administration body, it must therefore be revealed in some way. The provisions of the Code of Administrative Procedure provide for two ways of such an externalization of the fact of a silent settlement of an individual matter. First of all, it is an annotation placed in the files of the case. Secondly, it is a certificate of a silent settlement. The mere inclusion of annotations in the files of the case does not have legal effects and is not needed to recognize that the case was settled in a silent manner. The annotation has only informative and ordinal character. The certificate is a document confirming a silent settlement of the case, which the party may use in legal transactions in order to show that the matter has been settled in a taciturn manner, that is, certain material and legal consequences have occurred as a result of its tacit resolution. The issuing of the certificate and the refusal to issue it is in the form of a decision that may be appealed to all parties in the matter settled in a silent manner. Refusal to issue a certificate takes place when there has been no silent settlement of the case or another entity than the party making the request to the authority would apply for such a certificate and would not have a legal interest in obtaining it. However, the decision to refuse to issue a certificate can not be understood as a form of refusal to take into account the effect of silent settlement of the case or the form of expressing objection. The provision confirming the tacit resolution and the decision to refuse to issue such a certificate are declaratory administrative acts. It is worth noting that obtaining a certificate by a party is not indispensable for her to refer to the fact of a tacit settlement. The material effect of the silent settlement of the matter arose here, by virtue of law. The only possibility of its overthrow is the use of extraordinary modes of administrative proceedings against it. The introduction of the possibility of lodging a complaint against a decision containing a certificate of tacit settlement and a decision to refuse to issue such a certificate raises a question about the subject limits of this appeal and the limits of its recognition? In both cases, the subject of recognition may be only the justifiability of the assessment of the reasons for refusing it, or a flawed assessment of the reasons justifying the issuance of a silent certificate of settlement. In no case may this complaint be used to disprove the effects of tacit settlement of the matter, both in the subjective and subjective scope set by the limits of the substantive law relationship. The complaint can not lead to the extension or limitation of the scope of tacit resolution of the case in relation to what has in fact been done →

by law. Although it should be noted that the review of the decision to refuse to issue a tacit judgment – annul this provision as a result of the complaint being considered and the issue of the issue to be reconsidered depending on the reason for the revocation, e.g. incorrect recognition that the material deadline has not yet expired, it can sometimes open the way to recognition of the effect of a silent settlement. It is worth noting that in the provisions regulating the admissibility of lodging a complaint against the order to issue or refuse to issue a certificate of tidying the case, it was provided that this way of dealing with an individual case in administrative proceedings is also possible in the case of the so-called material participation, that is, the multiplicity of parties in one administrative matter. Article 122f § 4 of the Code of Administrative Procedure provides that the certificate of tacit resolution of the case is served on all parties in the case settled in a silent manner. Practical application will find it, for example, in the situation provided for in art. 43 par. 2 of the Public Roads Act, that is, the silent termination of the proceedings of the road administrator in the matter of permitting the location of a building object along a public road with a specified category, at a distance less than that specified in paragraph 1 of this provision. The silent settlement of the matter is by nature not subject to an instance control, nor is it subject to direct control of administrative courts. Therefore, the introduction, as of 1 June 2017, of the possibility of appropriate use in the face of the tacit settlement of all extraordinary administrative procedures constitutes the only legal way to verify the legal consequences of this legal omission of public administration bodies (Article 122g sentence 1 CAP). This role is not met by a complaint against a decision containing a certificate of tacit settlement or a decision to refuse to issue it (Article 122f § 1 of the Administrative Code). Taking into account the objectives that laid the foundations for introducing extraordinary proceedings to the Administrative Court, it should be said that they fulfill the same role in the face of tacit deal (in relation to its consequences) as to individual and final administrative acts. The appropriateness of using extraordinary administrative procedures for silent handling of a case means a modification of their application due to the lack of an administrative act subject to verification. The material scope of the admissibility of the use of extraordinary administrative procedures, to which Article 20 refers. 122g zd 1 k.p.a., does not include the order to issue or refuse to issue a certificate of tidying up a case, but it only covers the silent settlement of the matter in a lawful form of non-action of the administrative body on an individual matter. The modification of the application of provisions on extraordinary administrative procedures includes two levels. First of all, this modification consists in the fact that pursuant to art. 122g zd 2 kpa requiring the activation of extraordinary procedures, the effect of issuing a final decision takes place within fourteen days of the expiry of the deadline specified in art. 122c § 1 of the Administrative Code, i.e. the period reserved in specific provisions for the issue of a refusal or lodging an objection. Secondly, in the resumption proceedings and in the other extraordinary procedures of the administrative procedure, the provisions on tacit settlement are no longer applicable. This means that after conducting extraordinary proceedings against a silent settlement of the case, according to its result, the public administration body must already issue a decision or provision based on art. 151 k.p.a., in the case of other extraordinary procedures based on: art. 154, 155, 158, 161, 162 kpa. It will be a decision refusing to repeal the effects of tacit settlement, a decision repealing these effects and adjudicating on the merits, i.e. refusing to issue a permit, decision to object, etc., and a decision stating that tacit settlement took place in violation of the law, but undermining its effects due to the occurrence of circumstances indicated in art. 146 k.p.a. These decisions are, of course, subject to an appeal in the course of an instance and judicial review. In the case of considering complaints about such decisions, the administrative court indirectly covers the scope of

