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**naslov uredništva / address**

Fakulteta za Upravo Univerze v Ljubljani  
Gosarjeva 5, SI-1000 Ljubljana  
tel.: +386 (0)1 5805-500 faks: +386 (0)1 5805-521  
e-pošta: revija.uprava@fu.uni-lj.si

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## **vsebina / contents**

- 5** Stanka Setnikar Cankar  
**Uvodnik**
- 7** Nevenka Hrovatin  
**Potentials for savings in the Slovenian public enterprises and investmetns in infrastructure?**  
*1.01 Original scientific article*
- 39** Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their implementation in Slovenia**  
*1.02 Review article*
- 65** Thomas Döring, Eithne Knappitsch, Birgit Aigner  
**Municipalities and regions in locational competition – Relevant factors for success and political implications**  
*1.02 Review article*
- 89** Eva Boštjančič  
**Job satisfaction, life orientation and perception of family role - comparison between women employed in public sector and in economy**  
*1.02 Review article*
- 113** Gregor Virant  
**Izboljševanje kakovosti regulacije – razvoj v Sloveniji**  
*1.04 Znanstveni članek*

## summaries / povzetki

- 33** Nevenka Hrovatin  
**Kako privarčevati javna sredstva v slovenskih javnih podjetjih in pri investicijah v infrastrukturo?**  
*1.01 Izvirni znanstveni članek*
- 60** Stanka Setnikar-Cankar, Veronika Petkovšek  
**Evropske direktive o javnih naročilih in njihova izvedba v Sloveniji**  
*1.02 Pregledni znanstveni članek*
- 87** Thomas Döring, Eithne Knappitsch, Birgit Aigner  
**Občine in pokrajine v lokalni konkurenci – ključni dejavniki uspeha in politične usmeritve**  
*1.02 Pregledni znanstveni članek*
- 108** Eva Boštjančič  
**Delovno zadovoljstvo, življenjska usmerjenost in zaznavanje družinske vloge – primerjava med ženskami zaposlenimi v javni upravi in gospodarstvu**  
*1.02 Pregledni znanstveni članek*
- 131** Gregor Virant  
**Improving the quality of regulation - development in Slovenia**  
*1.04 Professional article*

# Uvodnik

Spoštovani,

jesen 2010 obeta zanimiva dogajanja v javnem sektorju. Vlada je predlagala varčevanje pri plačah javnih uslužbencev, opustila je ukrepe za znižanje nagrad zdravnikom za dežurstva, v parlamentarno razpravo je posredovala predlog pokojninske reforme.

Istočasno je Ministrstvo za visoko šolstvo, znanost in tehnologijo objavilo Nacionalni program visokega šolstva za obdobje 2011 – 2020 z navedbo konkretnih ukrepov in z enomesečnim rokom za javno razpravo. Pri tem je razburilo visokošolsko javnost predvsem z zahtevo po uvedbi programske in institucionalne binarnosti. Komaj leto, dve leti po uvedbi prenovljenih bolonjskih programov ministrstvo predlaga izločitev visokošolskih programov iz univerz in ustanovitev t. i. politehnik.

Zadnja prenova visokošolskega študija prve stopnje je temeljila na univerzitetnih in visokošolskih programih. Organizacije so si izbrale dolžino študija upoštevajoč predvsem mednarodne značilnosti svojih področij. Zato prevladujejo na področju družboslovja triletni programi ob istočasni zastopanosti tudi štiriletnih programov.

V posebnem položaju so bile visokošolske organizacije, ki so postopke preoblikovanja iz visokih šol v fakulteto opravile hkrati s prenovo svojih programov. Postopki preoblikovanja visokih šol v fakultete na Univerzi v Ljubljani so bili dolgotrajni, povezani z visokimi zahtevami na kadrovskem področju, pri materialnih pogojih delovanja, mednarodni primerljivosti.

Svoje visokošolske programe so članice univerze prilagodile trendom stroke v Evropi in v svetu in jih vpele v slovenski prostor. Izhodišče za razlikovanje je bilo: večji delež strokovnih predmetov, obvezna praksa, sodelovanje s strokovnjaki iz prakse, zaposljivost diplomantov po končani prvi stopnji. V Evropi so znane podobne izkušnje predvsem v Nemčiji in v sosednji Avstriji, pa tudi na Nizozemskem in v Veliki Britaniji.

Kakovost obeh vrst programov se je presojala z državnimi akreditacijskimi postopki in pridobitvijo mednarodne akreditacije. Akreditacijske institucije uporabljajo različne pristope: programske ali/in institucionalne. Na področju uprave deluje v Evropski uniji organizacija EAPAA, ki akreditira programe. Evropsko akreditacijo

lahko izobraževalna organizacija s področja uprave pridobi za visokošolski ali univerzitetni program. Fakulteta za upravo je že pridobila akreditacijo za program druge stopnje in je sredi postopka pridobitve evropske akreditacije za visokošolski in univerzitetni program prve stopnje.

Binarnost programov (visokošolski in univerzitetni programi) na isti instituciji je prednost, ki bi jo bilo škodljivo odpraviti. Tako se lahko izkoriščajo prednosti boljše kadrovske strukture, prenos raziskovalnega dela v pedagoški proces, tesna povezanost s strokovnjaki iz prakse. Uvedba obeh programov je zahtevala tudi kakovostne materialne pogoje, predvsem tehnično opremljene učilnice in laboratorije. A za uvedbo institucionalne binarnosti, ki bi pomenila rušenje obstoječega sistema javnega izobraževanja, ni utemeljenih razlogov, ob tem pa tudi ni pojasnjeno, kako naj bi z ustanavljanjem novih institucij bolje dosegali cilje kakovostnega visokošolskega izobraževanja.

Slovenija ima objektivno danost, da je glede na število prebivalstva majhna država. To dejstvo je treba izkoristiti, istočasno pa odpraviti vse njegove negativne posledice. Ni mogoče spregledati, da majhnost slabo vpliva na objektivnost pri ustanavljanju izobraževalnih organizacij, pri akreditaciji programov in njihovi evalvaciji. Zato se zavzemamo za obvezne mednarodne akreditacije tako izobraževalnih organizacij kot tudi programov.

Samo država more skrbeti za zaščito kakovosti storitev v javnem sektorju, predvsem na področju izobraževanja in zdravstva. Tega ni mogoče prepustiti delovanju trga. Sedanja kriza je prepričala o tem tudi najbolj pravoverne zagovornike svobode trga. Prevzem kriterijev najvišje kakovosti v svetu pa je cilj, ki ga bomo dosegli le, če uveljavimo mednarodne standarde in normative tudi v javnem sektorju. To je tudi rdeča nit vseh člankov v tokratni številki revije Uprava.

Odgovorna urednica

Red. prof. dr. Stanka Setnikar Cankar



# Potentials for savings in the Slovenian public enterprises and investments in infrastructure?

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Nevenka Hrovatin

University of Ljubljana, Faculty of Economics

nevenka.hrovatin@ef.uni-lj.si

## ABSTRACT

**The author analyses the success rate and efficiency of Slovenian public sector companies in the course of their operations and looks into opportunities for savings and ways of attracting private investment in infrastructure. By reducing expenditures public companies achieve higher profits, from which the state in turn receives firstly, dividends as a form of budgetary revenue; and secondly, increased tax revenues, as public companies are not exempt from paying corporate income tax. By increasing the rate of return in public companies, the state therefore receives a larger slice of the budget pie on account of its two roles – as both owner and administrator, and as fiscal generator and provider. The author concludes that Slovenian companies cannot achieve identified possible savings without the efficient management of public sector companies. To this end at least two reforms should be introduced in Slovenia: firstly, the introduction of a system of contracts between the state and public sector companies on the meeting of specific pre-determined goals; and secondly, the establishment of a politically independent system of recruitment and appointment of managers based on professional references, and a management remuneration system tied to either the operating results achieved by said public companies or on the meeting of certain pre-determined goals set out in contracts between the state and public companies.**

*Key words: public enterprises, effectiveness, efficiency, public-private partnerships, public finance, Europe, Slovenia*

*JEL: L32, E6*

## 1. Introduction

The aim of this paper is to analyse, based on literature review, how effective and efficient are Slovenian public enterprises in their operation and performance, what the room for cost reductions is and what the possibilities to

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

attract private funds into infrastructure financing are. If there are potentials for cost savings, public enterprises could earn higher profits, which could increase budget income in two ways, first the government gets higher income as the owner and second, it collects higher taxes since public enterprises are also obliged to pay corporate taxes. This means that by increasing the profitability of public enterprises the government gets higher budget revenues acting in two roles: as an owner and in its fiscal function. On the other hand, lowering of the costs may enable the fall in prices of products and services. This will result in the higher disposable income of users, which will stimulate the aggregate demand by higher spending and will enhance the economic growth.

The Slovenian government has been running the project on the modernisation of Slovenian public administration for several years, but it does not incorporate the Slovenian public enterprises. The Strategy of the further development of Slovenian public sector 2003-2005 (Government RS, 2003) mentions public enterprises only in one section 2.1. (Modernisation of legislation in the field of public services: public enterprises and public institutions), where it emphasises only the need to change the Law on public utilities from 1993, because it does not make a clear distinction between the government's role as an owner, manager and regulator of these entities. In the current Slovenia's Development Strategy 2006-2013 (Government RS, UMAR, 2005) public enterprises are mentioned only with regard to the governmental target to impose the evaluation of the biggest public sector organisations and companies in the majority ownership of the state with the EFQM methodology. Indirectly public enterprises are also linked with the following goals: to reduce the direct state role in the economy, to withdraw the state from the ownership of the companies and financial institutions and to diminish the role of KAD and SOD in the corporate governance and to introduce the public private partnerships (PPP) into the operation and financing of public services together with their infrastructure investments.

The Slovenian government has not realised its intentions to withdraw from the ownership of firms. Since the majority of utilities remain in the public ownership, it is particularly important to analyse the performance of the Slovenian public enterprises based on literature review and to find out what are the hidden reserves to increase the budget revenues, which could be especially welcome in the current economic crisis. This paper will also analyse if and how the investments of public enterprises and infrastructure investments have an impact on current budget deficit and public debt. For the definition of public enterprises we

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

will follow the legislative provision in the Transparency of Financial Relations and Maintenance of Separate Accounts for Different Activities Act (ZPFOLRD, Official Journal RS, 53/2007, Official Journal RS, 65/2008). Public enterprises are defined as companies in which state and municipalities exercise direct or indirect majority influence through the majority share in the capital or assets of the founder. When determining the majority of the subscribed capital or assets the shares of various governmental bodies are being summed up. If the resulting sum of shares exceeds 50%, the firm is considered to be a public enterprise.

The Act extends the notion of a public enterprise to those firms where bodies of the state and municipalities control the majority of voting rights deriving from their ownership and to those firms where they can nominate more than a half members of the board of directors or supervisory boards. Finding which enterprises are public based on the last two criteria is more troublesome, so we will rely on the first criterion based on the ownership share. We will focus in particular on the public enterprises that operate in infrastructure sectors (i.e. on public utilities).

## **2. Effectiveness and efficiency of the Slovenian public enterprises**

In principle the effectiveness and efficiency of the firms has been measured with their profitability and other financial measures. If public enterprises operated in the competitive industries, their performance should be measured in the same way. However, the majority of the Slovenian public enterprises operate in the monopoly or natural monopoly industries. If these industries are regulated, the regulator imposes a cap on their profitability. Therefore, the profitability is not an adequate indicator of their performance. The indicators based on their expenditures, i.e. cost efficiency should be used instead. For this kind of analyse in local monopoly industries benchmarking studies of cost efficiency proved to be useful. They compare the firms' costs by taking into account various factors, which may affect the cost levels. This kind of analyses was conducted for Slovenian Gas and electricity distribution utilities and for Slovenian Water supply utilities.