cognitions also includes silent handling of the case (through the audited decision in extraordinary mode), although only in relation to the use of an extraordinary mode of administrative procedure appointed by the party or used ex officio by the authority public administration. With respect to the other extraordinary procedures triggered against the effects of a silent settlement, the competent authority may make the following decisions. Pursuant to art. 158 of the Code of Administrative Proceedings, this may be a decision annulling a silent settlement or a decision refusing to annul a tacit settlement or a decision not to annul the silent handling of the case in the case of the prosecutor's opposition, the decision stating that the silent settlement was in violation of the law. According to the content of art. 154, 155 and 161 k.p.a., it may be a decision repealing or changing the silent settlement of a case or refusing to repeal or change it.

6. Conclusions

In accordance with the assumption of the legislator introduced in the provisions of Chapter 8a of Section II of the Administrative Procedure Code, the institution of silent settlement of the case enabled acceleration and simplification of administrative proceedings as well as streamlining and reducing the costs of functioning of public administration[31]. This goal can be fully realized when the legislator establishes specific substantive law provisions which will provide for a tacit settlement of the case in all cases for which such a termination of the case will not violate the rights of the party or third parties. Such a task was set by the legislator, especially in matters where the complexity is not high, and the risk of a public interest being violated or the certainty of trading as a result of a possible silent settlement of the matter is minor. It should be noted that in this way there should be settled cases in which there are no parties with disputed interests. Moreover, the legislator decided that in simplified proceedings, in principle, the provisions on tacit settlement of the case will be applied, unless specific provisions exclude such a possibility. It should be emphasized that the institution of silent settlement of the matter is possible only in proceedings before the first instance authority. According to the assumptions to the draft amendment in the appeal proceedings and in cases initiated in extraordinary procedures, i.e. in the proceedings for resumption of proceedings, annulment of the decision or repeal or change of the final decision, institution of silent settlement can not be applied. The legislator rightly did not allow the institution to appeal in the appeal proceedings, which results from the construction of this institution and is reflected in art. 138 § 1 and 2 of the Code of Administrative Procedure from art. 122a § 1 of the Administrative Code.

The framework character of the regulation of silent settlement of the case in kpa. makes it necessary to analyze the provisions of substantive law which constitute the silence of public administration authorities that have legal effects. As stipulated in art. 1 point 1 of the Administrative Code, in the provisions of substantive administrative law there was a new, alternative to the administrative decision, the legal form of the administration, ie the silence of the body, enabling the settlement of an individual case. First of all, it is the legislator's responsibility to regulate the possibility of settling the matter by the public administration in a silent manner, so as to relieve it and speed up administrative proceedings. The analysis of the provisions of material laws shows how many cases it is acceptable to use a silent settlement of a case. Secondly, it is the legislator's duty to reasonably weigh, to which category of cases the silence of administrative bodies may apply, so as to counteract idleness on the one hand, and not to automatically deal positively in this procedure matters that →

[31] *Justification to the Act amending the Act — Code of Administrative Procedure…, op., cit., s. 45.*

are of great importance to public interest, security of legal transactions, and requiring greater involvement, also temporary.