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

**2.1 Benchmarking analysis of the cost efficiency of Slovenian public utilities**

Data for the cost efficiency studies for **water utilities** were collected for 2004 with the assistance of the Ministry of the environment and spatial planning. 52 companies serving almost 80% of Slovenian municipalities submitted the data. Only 4 companies were private. Results are presented in more details in Fillipini, Hrovatin and Zorić (2010). Slovenian water supply companies achieved only 84% of the cost efficiency annually in the period 1997-2003. Of course, there were differences among firms, as the least cost efficient were only 67% efficient, while the most efficient 93%. There were also significant differentials among the firms in the average cost per m<sup>3</sup> of water supplied. The most expensive had seven times higher cost than the one with the lowest cost (0.2 to 1.4 euro per m<sup>3</sup> with the average of 0.54). These differentials reflect different size of the firms as well as different business environment, such as the share of water supplied to the industry versus households, customer density, the share of water losses, the share of underground water and whether they need a heavy water treatment.

These findings show that potentials for the increase in efficiency of the Slovenian water utilities approach 15% on average, which could be transferred to the increase in their profitability without the need to raise prices. In this way the municipal budgets could get higher revenues. In seven years of the study coverage cost savings would amount to **74 million euro**. Assuming the same cost levels and cost efficiency in the period 2004 – 2010 the additional cost savings in these period would total **81 million euro**. Moreover, the data indicated that water pipelines are quite obsolete since the water losses represented 27% of water supplied.

The increase in productivity of the Slovenian water supply utilities is also insufficient. The standard indicator of the productivity growth is total factor productivity (TFP). It is calculated as the ratio of output and input index. TFP is often used by regulators to determine the X factor, which determines the required increase in productivity in the regulated companies in the next regulatory period. X normally varies among companies in the same industry due to differences in their achieved efficiency in the past.

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

Results of the econometric analysis with stochastic cost frontier model<sup>1</sup> for the TFP growth of the Slovenian utilities for the supply of drinking water have demonstrated that TFP growth was 0.37 % on average annually over the years 1997-2003. This could be compared to the results for the UK for slightly different period. In 1985 -1990 the TFP growth in the UK amounted to 2.3% annually. It then slowed down to 1.6% in 1990-1999, but was still four times greater than in Slovenia.

Fillipini et al (2010) explain such differences with different regulatory setting. While Slovenian companies did not face the adequate regulatory constraints, that would have forced them to reduce costs, the British companies had to follow the RPI-X formula. This price-cap method of regulation stimulated companies to continuous cost reductions which was possible with productivity increases. On the contrary, in the Slovenian companies cost reductions did not contribute to the increase in TFP in the period under review. Productivity increases are attributable to technical change with 0.92% annual growth together with scale efficiency with 0.17% annual growth. On the other hand, change in output characteristics worked in the opposite direction causing 0.76% drop in TFP annually. In the whole period 1997-2003 the TFP increased by 2.2%. Technical change contributed the majority of this growth with the 5.7% growth, which should be seen as a promising finding.

Public enterprises in Slovenia also exist in the **distribution of natural gas**. Huge potentials for cost savings have also been found in this sector. Zorić, Hrovatin and Scarsi (2009) conducted an international benchmarking study on Slovenian, British and Dutch gas distribution utilities using nonparametric DEA methodology. There were 14 Slovenian, 21 British and 7 Dutch firms in the sample for the year 2003. When the Slovenian utilities are compared with all firms in the sample (using DEA based on the constant returns to scale), their efficiency was only 33% (table 1). However, if we use more appropriate cost efficiency comparisons with DEA variable returns to scale, where Slovenian companies are compared only with the companies of the similar size in the sample, Slovenian utilities operated at 48% cost efficiency, Dutch with 77% and British with the greatest, 97% efficiency. This in fact means that Slovenian gas distribution utilities could distribute the same volume of gas with 52% lower costs. If we assume that the cost reduction would lead to the equivalent

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<sup>1</sup> The methodology for the econometric estimation of cost efficiency based on four models is presented in detail in Fillipini, Hrovatin and Zorić (2008).

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

increase in profit of their owners, private and public utilities,<sup>2</sup> these could be used to finance also the infrastructure in related sectors, while the state would collect more corporate taxes. It is also worth mentioning that inefficiency partly stems from the small size of the utilities which does not allow them to exploit economies of scale. They reached only 80% of the efficiency from economies of scale (Zorić et al, 2009, p. 121).

**Table 1: Average efficiency scores of the gas distribution utilities in the UK, Netherlands and Slovenia calculated by DEA methodology**

Model	Efficiency scores			
	UK	Netherlands	Slovenia	Total
DEA – CRS - average	0,777	0,731	0,326	0,604
DEA – VRS - average	0,969	0,770	0,480	0,707

**Note:**

CRS – constant returns to scale

VRS – variable returns to scale

Source: Zorić et al (2009, p. 121).

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<sup>2</sup> There were 17 companies for the distribution of gas in Slovenia, 6 in the majority ownership of one or more municipalities and 9 with the majority private ownership.

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

The authors explained greater inefficiency of Slovenian firms in comparison with foreign counterparts first with small size of the firms that prevents the exploitation of economies of scale and second with the inappropriate regulatory setting. In Slovenia the first regulatory period started only in 2006 in contrast to the UK, where the regulatory practice is much longer, starting with the privatisation of British Gas in 1986 and further developed with the separate regulation of gas distribution in 2002. Nevertheless, the results of the study should be in our view interpreted with caution. Lower cost efficiency of Slovenian firms may also be attributable to the wrong allocation of joint and common costs if the firms do business also in other sectors besides gas distribution. We assume that in the multiutility case the firms strived to allocate excessively high costs to the gas distribution if they could be covered from the end user prices. This could explain the empirical results of relatively higher costs of the Slovenian utilities.

Although Slovenian gas distribution companies are on average too small, some of them are too large in another related business, i.e. in the district heating, which also causes high costs. This was found by Bole and Jere (2006) for the gas distribution and district heating public enterprise Energetika Ljubljana, when they compared the firm with 178 Danish utilities in 2003. If Energetika is compared with the firms of similar size, it is found to be efficient. If it is compared only with the companies of the similar size, it is only 89% efficient. This implies that if Energetika operated as efficiently as the most efficient Danish companies, it would use 11% less primary energy and operating expenditures. Inefficiency of Energetika is driven by the fact that its district heating activity is too large and hence operates at the decreasing returns to scale. The excessive expansion of the firm in the district heating may not have been possible without public ownership, which may have supported less rational investment behaviour. Nevertheless, if the firm had the right size, it could have saved in nine years **one annual costs** for district heating.

Benchmarking cost efficiency analysis was repeated on behalf of the Energy Agency on the sample of Slovenian gas utilities only (Hrovatin and Zorić, 2009a). Several models were estimated on annual data for 2006-2008. The most robust models proved to be MOLS (*Modified Ordinary Least Squares*) and DEA models, which vary in terms of the included variables. All of 17 utilities operated with 69% of efficiency in the period. 7 of them were municipal public enterprises and 10 wholly or majority publicly owned. Private enterprises achieved higher, 72% of efficiency in contrast to public with only 66%

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

efficiency level. This implies that public enterprises in the Slovenian gas distribution could have obtained 34% of cost savings, which would consequently yield higher profits and also higher budget revenues.

Benchmarking cost efficiency analysis was also conducted for the Slovenian electricity distribution companies. In the first study of this kind for Slovenia, Fillipini, Hrovatin and Zorić (2004) showed that Slovenian electricity distribution companies are on average 35% inefficient. The sample comprised of all 5 electricity distribution utilities in the period 1991-2000. The authors used log-log stochastic cost frontier function since the small data set prevented the use of a more appropriate translog model. They also found out that utilities are too small since they are operating on the increasing cost interval. Consequently they do not utilise cost savings associated with economies of scale. Mergers of utilities would be an appropriate policy recommendation, which was also suggested by Tajnikar et al (2002). This has been recently also envisaged by the Slovenian government although based on different grounds.<sup>3</sup>

Like for the gas distribution utilities, international benchmarking cost efficiency study of Slovenian firms with foreign counterparts was also done for the electricity distribution. DEA estimation methodology on OPEX (operating expenditures) data for 2003 (Netherlands 2000) was employed (Hrovatin, Zorić, Scarsi, Paripovič and Senčar, 2005). The sample consisted of 33 firms, 5 Slovenian, 11 British and 17 Dutch. Results of all DEA models assuming constant returns to scale have revealed the average 50.8% cost efficiency of all firms in the sample (table 2). British firms operated at the highest 58% cost efficiency level, followed with Dutch (50.1%) and Slovenian with only 38% cost efficiency. It is, however, more appropriate to compare each utility not with all in the sample, but only with those of the similar size. This is possible by estimating DEA models with variable returns to scale. Average efficiency level is now of course higher – 71.5%. British companies are again the most efficient (83.7%), followed by Dutch (67.7%) with Slovenian firms (57.7%) again in the last place. These findings have again indicated huge cost savings potentials of Slovenian firms. Lower cost efficiency of Slovenian firms versus the most efficient British counterparts could again be explained by the longer and successful regulatory tradition in the UK, which required from the utilities to reduce their operating costs.

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**3** The reorganisation of ownership and organisational structure of electricity distribution utilities have been anticipated driven by the findings of the Court of Audit of the Republic of Slovenia (CARS) about wrong organisational and contractual arrangements (CARS, 2009d, 2009e). For more on this see Hrovatin and Zorić (2010).

Nevenka Hrovatin  
**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

**Table 2: Efficiency scores of the electricity distribution utilities in Netherlands, the UK and Slovenia**

Model	Efficiency scores			
	Netherlands	UK	Slovenia	Total
DEA – CRS - average	0,501	0,579	0,376	0,508
DEA – VRS - average	0,677	0,837	0,577	0,715

Notes:

CRS – constant returns to scale

VRS – variable returns to scale

Source: Hrovatin et al (2005).

Like for the gas distribution utilities the benchmarking cost efficiency analysis was also repeated for electricity utilities on behalf of the Energy Agency on the more recent data set for 2004-2007 (Hrovatin and Zorić (2008)). The authors estimated several DEA and COLS models with variable OPEX (operating expenditures) as an input and various specifications outputs.<sup>4</sup> The average cost efficiency of the firms in the whole period was 89%, meaning that companies could every year distribute the same volume of electricity with 11% lower costs on average. This finding is of course better than in the first aforementioned benchmarking study for electricity distribution (Hrovatin et al, 2005), because the comparison is done only among Slovenian utilities without foreign counterparts. Significant variations among firms could also be seen. The most efficient firm operates at the 93% efficiency level, and the least efficient 11 percentage points less (i.e. 82%). If the Slovenian electricity distribution utilities had operated efficiently in 2004-2007, they could have accumulated 35 million euro of cost savings, which would have been switched into equivalently higher profits. Taking into account the ownership structure, the

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<sup>4</sup> COLS (*Corrected Ordinary Least Squares*) is an econometric method, which is based on multivariate cost regression estimations using the OLS (*Ordinary Least Squares*) technique. Estimated cost function with OLS regression is then shifted downward, so that the most efficient firms lie on the shifted fitted curve. The difference between the fitted curve and actual observations represents the cost inefficiency of the firms.

Nevenka Hrovatin

### **Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

state could have obtained 80% of the profit (with around 80% state ownership share), if the whole increase in profit would be allocated to dividends.

## **2.2 Labour and other operating costs and profitability of the Slovenian public enterprises: evidence of some cases**

Opportunities for profitability improvements could be found also in other sources, such as in operating and labour costs. An average nominal gross wage in electricity and gas business (distribution and supply), where the Slovenian gas and electricity distribution public enterprises operate, increased from 2000 to 2007 more than the Slovenian average wage. The increase amounted to 81% compared of the Slovenian average of only 60.6% as the table 3 shows. While in 2000 the gross wage in this sector exceeded the Slovenian average by 14.4%, in 2007 this gap widened to 29%. It is not difficult to see that such faster increase in wages than Slovenian average resulted in the lower profits than in the more reasonable and modest wage expansions.

**Table 3: Average nominal monthly gross wages in Slovenia and in the electricity and gas distribution and supply in 2000-2007 and their indexes**

<b>Nominal gross wage/index</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Monthly nominal gross wage (in euro): Electricity and gas distribution and supply (E)	914.76	1,043.23	1,155.94	1,251.09	1,353.46	1,476.53	1,559.60	1,656.91
Monthly nominal gross wage (in euro) : Slovenian average	799.82	895.35	982.46	1,056.58	1,116.55	1,157.06	1,212.80	1,284.79
Index E (previous year)		114.0	110.8	108.2	108.2	109.1	105.6	106.2
Index Slovenian average (previous year)		111.9	109.7	107.5	105.7	103.6	104.8	105.9
Index E/Slovenian average	114.4	116.5	117.7	118.4	121.2	127.6	128.6	129.0
Index E (base year 2000)	100.0	114.0	126.4	136.8	148.0	161.4	170.5	181.1
Index Slovenian average (base year 2000)	100.0	111.9	122.8	132.1	139.6	144.7	151.6	160.6

Source: Statistical Yearbook of the Republic of Slovenia 2008 (SORS, 2009).

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

Real gross wages have, of course, increased less (table 4), although they still demonstrate large discrepancies between the industry and the Slovenian average. While the average Slovenian gross increased in real terms by 16%, the gas and electricity distribution and supply industry faced an increase of almost twice as much, i.e. 31%.

**Table 4: Average real monthly gross wages in Slovenia and in the electricity and gas distribution and supply in 2000-2007 and their indexes (base year 2007)**

Industry/index	2000	2001	2002	2003	2004	2005	2006	2007
Monthly real gross wage (in euro): Electricity and gas distribution and supply (E)	1,269	1,335	1,376	1,411	1,473	1,568	1,616	1,657
Monthly real gross wage (in euro): Slovenian average	1,110	1,146	1,170	1,191	1,215	1,229	1,256	1,285
Chain index E		105	103	102	104	106	103	103
Chain index Slovenian average		103	102	102	102	101	102	102
Index E (base year (2000))	100	105	108	111	116	124	127	131
Index Slovenian average (base year 2000)	100	103	105	107	110	111	113	116

Source: Statistical Yearbook of the Republic of Slovenia 2008 (SORS, 2009).

It is also worth mentioning that labour costs in electricity distribution utilities exceed the allowed level set by the regulator. This happens since utilities pay higher holiday compensations than in other public sector institutions and in other industries. In addition employees get the thirteenth wage, Christmas earnings and other benefits and rewards, which the Energy Agency of the Republic of Slovenia (EARS) does not consider being a part of required revenue and could not be calculated in the price. As a consequence utilities and their owners (i.e. the state as a majority owner) receive lower profits. A similar practice has been noticed in other public firms in the electricity industry.

Nevenka Hrovatin  
**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

**Table 5: Performance indicators for the distribution activity and for the firm as whole for Slovenian electricity distribution utilities in 2007**

Company	Elektro Maribor		Elektro Celje		Elektro Gorenjska		Elektro Ljubljana		Elektro Primorska	
	SODO	Total	SODO	Total	SODO	Total	SODO	Total	SODO	Total
Ratio total revenues/ expenditures	0.980	1.011	0.970	1.002	1.064	1.019	1.020	1.004	0.994	1.009
Ratio total revenues from business activities/ expenditures	0.963	1.003	0.952	0.990	1.068	1.021	1.013	1.003	0.993	1.011
ROA	-0.35%	0.88%	-0.78%	0.31%	1.51%	1.31%	0.87%	0.89%	-0.16%	1.20%
ROE	-0.53%	0.86%	-0.90%	0.21%	1.29%	1.00%	0.63%	0.38%	-0.20%	0.89%

*Legend:*

*SODO – activities carried out by the distribution system operator*

*Total – performance of the company whole taking into account all of its activities.*

*ROA – return on assets*

*ROE – return on equity*

Source: Elektro Gorenjska (2008), Elektro Ljubljana (2008), Elektro Primorska (2008), Elektro Maribor (2008) and Elektro Celje (2008).

As the table 5 shows, it is not surprising that excessive labour costs together with other high operating and capital costs lead to low profitability of the utilities. The Energy Agency allowed the companies to receive 4.13% return on assets in the regulatory period 2006-2008 (EARS, 2005). Instead of approaching the allowed rate of return, three out five utilities operated at loss in 2007 in the distribution of electricity as shown in the table 5 and the two remaining earned significantly lower returns (1.51% and 0.87%). The performance of utilities overall (accounting for all activities) was also disappointing with the profitability (return on assets – ROA) between 0.31% and 1.51%. This clearly demonstrates underperformance and inadequate use of public assets. Low profitability or losses driven by stiff competition has been lately recorded also in the electricity supply (trade) (Šepic, 2010). The key issue to be answered is whether the competition among firms with the same majority owner that results in lower profitability of all, makes sense. An alternative model

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

would be to withdraw the supply business from the firms with the transfer of assets to a new founded firm for the supply of electricity. In this way wasteful competition among firms with the same owner would be abandoned.

Inefficient corporate governance of public assets was found out and criticised also by CARS. On the basis of public audit for the period 2005-2007 CARS warned the public enterprise for the construction and renewal of highways DARS for its inefficient and ineffective maintenance of highways (CARS, 2010).<sup>5</sup> The main findings are:

1. DARS does not have a strategy for the highways maintenance that would be harmonised with the Resolution on the national programme for the construction of highways in Slovenia.
2. It receives compensation for conducting public procurements which is based on the value of works done. It does not have an incentive to select the lowest bidder, since it receives greater compensation from the greater value of works. Also if the value of works done is lower, it receives a variable reward for this achievement.
3. It has not done any long-run analysis and maintenance plans which would enable to compare what is more cost effective: higher cost of regular maintenance in conjunction with lower investment maintenance costs afterwards or the other way around.
4. DARS does not have any international comparisons of maintenance costs associated with the use of alternative construction materials in the construction of highways.
5. Maintenance costs per km of highways have been increasing more rapidly than the length of the constructed highways in total.
6. DARS has managed to accomplish only between 19% to 31% of regular maintenance work (filling the gaps), which may lately bring about higher costs of investment maintenance.
7. DARS has outsourced the preparation of professional and technical background for conducting public procurement procedures to the company DDC, consulting and engineering, on the contractual basis. The conflict of interest could clearly be seen as DDC is paid according to the value of the planned investment works rather than to its actual work done based on the working hours. To maximise its earnings it is interested to plan high amount of investments works and their values.

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<sup>5</sup> The CARS has also pointed out the inappropriateness of the concession contract and other shortcomings and faults in the construction of highways. For more information on this see Hrovatin (2010).

Nevenka Hrovatin

### **Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

In conclusion, the entire system of regular and investment maintenance of highways in DARS is organised in such way that it enhances higher use of public resources and lower efficiency on behalf of the higher profitability of public enterprises DARS and DCC. The inefficiencies were not revealed only in the maintenance of highways but according to the audit reports of CARS also in the maintenance of municipalities' roads in some Slovenian municipalities.

The CARS has also highlighted the inefficient use of budget sources in the obligatory local public service of managing the public green areas and parks (CARS, 2009c). In 2007 municipalities have not established a procedure enabling efficient use of public funds. Municipalities define only the value of needed resources without prescribing how the resources should be used and what the required quality is. Due to the lack of prescribed targets, the use of funds was left to the firms managing the green areas without any control on how efficiently and effectively the funds were spent.

### **3. Public support for the renewable energy sources**

Public support schemes for the development of renewable energy sources and combined heat and power with high exploitation also represent potentials for savings in both, public and private firms. Slovenian government supports the generation of electricity with feed-in-tariffs in conjunction with the compulsory purchase of electricity in small power plants of up to 5 MW and with financial contributions to cover operating expenses for other units. (Energy Act-C, 2008). Support systems should be in place as the electricity from renewables and co-generation of heat and power with high exploitation is more costly than electricity from conventional sources. Without supporting schemes these power plants could not compete in the market. Government thus provides supports to the firms to fill in the gap between higher generation costs and lower market prices. Funds for the feed-in-tariffs have been collected by a special centre for supports within the power exchange Borzen. They are incorporated into the use of network charges as a compulsory contribution of all electricity consumers. It is estimated that every year around 45 million euro of support funds will be collected (Hrovatin and Zorić, 2009b; Zorić

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

and Hrovatin, 2010). The majority of 599 recipients of feed-in-tariffs and contributions in 2008 were small hydropower plants and solar power plants.

Compulsory collection of funds could be partly replaced by direct payments of electricity consumers for green energy. This would in turn make possible to use compulsory payments incorporated in the use of network charges as additional excise duties on electricity for reducing the budget deficit.<sup>6</sup> How many compulsory collected funds could be replaced with the consumers' voluntary contributions of course depends on the willingness to pay of Slovenian households for green electricity. Of course, it would be more desirable not to use the compulsory contributions from use of network charges to increase excise duties, but to use both compulsory and voluntary collected payments for stimulating the investments into the use of renewable energy sources. In fact, investments into these and related business would in the long-run from the supply side increase the budget revenues (through profits and taxes). Therefore, shifting the compulsory contributions into excise duties on electricity could be only used temporarily in times of crisis to help the state budget to recover.

The study on the willingness to pay for green electricity conducted by Zorić and Hrovatin (2010) for 2008 using the sample of 450 Slovenian households has revealed that 77% of the households are willing to pay on average 4.2 euro monthly, which represents 10.5% of the monthly electricity bill. If only those households that are willing to pay are taken into account, the monthly payment is even higher (5.4 euro monthly). 745.000 households (data for 2007) would be willing to pay 37.5 million together for green electricity. Actual payments would most likely be lower, as the stated preferences may exaggerate the real willingness to pay. On the other hand, higher payments could be realised with the right marketing and policy actions targeted to the households with higher education, incomes and environmental awareness. The econometric estimations have proven that these households are more willing to pay for green electricity. Creating appropriate marketing strategies in the firms and better information campaigns in the relevant state authorities would trigger the achievement of these goals.

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<sup>6</sup> Excise duties are a controversial issue. On the one hand they raise budget revenues, while on the other they hinder the competitiveness of the firm. Discussion on this issue would go beyond the aim of this paper.

#### **4. Public-private partnerships in infrastructure investments as a mean to reduce public financing**

Raising credits by public enterprises for infrastructure investments does not increase the official public debt and does not impose a burden on the current budget. It is just the opposite when the state or municipalities raise credits by themselves to finance investments in infrastructure. The state guarantees are also not included in the public debt. However, they represent a potential threat for public financing, as they are transferred into the public debt when the creditor claims guarantees for debt repayment. Although public enterprises in their credit activities normally do not cause the increase in public debt, the recent tendencies of increasing public ownership in Slovenia and the absence to exploit opportunities offered by public-private partnerships in infrastructure financing should be in our view of great concern.