The elimination of the effects of silent handling of a case from legal transactions in one of the extraordinary modes of administrative proceedings raises the question about the further fate of the certificate of tacit settlement. As previously indicated, the certificate itself takes the form of an individual declaratory administrative act — a challengeable resolution. Formally, it is possible to eliminate it from legal transactions in the mode of resuming the proceedings with the appropriate use of the condition mentioned in art. 145 § 1 item 8 k.p.a. This provision mentions that proceedings are resumed when the decision (order) was issued on the basis of another decision or court decision, which was subsequently revoked or amended. In the discussed case, the effects of the silent handling of the case were rescinded, therefore the provision for the issue of a certificate, as a derivative of a silent settlement of the case, is also subject to annulment. In fact, the party (or parties) still have the document itself, which, for example, confirms the lack of objection from the authority as to the party's investment intent, so it is in fact the legal right to dispose of the property for construction purposes. Actual withdrawal of such a certificate may take place only in the course of enforcement proceedings in administration through the use of an enforcement measure of a non-monetary obligation, removal of movable property. Full process regulation of the silent handling of the case in the provisions of the k.p.a. it deserves a positive rating. It is a homogeneous level of conduct in all cases in which substantive law provides for such a way of dealing with the matter. Thanks to this, the substantive regulation does not have to be casuistic and remains a norm free of any procedural elements.

It should be remembered that the certificate of tacit deal should be served to all parties in a matter settled in a silent manner, which aims to safeguard the interests of the parties other than the applicant himself, allowing them to be informed of a tacit resolution of a case regarding their interests or obligations. The silent settlement of the case as a legal form of non-operation of the administration is undoubtedly an absolute guarantee of keeping the deadline for settling an individual case in administrative proceedings. The regulation in question fits perfectly into the praxeological assumptions of the functioning of public administration, which is also important from the point of view of administration science.

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Silent Handling of the Case in Administrative Proceedings

ABSTRACT

The institution of silent settlement of the case, also called the fiction of a positive resolution of the case, is very beneficial for the party submitting the decision on the administrative case. Traditionally, it boils down to the fact that after a certain period of time for the body to settle the case, in the event of the body's lack of response, its inaction, the case is considered to be settled in full taking account of the party's request. According to the new regulations, the matter can be settled tacitly if the special rule so provides. The regulation introduced into the Code of Administrative Procedure is therefore of an auxiliary and framework character, supplementing specific provisions.

KEYWORDS

Administration silence; legal forms of administration; process aspects of silence institutions; administration body; administrative decision

JEL CLASSIFICATION
K10; K40

Scientia et Societas

Scientia et Societas * Ročník / Volume XV * Číslo / Issue 2
Recenzovaný společenskovědní časopis / Peer-reviewed social science journal
Periodicita: 4 čísla ročně / Frequency: 4 issues per year

Vydavatel / Publisher
NEWTON College, a. s., Politických vězňů 10, 110 00 Praha 1, Czech Republic | IČ: 27081869 | www.newtoncollege.cz

Redakce / Editorial Office
Václavské náměstí 11, 110 00 Praha 1, Czech Republic | e-mail: redakce@sets.cz | www.sets.cz

Výkonný redaktor / Executive Editor
Ing. Jana Novosáková, PhD. | e-mail: redakce@newtoncollege.cz

Grafická úprava / Layout Matěj Bacovský, BIOPORT.cz **Sazba / Typesetting** studio@vemola.cz

Časopis Scientia et Societas je zařazen v databázi ERIH PLUS (European Reference Index for the Humanities and the Social Sciences), v databázi ICI (Index Copernicus International) a v Seznamu recenzovaných neimpaktovaných periodik vydávaných v České republice / The Scientia et Societas journal is included in the ERIH PLUS database (European Reference Index for the Humanities and the Social Sciences), the ICI database (Index Copernicus International) and in the List of Non-impacted Reviewed Periodicals Published in the Czech Republic

Vyšlo v Praze 30. června 2019 / Published in Prague on 30 June 2019

Print ISSN 1801-7118 | Electronic ISSN 1801-6057 | MK ČR E 16579

www.sets.cz

Scientia & Societas { 2‘19 }

Recenzovaný společenskovědní časopis
Peer-reviewed social science journal
2019 * Ročník / Volume XV * Číslo / Issue 2
Cena 89 Kč / Price 89 CZK

NEWTON COLLEGE