Before the crisis Slovenia did not use the opportunity to attract private financing into infrastructure projects through various forms of public-private partnerships (PPP).<sup>7</sup> Slovenia participates with only 0.1% in all European PPPs, whose value is almost negligible (EIB, 2007). Together with Denmark, Latvia, an Slovak republic it is placed last regarding the development of PPPs. PPPs are the most represented in the UK with the 56% share by value, followed by Spain, France, Germany and Italy with a total share of one third of PPPs by value (EIB, 2007).

In the ownership structure of public enterprises the Slovenian state went backward when passing the PPP Act (2006). This Act provides an incentive to public enterprises (with mixed ownership), who run their activities by concessions, to withdraw the private shares from the companies. If they do so and

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**7** The rationale for underrepresentation of PPPs in Slovenia have been analysed in more detail by Hrovatin (2010). The key reasons are:

- late adoption of legislation and delays in its implementation in practice,
- reliance on the public financing of the highways and railways construction which was possible because of low indebtedness of the state and thus compliance to the Maastricht's fiscal criteria without problems,
- the pattern of ownership transformation of companies in transition leading to the majority of public utilities being organised as public enterprises,
- the recent reorganisation of public enterprises as required by the Public Private Partnerships Act (2006), enhancing the ownership share of the state and municipalities,
- failures that happened in conducting the first PPPs in Slovenia (the case of water treatment in Maribor).

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

end up as a 100% publicly owned, they could continue with their businesses without getting the concession through public procurement procedure. On the contrary, if they keep private ownership shares, they have to compete for the concession in public procurement with other rivals. In addition, an increased influence of the municipalities was enacted in 2010 with the provision that infrastructure belongs to the municipalities. Municipalities could lease the infrastructure to public enterprises. The rent should cover at least depreciation of the assets. If the rent is agreed on such a minimum level, it is clear that the financial resources do not suffice for new investments. In the previous regime the infrastructure could be recorded in the sub-balance sheets of the public enterprises as the »assets in management«, meaning that municipalities were indirect owners of the assets. Public enterprises had more business freedom to efficiently manage the infrastructure than in the new regime.

With these increase of »public« Slovenia has also launched more opportunities to increase public financing and hence public debt. Although the indebtednesses of municipalities in 2007 represented only 2.6% of public debt (CARS, 2009a), the debt of municipalities tends to increase. Only in two years, from 2007 to 2009, the gross indebtedness of the municipalities increased almost five times, and their net indebtedness 6.6 times as table 6 shows.

**Table 6: Borrowing of Slovenian municipalities in 2007 - 2009 in euro**

	2007	2008	2009	index 2009/2007
<b>Borrowing</b>	41.603.813	126.322.007	198.991.158	<b>478,3</b>
<b>Amortization of debt</b>	17.435.737	23.377.435	38.202.260	<b>219,1</b>
<b>Net borrowing</b>	24.168.076	102.944.572	160.788.898	<b>665,3</b>

Source: MF (2010b).

The accumulated budget deficit of municipalities in 2007 was negligible (-0.1 GDP), but in 2008 it considerably increased to 0.6% of GDP and remained around this level (0.5% of GDP) also in 2009 (MF and SORS, 2010).

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

The majority of municipalities' loans are raised for the construction of schools, kindergartens, and sport halls, followed by loans for the construction of communal infrastructure (water pipelines and sewerage, waste water treatment plants). Municipalities face constraints in their credit financing. They can only borrow if the debt servicing and obligations imposed by given guarantees do not exceed 8% of municipalities' revenues in the previous year from which donations and transfer payments for investments from the state budget, payments from the EU budget and revenues of the municipal public utility plants (in Slovene »režijski obrat«) are deducted. Public private partnerships which would remove a burden of infrastructure financing from municipal budgets would be in particular welcome at the municipal level. Unfortunately, this instrument is underdeveloped in Slovenian municipalities as the evidence witnessed. 77 of the Slovenian municipalities or more than one third (36.4 %) has not signed any PPP contract. This is 8 more than in 2008. Only one contract was concluded in 49 municipalities. Average number of contracts per municipality is 1.95 or, if we take into account only those municipalities, which have signed contracts, 3.09. The largest number of signed contract in a municipality is 14 (Financing of municipalities and accountable governance of municipalities' property, 2010).

The current economic and financial crisis has severely challenged also PPP type of infrastructure financing, which forced municipalities to find alternative revenues. In the UK, for example, municipalities are trying to find additional budget revenues in local betterment taxes. Planning gain is paid by developers of new dwellings who received higher profits (gains) as a result of the change of the purpose of the land use. Another possibility is also collection of compulsory contribution from the constructor (planning obligation) for the construction of communal infrastructure in new developments and associated social infrastructure (new schools, kindergartens, health centres, etc.) (Bailey, 2010).

On the state level state loans and state guarantees for the infrastructure construction seem to be more tricky because of its larger size. Although in Europe the most PPPs have been in the transport sector (60% by number and 84% by value) with highways in the first place, Slovenia did not succeed to take advantage of private sector participation in the construction of highways. The entire Slovenian highway cross has been constructed with public funds by the public enterprise DARS. The state has been granting guarantees to DARS for its loans. It is not surprising that these guarantees represented the largest

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

share in all state guarantees in the period 2000 – 2009 (MF, 2010a). State guarantees have escalated from 1.206 million euro in 2001 to 4.957 million euro in 2009 or from 5.8% of GDP in 2001 to 12.7% of GDP in 2008 and finally to 20,5% of GDP in 2010.<sup>8</sup>

CARS has pointed out several deficiencies in highway construction: delays in construction, nonfulfilment of planned construction works by the deadline, exceeding planned investment resources, inappropriate concession arrangements and allocation of responsibilities among the state, DARS and the firms for the state roads. Further threats in the financing of the highway construction programme are envisaged in the need for raising additional loans and in the problems in servicing already raised loans. The anticipations of CARS, that financing of highway construction may last longer than planned (by 2033) so that its completion may be postponed to 2050 come as no surprise (CARS, 2009b and Hrovatin, 2010).

Unlike the construction of highways, the state has not seriously questioned the need for the modernisation of Slovenian railways. Until 2007 only one fourth of the planned modernisation programme that should be completed by that time had in fact been realised. The state had also been giving guarantees to railways in the past and took over some loans which increased the state capital in the firm. Also, some financial assistance was given for solving redundancies and human resource restructuring. If this practice continues in the future, the budget expenditures would increase which would in turn raise state borrowing. The governmental will to prepare the revitalisation and modernisation of railways having private participation in mind seems promising to hinder the past practice.

The current size of state guarantees will also expand due to the envisaged guarantees for the construction of new lignite-fired thermal power plant in Šoštanj (TEŠ 6). If the public financing may to some extent may be justified in highway construction, it is much more difficult to accept this way of financing in the energy sector. The electricity industry has faced tremendous transformation under the EU liberalisation legislation and practice. In particular in the generation private initiative should lead the investment decisions and their financing. Some countries, like Finland, even went so far that the construction of two new nuclear power plant has not been entrusted to a public enterprise, but to two private non-profit consortia instead (Gatermann, 2010).

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<sup>8</sup> Considerable raise of guarantees in 2010 is mostly attributable to the guarantees of the state to help solving the financial crisis and was caused by infrastructure investments.

## **5. Management of public enterprises**

Efficient management of public enterprises is a prerequisite for significant cost savings and thus their better performance. The theoretical model of Schleifer and Vishny (1994) has demonstrated that public enterprises employ too many workers and gets reward transfers from the budget if the state exercises political influence through the majority ownership in the firms. Managers in public enterprises subordinate to the will of the politicians in order to keep their managerial positions. Hence, they will fulfil politicians' requirements to reward the loyalty of political parties' colleagues with hiring them for posts in public enterprises. Redek (2008) upgraded the basic Scheifer - Vishny's model with the assumption, that politicians are constrained in their attempts of providing jobs with the fear of scandal due to the media revelations about their wrong practices. In addition, inexperienced staff raises costs of the public enterprises due to the lack of knowledge and skills. In this way, media in their information role about the politicians' behaviour, act as a control mechanism against the tendency of overstaffing in public enterprises and against inadequate labour qualifications.

To prevent a negative influence of politicians on the appointment of unqualified managers based on their political affiliation, an efficient selection mechanism should be established. Slovenia attempted to launch such a mechanism for the appointment of the supervisory board members with the foundation of human resource accreditation committee. Since this was done only for supervisory boards, the main criterion for the top managerial posts remains to be political affiliation and loyalty together with good connections with political elite.

Efficient managerial leadership and performance could also be stimulated with adequate remuneration system. The fundamental rule should be that managers in public enterprises receive equal payments as managers in the private companies with similar risk. Such remuneration schemes are recommended also by the United Nations (2005). If public enterprises enjoy monopoly status and bear lower risks, their managers should earn lower wages and other payments. It is also recommended that managers' payments should consist of a fixed and a variable part. The variable part should be tied to the achievement of predefined targets. If public enterprises do business in non-competitive markets, the predefined target could not be the earned profit alone, but other goals such as cost reductions, higher quality of products and

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

services, success in reorganisation of business processes and in restructuring and the like. The focus, thus, should be on the specification of predetermined results (targets) and on the measurement of their implementation, which as a consequence determines managers' level of remuneration. Performance contracts between the state as the principal and the public enterprise as an agent have been successfully implemented in OECD countries and in some developing countries (India, Korea) (United Nations, 2005 and Chaterjee, 2010). In these contracts the targets (expected results) are defined in detail. This system also allows calculating the efficiency and/or effectiveness of public enterprises' performance which further enables their ranking and hence serves as a foundation for determining the top managers' remunerations.

From this perspective the Slovenian managerial remuneration system, where the managers' remuneration is tied to the average wage in each public enterprise, seems to be wrong. It gives managers in the industries with higher average wages higher remunerations no matter if the companies perform worse and do not reach the results. Slovenia, thus, needs both: first performance contracts between the state and public enterprises about the specified targets and second, top management remunerations tied to the achievement of these targets.

## **6. Conclusions**

Analysis of potential savings of the Slovenian public enterprises has revealed significant abilities for cost reductions and consequently for the increase in their profitability. This would raise revenues of their owners – the state and municipalities directly as a share in increased profit and by collecting higher corporate taxes. Benchmarking analysis of the gas and electricity distribution firms as well as water supply utilities have indicated potentials of 34 %, 11 % and 16 % average annual cost reductions annually, if Slovenian firms are compared only among themselves. In the comparisons with foreign firms, even larger savings could be achieved. A part of their inefficiency is associated with the fact that they are too small. With the mergers of firms without any additional efforts some cost savings could be accomplished.

As the studies took into account only operating costs, real costs savings would be even greater if the costs of capital are also incorporated. Among operating costs labour costs also proved to be too high. The CARS has also

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

pointed out several inefficiencies in the construction and maintenance of highways and roads and in the management of green public areas.

Additional budget sources could also indirectly be collected from users of public services by using their willingness to pay for certain products and services (i.e. green electricity). Further reduction in public spending is also possible with the greater use of PPPs for infrastructure financing. Slovenia has achieved very limited results in this area. Nevertheless, potential savings could not be realised without the efficient management of public enterprises. To pursue this key target Slovenia should introduce at least two reforms. First, the performance contracts between the state and public enterprises about the targets should be established and second, the appropriate recruitment and remuneration schemes for public sector managers should be designed, where the managerial remuneration would be tied to the accomplishment of pre-defined targets.

*Nevenka Hrovatin is Professor of Economics at the Faculty of Economics, University of Ljubljana, Slovenia (FELU). Her research interest is oriented towards public sector and public utilities with special focus on energy, water and electronic communications. She has been teaching several courses in these fields. From October 2001 to October 2007 she had been acting as Vice-Dean for International Relations. She is the head of the Institute of Public Sector at the FELU, the head of the master's programme in business administration that the FELU organises together with the ICPE and the head of Joint Master's Programme in Public Sector and Environmental Economics that the FELU is running together with the Schools of Economics and Business, University of Sarajevo and University of Nice (Tempus project). She is a member of the Energy Council of the Government of Slovenia and the Public-Private Partnership Council at the Ministry of Finance. She is a member of the editorial board of the journal Uprava (Administration). From 1999 to June 2010 she was co-editor of the Economic and Business Review for Central and South-Eastern Europe. She has also been working as a consultant to the Slovenian Government, the Slovenian electricity and gas regulator the Energy Agency and several utilities. In the past she was member (president) of supervisory boards of several Slovenian companies and institutions.*

Nevenka Hrovatin

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POVZETEK

## **KAKO PRIVARČEVATI JAVNA SREDSTVA V SLOVENSКИH JAVNIH PODJETJIH IN PRI INVESTICIJAH V INFRASTRUKTURO?**

Namen članka je analizirati, kako uspešna in učinkovita so slovenska javna podjetja pri izvajanju svojih dejavnosti, kakšne so možnosti za prihranke in za pritegnitev tudi zasebnih sredstev v infrastrukturne investicije. Če obstajajo rezerve za znižanje stroškov, lahko javna podjetja dosega-jo večji dobiček, iz katerega lahko država prvič, prejema dividende kot proračunski prihodek in drugič, prejema višje davke, saj tudi javna podjet-ja plačujejo davek na dobiček. Država lahko torej s povečanjem donosnos-ti javnih podjetij prejme večji proračunski kolač v dveh vlogah, v vlogi lastnika in v fiskalni vlogi. Po drugi strani nižji stroški javnih podjetij omo-gočajo zniževanje cen proizvodov in storitev, kar lahko na povpraševalni strani deluje spodbujevalno, saj potrošnikom ostaja višji nerazdeljeni dohodek, kar vzpodbuja večje agregatno povpraševanje in s tem gospo-darsko rast. Analiza možnih prihrankov temelji na pregledu znanstvenih objav o učinkovitosti in uspešnosti slovenskih javnih podjetij in na analizi ugotovitev pristojnih organov za njihov nadzor (Računskega sodišča).

Za slovenska komunalna podjetja (oskrba z vodo) ter plinska in elektro-distribucijska podjetja so bile izdelane benčmarking analize stroškovne učinkovitosti, ki primerjajo bodisi samo domača podjetja med sabo, bodisi domača podjetja s tujimi v isti panogi z uporabo različnih modelov. Anali-za možnih prihrankov je pokazala na precejšnje rezerve za zniževanja stroškov in za posledično povečanje njihove donosnosti. S tem bi se povečali tudi prihodki njihovih lastnikov – države in občin in sicer nepos-redno v obliki udeležbe v dobičku in z davkom na dohodek podjetij. Pri-merjalne benčmarking analize plinskih in elektrodistribucijskih podjetjih ter podjetij za oskrbo z vodo so pokazale na možnost 34% (plinska), 11% (elektrodistribucijska) oziroma 16% (podjetja za oskrbo z vodo) znižanja stroškov povprečno letno, če primerjamo samo domača podjetja. Če jih primerjamo s tujimi podjetji, pa so možni prihranki še večji. Del te neučinkovitosti gre prepisati tudi premajhni velikosti podjetij. Že samo z združevanjem podjetij bi lahko realizirali določene stroškovne prihranke. Če upoštevamo, da so analize zajele samo tekoče stroške poslovanja, ne pa tudi stroškov kapitala, bi bili dejanski prihranki ob upoštevanju vseh

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

stroškov lahko še večji. Njihovo učinkovitost bi bilo mogoče povečati tudi z vpeljavo ustrezne regulacije (na primer za podjetja za oskrbo z vodo) oziroma s pridobivanjem izkušenj in znanja regulatorja. Britanski primer plinskih podjetij namreč kaže, da ustaljena, izdelana in daljša regulatorna praksa omogoča bolj učinkovito regulacijo, ki se posledično kaže v večji učinkovitosti podjetij. Analizirana podjetja imajo tudi previsoke stroške dela, saj so se le-ti (na primer v dejavnosti oskrbe z elektriko in plinom) povečevali hitreje od slovenskega povprečja. Poleg tega pa stroški dela zajemajo tudi del stroškov, ki jih regulator ne priznava kot upravičene in zato znižujejo donos podjetij. Na številne pomanjkljivosti, katerih odprava bi zagotovo povzročila zniževanje stroškov, je pri vzdrževanju in gradnji avtocest ter cest in urejanju javnih površin opozorilo tudi Računsko sodišče. Celoten sistem rednega in investicijskega vzdrževanja avtocest v družbi DARS je organiziran tako, da vzpodbuja višjo porabo javnih sredstev in s tem nižjo učinkovitost na račun doseganja višje donosnosti poslovanja družbe v državni lasti DARS in družbe DCC. Računsko sodišče je opozorilo tudi na pomanjkljivosti vzdrževanja občinskih cest v nekaterih slovenskih občinah in na neučinkovitost porabe proračunskih sredstev pri izvajanju obvezne občinske gospodarske javne službe urejanja javnih zelenih površin na podlagi analize za leto 2007. Ker občine določijo le obseg sredstev, ne pa tudi, kako naj se sredstva porabijo in kakšna je zahtevana kakovost, je poraba sredstev prepuščena izvajalcem, nad katerimi ni vzpostavljenega ustreznega nadzora.

Možni dodatni viri za proračunske prihodke so tudi v izkoriščanju pripravljenosti uporabnikov za plačilo določenih proizvodov in storitev (na primer za zeleno energijo). Slovenska država nudi podpore za soproizvodnjo elektrike in toplote z visokim izkoristkom, ki jih zbere iz obveznega prispevka v omrežnini, katerega zavezanci za plačilo so vsi uporabniki električne energije. Takšno zbiranje sredstev bi bilo deloma mogoče nadomestiti z neposrednimi prispevki uporabnikov za zeleno energijo, sredstva podpor, ki se zbirajo preko cene za uporabo omrežij, pa bi lahko preusmerili v trošarine za polnjenje proračunske luknje

Koliko teh sredstev bi lahko nadomestili s prispevki uporabnikov, je seveda odvisno od pripravljenosti slovenskih gospodinjstev za plačilo zelene energije. Raziskava Zorič in Hrovatin o pripravljenosti na plačilo za zeleno energijo iz leta 2008 je na vzorcu 450 slovenskih gospodinjstev ocenila, da je kar 77% anketiranih gospodinjstev pripravljeno plačati za zeleno energijo in sicer v povprečju 4,2 evra mesečno, kar predstavlja

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

10,5% mesečnega računa za elektriko. Če pa pri izračunu mesečnega zneska upoštevamo samo tiste, ki so pripravljeni plačati za zeleno energijo, pa se znesek povzpne na 5,4 evra. Če upoštevamo, da smo leta 2007 imeli 745.000 gospodinjstev, bi le-ta bila letno pripravljena plačati okrog 37,5 milijona evra za zeleno energijo. Seveda je potrebno pri tem upoštevati, da bi bil ta znesek v resnici nižji, saj je dejanska pripravljenost za plačilo praviloma nižja od hipotetične. Po drugi strani pa bi bilo mogoče pripravljenost za plačilo bolj izobraženih gospodinjstev ter tistih z višjim dohodkom in bolj ekološko osveščenih tudi povečati, saj je ekonometrična analiza v omenjeni raziskavi pokazala, da so takšna gospodinjstva bolj nagnjena k plačilu za zeleno energijo. Na to bi lahko vplivali z ustreznimi trženjskimi strategijami podjetij pa tudi z večjim ozaveščanjem državljanov s strani ustreznih državnih institucij.

Seveda bi bilo še ugodneje, če ne bi večali trošarin, temveč bi povečali sredstva za vzpodbujanje teh investicij, saj bi to tudi preko zagona povezanih dejavnosti v daljšem obdobju prispevalo k povečanju proračunskih prihodkov (preko davkov in dobičkov). Zaradi vsega povedanega je treba preusmeritev obveznih podpor zbranih preko omrežnin razumeti kot začasen in omejen ukrep v času krize kot pomoč državnemu proračunu, da si čim hitreje opomore.

Razbremenitev občinskih proračunov in državnih garancij pa bi bilo mogoče doseči tudi z večjo pritegnitvijo zasebnega kapitala v financiranje infrastrukturnih investicij. Slovenija je to možnost doslej izkoriščala v zelo omejenem obsegu. V vseh evropskih projektih javno-zasebnega partnerstva (JZP) je udeležena le z 0,1% in se skupaj z Dansko, Latvijo in Slovaško uvršča na dno lestvice držav po razvitosti JZP. Na podlagi zakonodajnih sprememb se v Sloveniji tudi povečuje obseg in vloga javne lastnine in to še zlasti na občinski ravni. Podatki o zadolževanju občin kažejo, da je dolg občin leta 2007 obsegal le 2,6% javnega dolga, vendar le-ta narašča. V letih 2007 – 2009 se je bruto zadolžitev občin povečala skoraj za petkrat, neto zadolžitev pa za 6,6 krat. Na prvem mestu se občine zadolžujejo za izgradnjo šol, vrtcev in športnih dvoran, na drugem mestu pa za izgradnjo komunalne infrastrukture (vodovod, kanalizacija, čistilne naprave), kjer bi lahko v večji meri izkoristile možnosti, ki jih nudi javno-zasebno partnerstvo. O podrazvitosti instrumenta pritegnitve zasebnega kapitala in proračunske razbremenitve zgovorno priča dejstvo, da kar 77 občin (36,4%) nima sklenjene nobene pogodbe o javno-zasebnem partnerstvu, kar je 8 več kot v

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

letu 2008. Eno pogodbo ima 49 občin, povprečje na občino pa je 1,95, oziroma, če upoštevamo samo občine, ki imajo sklenjene pogodbe, 3,09.

Na državni ravni je zadolževanje države in dajanje poroštev za infrastrukturne investicije bolj problematično kot na občinski zaradi večjega obsega. V Evropi je bilo največ JZP (60% po številu in 84% po vrednosti) v prometu, kjer prevladujejo avtocestni projekti (EIB, 2007). Slovenija možnosti udeležbe zasebnih partnerjev ni izkoristila in je avtocestni križ v celoti gradila z javnimi sredstvi ter dajala poročstva za najetje kreditov javnemu podjetju DARS. Prav ta zajemajo največji delež v strukturi poroštev slovenske države v obdobju 2000-2009 (MF, 2010a), ki so se od 2001 do 2009 povečala od 1,206 milijonov evrov na 4,957 mio evrov, oziroma od 5,8% BDP na 12,7% BDP leta 2008 in na 20,5% leta 2010.<sup>9</sup>

Računsko sodišče je opozorilo na zamude pri izgradnji in nedoseganje planirane gradnje v predvidenih časovnih rokih ter na prekoračitve planiranih investicijskih sredstev kot tudi na neustrezno ureditev koncesijskega razmerja in delitve pristojnosti med državo, DARS in družbami za državne ceste. Nevarnosti, ki se napovedujejo pri financiranju avtocestnega programa so tudi v nadaljnjem zadolževanju in problemih s servisiranjem dolga, zato niso presenetljive ocene Računskega sodišča, da bo financiranje izgradnje avtocest trajala dlje od predvidene (2033) in da bo dejansko dokončanje financiranja odmaknjeno na konec sredine tega stoletja (2050) (RSRS, 2009b in Hrovatin, 2010).

Na državni ravni je zadolževanje države in dajanje poroštev za infrastrukturne investicije bolj problematično kot na občinski zaradi večjega obsega. Čeprav se državna poročstva formalno ne štejejo v javni dolg, predstavljajo potencialno možnost, da se prelijejo v javni dolg, če se poročstva unovčijo. V Evropi je bilo največ JZP (60% po številu in 84% po vrednosti) v prometu, kjer prevladujejo avtocestni projekti. Slovenija možnosti udeležbe zasebnih partnerjev ni izkoristila in je avtocestni križ v celoti gradila z javnimi sredstvi ter dajala poročstva za najetje kreditov javnemu podjetju DARS. Prav ta zajemajo največji delež v strukturi poroštev slovenske države v obdobju 2000-2009, ki so se od 2001 do 2009 povečala od 1,206 milijonov evrov na 4,957 mio evrov, oziroma od 5,8% BDP na 12,7% BDP leta 2008 in na 20,5% leta 2010.

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<sup>9</sup> Veliko povečanje poroštev leta 2010 izvira predvsem iz poroštev iz naslova reševanja finančne krize in ni povezano z infrastrukturnimi investicijami.

Nevenka Hrovatin

**Potentials for savings in the Slovenian public enterprises and investments in infrastructure?**

Računsko sodišče je opozorilo na zamude pri izgradnji in nedoseganje planirane gradnje v predvidenih časovnih rokih ter na prekoračitve planiranih investicijskih sredstev kot tudi na neustrezno ureditev koncesijskega razmerja in delitve pristojnosti med državo, DARS in družbami za državne ceste. Nevarnosti, ki se napovedujejo pri financiranju avtocestnega programa, so tudi v nadaljnjem zadolževanju in problemih s servisiranjem dolga, zato niso presenetljive ocene Računskega sodišča, da bo financiranje izgradnje avtocest trajalo dlje od predvidene (leto 2033) in da bo dejansko dokončanje financiranja odmaknjeno na konec sredine tega stoletja (do 2050).

Ugotovljenih možnih prihrankov slovenskih podjetij ni mogoče doseči brez učinkovitega upravljanja javnih podjetij. Da bi to dosegli, bi v Sloveniji morali uvesti vsaj dve reformi: prvič, uvesti sistem pogodb med državo in javnimi podjetji o doseganju vnaprej določenih ciljev javnih podjetij in drugič, vzpostaviti politično neodvisen sistem kadrovanja menedžerjev na podlagi strokovnih referenc ter sistem nagrajevanja menedžerjev, vezan na rezultate poslovanja javnih podjetij oziroma na preverjanje doseganja vnaprej postavljenih pogodbenih ciljev med državo in javnim podjetjem.



# European public procurement directives and their implementation in Slovenia

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Stanka Setnikar Cankar

University of Ljubljana, Faculty of Administration  
stanka.setnikar-cankar@fu-uni-lj.si

Veronika Petkovšek

University of Ljubljana, Faculty of Administration  
veronika.petkovsek@fu-uni-lj.si

## ABSTRACT

**This article presents the results of the research work "Awarding work to external contractors," carried out with a questionnaire in 2009 and 2010. The research examined the method and scope of public procurement in Slovenian municipalities with more than 8000 inhabitants. The objectives of the research work were: a comparison of public procurement legislation in selected EU countries; determination of the current situation in the field of public procurement in local government in years 2008 and 2009; determination of similarities and differences in the implementation of contracts; determination of the most common open questions in the implementation of contracts; determination of good practices in public procurement and making the recommendations for changes. Public procurement represents a significant proportion of national budget spending. Municipalities allocate around 20% of all expenditures to public procurement. The scope and methods of public procurement vary between municipalities. Small-value public procurement is determined by the municipalities in their internal acts, while large-value public procurement has legally prescribed procedures. New legislation on public procurement has brought innovations in the field of public tender and contract award procedures for procurement, which enables greater flexibility in the implementation and realisation of public procurement. This article presents also the European directives on public procurement and an international comparison of public procurement in selected EU and EEA states.**

*Key words: public procurement, municipality, tender and selection procedure, European Directives*

*JEL: H57, H76*

## **1. Introduction**

Public procurement is an important market sector and a source of income for businesses on the domestic market and the EU single market. Public procurement has therefore become an “essential part of central government business with the private sector” (Šoltes, in Ferfila, 2007, p. 558).

Public procurements are specific procedures leading to the agreement of contracts for the supply of goods, provision of services and construction. Public procurement is intended to stimulate fair competition between tenderers and to allow a contracting authority to purchase goods and services at the lowest possible price for a set level of quality. Public procurements must be carried out primarily by direct and indirect spending units of the national and local government budgets with the objective of meeting its own purchasing requirements in the most economical manner possible (Evenett & Hoekman, 2005, p.4). Public procurements that include competition ensure effective allocation of resources and introduce the dynamics of competition to a relatively closed system. Sound public procurement procedures lead to more effective and more economic utilisation of public funds, and greater reliability and effectiveness in the public sector (Šoltes, 2008, p. 134).

A public procurement procedure starts with the definition of the contracting authority’s purchasing requirements. The contracting authority prepares a tender dossier and defines the subject and scope of the public procurement, the conditions that tenders must meet, and the criteria for selecting the most favourable tenderer. This is followed by the signing of and implementation of the contract (Kranjc, 2004, pp. 53-63).

Public procurement therefore constitutes the supply of the public sector with goods, services and construction and is a broader concept than purchasing, since public procurements include identification of requirements, provision of funds, supply of goods, provision of services, use and implementation oversight (Šoltes, 2008, p. 133).

The size of the public procurement market in Slovenia is illustrated by the results of the surveys from 2005 to 2007, in which 45 Slovenian municipalities with over 8000 inhabitants participated.

Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their  
 implementation in Slovenia**

**Table 1: Value of high-value and low-value public procurements  
 as proportion of 2007 municipality expenditure**

Public procurements as proportion of 2007 municipality expenditure		Municipality type		Total	Total (%)
		Urban mu- nicipalities	Other mu- nicipalities		
	Up to 10%	2	6	8	21.1
	20% to 30%	4	6	10	26.3
	20% to 30%	1	10	11	28.9
	Over 30%	2	7	9	23.7
Total		9	29	38	100.0

Source: Setnikar Cankar, Seljak, Petkovšek, 2009, p.5

The total value of public procurements was compared with 2007 municipality expenditures. The comparison reveals large differences between municipalities, which is probably the consequence of the periodic nature of the investment cycle. In almost half of municipalities, over 20% of all expenditure was for public procurements, and below 20% in half of them (Setnikar Cankar, Seljak, Petkovšek, 2009, p. 5).

## **2. European public procurement directives**

“The development of public procurement in the European Union has been influenced by the move towards a single market. This is a fundamental part of the European Communities, as illustrated in the international founding treaties. The European Union is the common term for the three international treaties that created the community” (Pivk, 2006, p. 30).

“The member states transferred specifically defined competences by means of these international treaties. In addition to the common agricultural, trade, fishing, transport, health, social and other policies, the main activity and basis for all policy types, is the implementation of the common market through the implementation of four basic freedoms (Treaty establishing the European

Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their  
implementation in Slovenia**

Community or Treaty of Rome (TEC), 1957): free movement of goods, services, capital and labour. This objective can only be achieved, if individuals and business can compete equally for business offered by public and private organisations spending public funds. Free trade between member states and the fundamental rules of public procurement was already indirectly in the Treaty establishing the European Community (TEC). Specific rules in the Treaty of Rome prohibit some of the most frequent forms of discrimination, but do not lay down any provision on the transparency of operations and competition in acquiring business. The European Union therefore harmonised the area of public procurement via secondary legislation. This area of law is laid down by regulations, directives and guidelines of the European Union” (Pivk, 2006, p.30).

“The guidelines or directives that regulate public procurement are general and abstract acts of European Union bodies that apply to the member states. They are generally implemented directly. Member states must harmonise their own legislation within a set time after the guidelines are adopted. The guidelines are implemented after being transposed into member state legislation and define a common denominator, to which the member state must adapt” (Govekar, 2008, p.7).

“Member states, and hence also the European Union, regulate the area of public procurement in order to meet objectives such as: effective public spending, ensuring full and open competition, public trust, rationalising operations, preventing corruption, ensuring equality and non-discrimination. Primarily from the European Union’s point-of-view, public procurements represent large-scale finances and an instrument to ensure the four freedoms on which the common market is based” (Mužina & Vesel, 2007, p. 16). Nemeč (2010) writes that although Central and Eastern European states have public procurement offices, after verifying their websites he found that after 15 years of public procurement legislation being in place, the results were still very poor. The provision of online consultancy on contract agreement with external contractors was at a very low level.

“European law regulates the institute of public procurements in three sets of directives:

First, procedures for the award of public contracts:

Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

(OJ EU, no L 134/2004 of 31 April 2004), which replaced the frequently amended Directives 92/50/EEC, 93/36/EEC and 93/37/EEC.

Second, procurement procedures in the water, energy, transport and postal services sectors:

Directive 2004/17/EC on coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ EU, no L 134/2004, of 31 April 2004), which replaced the frequently amended Directive 93/38/EEC.

Third, legal remedies:

Council Directive 89/665/EEC (OJ EU, 1989, L 395), on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts and Council Directive 92/13/EEC (OJ EU, 1992, L 076), which lay down the rules on legal remedies in procurement procedures in the water, energy, transport and telecommunications sectors." (Mužina & Vesel, 2007, pp. 16-17)

### **3. Comparison of public procurements in selected EU member states**

#### **3.1 Austria**

Austria's Federal Law on Public Procurement distinguishes between the following forms of procedure for public tenders and public contract awards: public procedure, non-public procedure (i.e. restricted) with prior publication, non-public procedure without prior publication, negotiated procedure with prior publication, negotiated procedure without prior publication, and direct award of contract without prior publication. The following procedures may also be used: dynamic procurement system, framework agreement, competitive dialogue and electronic auction.

The contracting authority may freely select between public or non-public procedures with disclosure. Regulations defined in the Federal Law on Public Procurement must be met before any other form of procedure is selected. The non-public procedure without prior publication, the negotiated procedure without prior publication, and direct award of contract are only permitted if the

value of the public contract is at or below the threshold value (Federal Public Procurement Office, 2010).

### **3.2 Hungary**

Hungary has the Public Procurement Act, which regulates public procurements in accordance with Directive 2004/18/EC and public works contracts in accordance with Directive 2004/17/EC.

The Hungarian Public Procurement Act distinguishes between single-phase and two-phase procedures for public tenders and public contract awards: the participation stage and the tendering stage. Within this act, contracting authorities are free to select an open procedure or the "invitation" procedure (restricted procedure in accordance with Directive 2004/18/EC), in which only qualified participants may submit tenders in the participation state. All other procedures are subject to specific regulations. A contracting authority may only use a negotiated procedure, if an open or restricted procedure or competitive dialogue has failed, in exceptional cases in contracts for public works and goods or services. The contracting authority may only use a competitive dialogue if it is not able to define the technical specifications or the type of procurement or the legal and/or financial make-up of the procurement within the normal timeframe for a public procurement procedure. In addition to these procedures, contracting authorities may also use a framework agreement or dynamic purchasing system (The International Comparative Legal Guide to: Public Procurement 2010, 2010, pp. 117-121).

### **3.3 Germany**

Germany fully transposed the European directives (Directive 2004/17/EC and Directive 2004/18/EC) in its Restraint of Competition Act, Ordinance on the Award of Public Contracts and the Ordinance on Public Works Procurement.

In accordance with the EU directives, the German public procurement act defines four procedures for public tenders and the award of public contracts that exceed the threshold value. These procedures are: public tendering (open procedure), restricted tendering (restricted procedure), private tender (negotiated procedure) and competitive dialogue. A contracting authority that is subject to the federal Ordinance on Public Works Procurement may choose between the procedures stated, if there has been a prior publication of a pan-

European invitation tender. All other contracting authorities must in general use an open procedure, though restricted procedures, negotiated procedures or competitive dialogues are also possible under the conditions defined in EU directives. An open procedure, restricted procedure or negotiated procedure can be used for public procurements under the threshold value (The International Comparative Legal Guide to: Public Procurement 2010, 2010, pp. 105-110).

### **3.4 Norway**

Norwegian legislation on public procurements includes the Public Procurement Act, which implements Directive EU 2004/18/EC, the Regulation on Public Procurements, which also implements Directive 2004/18/EC, and the Regulation on Public Works Procurement, which implements Directive 2004/17/EC. Norwegian legislation covers all forms of public procurement from the group of EU public procurement directives, i.e. public procurement of goods, services and public works (Norway, 2010).

Norway's legal arrangement for public procurement prescribes four different procedures for public tenders and awarding public contracts: 1. open procedure, enabling the participation of all interested tenderers, but prohibiting negotiations between the public contracting authority and potential tenderers. The procedure is used for all forms of public procurement; 2. restricted procedure, which only permits invited tenderers to participate, with negotiations prohibited; the procedure is used for all forms of public procurement; 3. competitive dialogue, which includes dialogue between public contracting authorities and potential tenderers on specifications before tenderers submit their tender; and 4. negotiated procedure, where the contracting authority negotiates with one or more potential tenderer. The use of the third and fourth procedure is limited (The International Comparative Legal Guide to: Public Procurement 2010, 2010, pp. 181-185).

### **3.5 Sweden**

Sweden has a Public Procurement Act that applies to the private sector, and the Public Works Procurement Act, which applies to public works in the fields of water, transport, energy and postal services. These two acts include

all public procurements for goods, services and construction, and implement European Directives 2004/18/EC and 2004/17/EC (Public Procurement, 2010).

In Sweden an open procedure, restricted procedure or negotiated procedure may be used for public procurements over a prescribed threshold value. The rules for implementing these processes are harmonised with the EU directives. Despite this, the Public Procurement Act permits free selection between open and restricted procedures, while the Public Works Procurement Act permits free selection between all three procedural forms. A simplified, selective or direct procedure may be used for public procurements below the prescribed threshold. In a simplified procedure all suppliers are entitled to submit tenders, with participating suppliers bound to submit a tender, while the contracting authority may negotiate with one or more of them. In a selective procedure all suppliers are permitted to submit a tender, with the contracting authority inviting some tenderers to submit tenders, and able to negotiate with one or more of them. The contracting authority is free to choose between the two procedures. A direct procedure does not require tenderers and may only be used for low-value public procurements or on special grounds (The International Comparative Legal Guide to: Public Procurement 2010, 2010, pp. 244-247).

### **3.6 Similarities and differences between public procurement in selected states**

A comparison of selected EU member states (or EEA member in the case of Norway) indicates that the selected states implement Directives 2004/18/EC and 2004/17/EC in their public procurement legislation. The public procurement legislation of the selected states includes prescribed procedures for public tenders and public contract awards that must be respected in relation to prescribed threshold values for contracts. In Austria contracting authorities may freely select between public or non-public procedures with disclosure (i.e. restricted procedures with prior publication). In Hungary, Norway and Sweden, contracting authorities may freely select between open and restricted procedures. There are legal regulations in the individual member states that apply to the use of other procedures, such as negotiated procedures, competitive dialogue, framework agreements and dynamic purchasing systems.

The type and use of public procurement procedures is very similar among the different states, since they all have transposed the European directives into their own legislation. Each state also has its own specific national features. In Hungary distinction is made between single-stage and dual-stage

public tender and contract award procedures. In Germany the contracting authority may freely choose between prescribed procedures, if a pan-European tender has already been published. If not, it must use an open procedure.

#### **4. Amendments to legislation**

The adoption by the European Parliament and Council of two new European directives (Directives 2004/18/EC and 2004/17/EC) at the end of 2006 led to the amendment of the Slovenian legislation. It has been in force since early 2007. The amended Public Procurement Act (PPA-2) introduced a number of innovations to public procurement practice. It introduced new procurement procedures: the dynamic purchasing system, electronic auction, and competitive dialogue. The Act on Public Procurement in Water Management, Energy, Transport and Postal Services (APPwetp) was adopted in parallel (Mužina & Vesel, 2007, p. 18).

In June 2007 the Ministry of Finance's public procurement portal was started where contracting authorities can directly send publication of contract notice and tender dossiers, in accordance with the PPA-2 and APPwetp. The creation of the portal was a legal obligation, and its purpose and advantages was above all to reduce administrative obstacles and to modernise the method of handling public procurement, with publication and access to information on public procurements available in a one-stop-shop, reducing costs for contracting authorities and allowing deadlines for submission of tenders to be shortened (Public Procurement Portal, OGRS, 2010).

The PPA-2 offered greater flexibility in public procurement implementation. Nevertheless, the need has arisen to amend a number of individual solutions set out in the act, mainly in terms of increasing the importance of "market price" in public procurement procedures. The Act amending the Public Procurement Act (PPA-2A, Act amending the Public Procurement Act, OGRS, no 16/08) therefore changed the definition of the term "unacceptable tender", which now also includes tenders with a price higher than the market price for the subject of public procurement. The amended act also permits or commits the contracting authority to using an electronic auction if tenders are unacceptable. If an electronic auction fails to achieve a reduction in price, the contracting authority ends the process as unsuccessful; it may then hold negotiations (PPA-2A).

The PPA-2A has also led to changes in reporting statistical data to the Ministry of Finance. A system for automatic reporting of statistical data on public procurement was also established at the start of 2009. For high-value public procurements it was only necessary to submit 2008 data to the Ministry of Finance while it was no longer necessary to submit data for high-value public procurements in 2009 as they are captured automatically from the public procurement portal. Municipalities were exempt from the obligation to report statistical data on low-value procurements in 2008 and that also applied in 2009.

## **5. Presentation of the survey**

The type and scope of public procurements in Slovenian municipalities and their tender and award procedures were studied in the research work "Awarding Work to External Contractors." The research included municipalities, which had over 8000 inhabitants on 30 June 2007. Of the 65 municipalities meeting the criteria, 45 agreed to participate. The survey was carried out from 10 January 2009 to 28 February 2009 with assistance from postgraduate students on the Administration master's programme. The survey was repeated in 2010, from 4 June 2010 to 25 June 2010, again with assistance from graduate students. The research included municipalities of varied size, but all with over 8000 inhabitants. Of the 48 municipalities contacted (including 9 urban municipalities), only 25 responded to the survey, 4 of them being urban municipalities. Some participating municipalities completed the survey in full, others only in part.

## **6. Results**

### **6.1 Type of procurement services**

The objective of public procurement is to acquire the most favourable tender possible on the basis of a pre-defined procedure and a number of competitive tenders. Contracting authorities are required to purchase goods, order services and construction in accordance with rules defined by the relevant act and the regulations issued on its basis.

**Table 2: Types of service municipalities awarded to external contractors in public procurement procedures in 2008 and 2009**

Service type	No of urban municipalities <sup>1</sup>				No of municipalities with 10 000 to 50 000 inhabitants <sup>2</sup>			
	always	frequently	occasionally	never	always	frequently	occasionally	never
Legal services	0	0	3	1	1	1	10	0
Information services	0	2	2	0	0	6	5	1
Security services	1	1	1	1	2	5	2	3
Cleaning services	2	1	1	0	4	4	2	2
Vehicle fleet maintenance services	1	1	2	0	3	7	2	0

Source: Faculty of Administration survey 2009, 2010

The services most frequently awarded to external contractors in the surveyed municipalities (4 urban and 12 municipalities with 10 000 to 50 000 inhabitants) in 2008 and 2009 were cleaning services and vehicle fleet maintenance services, followed by security and information services and, less frequently, legal services.

Public procurement can be divided into low-value public procurements, and high-value public procurements.

## 6.2 Low-value public procurements

In Slovenia each contracting authority must organise the field of low-value public procurements in an internal act, so the procedures they use differ (Bohnec et al., 2005, p. 142). The new amended Public Procurement Act does

<sup>1</sup> Urban municipalities: Ljubljana, Kranj, Velenje and Slovenj Gradec.

<sup>2</sup> Municipalities with 10 000 to 50 000 inhabitants: Lendava, Laško, Jesenice, Rogaška Slatina, Sežana, Sevnica, Izola, Vrhnika, Grosuplje, Ljutomer, Zagorje ob Savi and Ormož.

Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their  
 implementation in Slovenia**

not define the term “low-value public procurement”, but the public procurement procedure is not prescribed for goods and services purchases under 10 000 euros and construction under 20 000 euros in order to achieve greater flexibility to purchasing goods and services. For purchases of goods and services worth between 20 000 and 40 000 euros and construction worth between 40 000 and 80 000 euros, the contracting authority can implement a low-value public procurement procedure or any other procedure (Act amending the Public Procurement Act (PPA-2B), Official Gazette of the Republic of Slovenia, no 19/2010).

**Table 3: Most common forms of public procurement used by municipalities**

Public procurement awarded	Proportion of public contracts awarded by purchase order (%)		Proportion of public contracts awarded by contract (%)	
	2008	2009 <sup>3</sup>	2008	2009 <sup>4</sup>
Goods	30.7	39.0	10.3	18.3
Services	63.3	56.5	69.0	67.3
Construction	6.0	4.5	20.7	14.4
<b>Total</b>	100.0	100.0	100.0	100.0

Source: Faculty of Administration survey 2009, 2010

In 2008 the average number per municipality of low-value public procurements awarded was 531 by purchase order and 76 by contract. The majority of low-value public contracts were in the service field, which constituted 63.3% of procurements by purchasing order and 69.0 % by contract. In the other two categories the differences were clearer, with procurements awarded for goods

<sup>3</sup> Municipalities with 10 000 to 50 000 inhabitants: Lendava, Laško and Rogaška Slatina.

<sup>4</sup> Municipalities with 10 000 to 50 000 inhabitants: Lendava, Laško and Rogaška Slatina.

constituting 30.7% of public procurements by purchasing order, and only 10.3% by contract, while awards for construction constituted 6.0% of procurements by purchase order and 20.7% by contract.

In 2009 the average number of low-value public contracts awarded was 516 by purchase order and 32 by contract in the 3 surveyed municipalities with 10 000 to 50 000 inhabitants. Public procurements awarded by purchase order predominated. The majority of low-value public contracts were in the service field, which constituted 56.5% of procurements by purchasing order and 67.3% of procurements by contract. The proportion of procurements awarded for goods and construction were lower, with 39% of procurements by purchase order and 18.3% of procurements by contract being for goods, while 4.5% of procurements by purchase order, and 14.4% of procurements by contract were for construction.

During the years 2008 and 2009 the percentage of public contracts awarded by purchase order and by contract has increased for goods and decreased for services and construction.

### **6.3 High-value public procurements**

High-value public procurements are procurements worth 40 000 euros or over for goods and services and 80 000 euros or over for construction, and are characterised by the fact the contracting authority must select from a number of set procedures: 1. open procedure; 2. procedure with prequalification of tenderers; 3. competitive dialogue; 4. negotiated procedure without prior publication, and 5. negotiated procedure after prior publication (PPA-2B). Contracting authorities may only freely choose between an open procedure and a procedure with prequalification of tenderers, with other procedures only implemented if specific criteria defined by the act are met.

An **open procedure** is the most frequently used public procurement procedure. All parties interested in acquiring the public procurement may submit tenders prepared in accordance with the contracting authority's requirements defined in the tender dossier (Art. 25, Public Procurement Act (PPA-2), OGRS, no 128/06). A procedure with prequalification of tenderers does not differ in essence from an open procedure. A contracting authority uses this procedure if the subject of public procurement is an ongoing contractual need, which the contracting authority cannot define in advance in terms of scope and time (Mužina & Vesel, 2007).

A **negotiated procedure** can only take place in two forms, either after prior publication or without prior publication. The procedure enables tenderers to harmonise their contractual conditions with those of the contracting authority. A negotiated procedure after prior publication is possible, if the contracting authority has attempted an open procedure and a procedure with prior qualification of tenderers and failed, or if it fails to acquire regular or acceptable tenders in a competitive dialogue. A procedure without prior publication can be used if, for various reasons, conditions are only met by one tenderer (Arts. 28 and 29, PPA-2).

**Competitive dialogue** is a major new feature of the amended Public Procurement Act (PPA-2). It is intended for very complex procurements and is used when the use of an open procedure or procedure with prequalification of tenderers is not possible due to the complexity of the public procurement (Art. 27, PPA-2). The purpose of competitive dialogue is to enable the contracting authority's requirements to be adapted to market conditions and to enable the contracting authority to set its final conditions only after possibilities have been weighed within a competitive dialogue.

A **framework agreement** is another new feature of the PPA-2 and is agreed on the basis of a prior open procedure, procedure with prequalification of tenderers, negotiated procedure after prior publication or negotiated procedure without prior publication. A distinction can be made between agreements with one tenderer or agreements with at least three tenderers (Art. 32, PPA-2). The next new feature of the PPA-2 is the dynamic purchasing system, which is used for standardised purchases. The system enables easier simultaneous communication via electronic means, if a larger number of tenderers are involved. This is a development on the open procedure and procedure with prior qualification of tenderers.

An **electronic auction** offers the contracting authority the possibility of awarding a public contract by electronic auction within an open procedure, procedure with prequalification of tenderers, or a negotiated procedure after prior publication, if the technical specification of the procurement can be defined accurately and unambiguously (Art. 35, PPA-2). The electronic auction enables prices to be ranked using automatic evaluation methods. A public auction enables costs to be lowered and reduces the level of administration by public bodies (Matas, 2006).

Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their  
implementation in Slovenia**

**Table 4: The most commonly used tender procedures for high-value public procurements by municipalities in 2008**

Procedure type	No of responses	Responses (%)							
		Goods and services				Construction			
		always	frequently	occasionally	never	always	frequently	occasionally	never
Call for tenders after prior publication	36	13.2	26.3	26.3	34.2	2.8	19.4	44.4	33.3
Negotiated procedure after prior publication	34	0.0	11.8	38.2	50.0	0.0	2.9	47.1	50.0
Open procedure	38	36.8	36.8	10.5	15.8	50.0	31.6	13.2	5.3
Other procedures	27	0.0	3.7	11.1	85.2	0.0	3.7	14.8	81.5

Source: Faculty of Administration survey 2009

The most common procedures for goods and services and construction in the surveyed municipalities in 2008 were open procedures. In some municipalities, calls for tenders after prior publication were always or frequently used, with other procedures used rarely. The only other procedures mentioned were negotiated procedures without prior publication and prequalification procedures.

**Table 5: The most commonly used tender procedures for high-value public procurements by municipalities in 2009**

Procedure type	No of responses	Responses (%)							
		Goods and services				Construction			
		always	frequently	occasionally	never	always	frequently	occasionally	never
Call for tenders after prior publication	11	0.0	63.6	9.1	27.3	0.0	54.5	27.3	18.2
Negotiated procedure after prior publication	10	0.0	0.0	50.0	50.0	0.0	10.0	30.0	60.0
Open procedure	10	30.0	50.0	20.0	0.0	30.0	60.0	10.0	0.0
Other procedures	9	0.0	0.0	11.1	88.9	0.0	0.0	11.1	88.9

Source: Faculty of Administration survey 2010

In 2009 the most frequently used procedures for goods and services and construction by surveyed municipalities (11 municipalities with 10 000 to 50 000 inhabitants) were open procedures, while they frequently or occasionally used procedures after prior publication and other procedures, but rarely or never used negotiated procedures after prior publication.

Kovač (2010) offers recommendations regarding the selection of procedures in the event of simple and complex public procurement projects. In line with the principle of ensuring competition between tenderers, for simple projects he recommends the use of a basic public tender, the award of contract by open procedure or award of contract by a procedure with prequalification of tenderers. For complex projects he proposes negotiations – either a competitive dialogue, award of contract by negotiated procedure, or any of the established variations of those forms.

## **7. Oversight of public procurements**

Procedures to award public procurements are subject to external oversight by the National Review Commission and the Court of Audit. The Court of Audit carries out scrutiny at various levels of the public procurement process, from identifying the need for public procurement, implementing the public procurement award procedure, and selecting the most favourable tenderer, to conclusion of the contract between the contracting authority and selected tenderer (Korpič-Horvat, 1997, p. 7). The National Audit Commission is an independent state authority for supervision of the legality of public procurement procedures (National Review Commission, 2010). The scrutiny carried out over public procurements by the Court of Audit is broader than that of the National Review Commission, which does not verify economy, purpose and efficient use of funds in public procurement awards (Public Procurement in Europe, 2005, p. 168).

From 2005 to 2008 public procurement procedures in the surveyed municipalities were subject to scrutiny in 68 cases. The most frequent supervisors were internal audit services (40% of examinations), Court of Audit (21%) and commercial auditors (19%). In 18 municipalities, supervisors found no errors, while in 11 they only found administrative errors. In four municipalities poor

internal controls were found, and in three cases municipalities were warned for having too many annexes to contracts.

In 2009 public procurement procedures in the surveyed municipalities were most frequently subject to scrutiny by internal audit services and commercial auditors, and only occasionally by the Court of Audit or National Review Commission. No public procurement infringements were found in most surveyed municipalities. In some, minor deficiencies were found such as disorganised documentation, strengthening internal controls, amendments to the tender dossier after deadlines expired.

## **8. Conclusion**

Public procurements represent an important state instrument for stimulating the economy. The rules on public procurement inform contracting authorities of the conditions under which they can or must select goods suppliers or service providers for public sector requirements (Korelc, 2009, p.1).

The single European market also demands uniform legislation on public procurement. EU member states have started to incorporate European directives on public procurement into their own legislation. An international comparison of selected EU & EEA member states indicates that the selected states have implemented Directives 2004/18/EC and 2004/17/EC in their public procurement legislation. The public procurement legislation of the selected states includes prescribed procedures for public tenders and public contract awards that must be respected in relation to threshold values for contracts. In all five selected states, contracting authorities can freely choose an open procedure, while in general legal regulations apply to the use of other procedures. The type and use of public procurement procedures are similar among the selected members, since they are all based on the EU directives, though each state has its own national peculiarities.

The research entitled "Awarding Work to External Contractors" studied the scope and method of issuing public contracts in Slovenian municipalities with over 8000 inhabitants. The study included 45 municipalities in 2008 and 25 in 2009. The scope and method of implementing public contracts differ from municipality to municipality. The most frequent services awarded to external contractors in the surveyed municipalities were cleaning services and

vehicle fleet maintenance services, followed by security and information services, and less frequently legal services.

The tender and selection procedures a Slovenian municipality uses depend on the individual public procurement involved. Municipalities generally have internal acts defining the implementation of low-value public procurements. The majority of low-value public procurement awards are made with a purchase order, particularly for services. Services also dominate public procurements awarded by contract. Public procurements for goods are most frequently awarded by purchase order, and awarded by contract for construction.

High-value public procurements have legally prescribed procedures for public tenders. The most frequently used procedure among the surveyed municipalities over the years studied is an open procedure for goods and services and for construction. New public procurement legislation has introduced a number of new features, the dynamic purchasing system, electronic auction, and competitive dialogue to procedures for public tenders and awarding of public contracts, which make public procurement procedures more flexible and more effective.

In early 2007 the new act introduced the Ministry of Finance's public procurement portal, the purpose and great benefit of which is to reduce administrative obstacles and to modernise public procurement processes, offer one-stop-shop access to information, reduce contracting authorities' costs and facilitate the shortening of deadlines. The creation of the portal also led to changes in how statistical data was reported to the Ministry of Finance. An automatic data reporting system for public procurement statistics started up in early 2009. Municipalities no longer had the obligation to report data on high-value public procurements, since the data was automatically captured by the public procurement portal. Municipalities were exempt from the obligation to report statistical data on low-value procurements in 2008.

The external scrutiny of public procurement procedures is carried out by the Court of Audit and the National Review Commission. The scrutiny carried out over public procurements by the Court of Audit is broader than that of the National Review Commission, which does not verify economy, purpose and efficient use of funds in public procurement awards. In 2009 public procurement procedures in the surveyed municipalities were most frequently subject to scrutiny by internal audit services and commercial auditors, and rarely by the Court of Audit and National Review Commission. No public procurement infringements were found in most surveyed municipalities.

Stanka Setnikar Cankar, Veronika Petkovšek  
**European public procurement directives and their  
implementation in Slovenia**

Municipalities' responses to questionnaire completion were both positive and negative. Some municipalities have organised the field of public procurements very well and very systematically, but some are much poorer. It would therefore be of benefit to establish a standardised public procurement programme for municipalities, which would be regularly updated with data on public procurement type and value. Recordkeeping standards could also be defined to improve data collection, while offering interested parties access to the data. The authors would put forward Municipality of Laško as an example of best practice. The best practice of this and other municipalities should be transferred to municipalities that have not organised this sector to an acceptable level.

It is recommended that municipalities combine forces in the organisation and implementation of public procurements. The organisation of joint services for a group of municipalities would contribute to greater professionalism and effectiveness. A major contribution could be also made by standardising instructions on the selection of appropriate tenderers. Some people proposed the creation of independent, regional public procurement agencies that would ensure greater competition among potential providers, and bring together people with necessary skills and experiences.

*Full Professor Stanka Setnikar-Cankar, Ph.D., graduated at the Faculty of Economics in Ljubljana in 1976. In 1993 she obtained the title of Doctor of Economics at the Faculty of Economics in Ljubljana. During the years 1999-2006 she carried out mandate as a Dean. She is a member of editorial boards of various professional journals in Slovenia and abroad. She is the managing editor of the journal "Uprava". She is a member of the NISPACee Steering Committee, a member of IIASIA, EGPA, etc. She successfully heads and participates in various research projects in field of Public Sector Reform, Effectiveness Measurement and Public Sector Economics. She participates in international research projects (Tempus, Interreg, Leonardo da Vinci). From 2009 she carries out her function again as the Dean of the Faculty of Administration and is a member of Strategic Council of the Republic of Slovenia for regionalisation.*

*Veronika Petkovšek graduated at the Faculty of Economics in Ljubljana in 2008. In 2008 she was employed at the Faculty of Administration as an assistant in the Department of Public Sector Economics. Her areas of research interest encompass Public Sector Economics in Slovenia in the field of changes in the healthcare system, public procurement and measuring the efficiency and effectiveness of public sector. She also participates at the international research projects, such as, Interreg and Leonardo da Vinci.*

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POVZETEK

## **EVROPSKE DIREKTIVE O JAVNIH NAROČILIH IN NJIHOVA IZVEDBA V SLOVENIJI**

Javna naročila so posebni postopki sklepanja pogodb za dobavo blaga, izvedbo storitev in gradenj. Javno naročanje mora spodbujati pošteno konkurenco med ponudniki in omogočiti naročniku, da nabavlja blago in storitve glede na zahtevano kakovost po najnižji ceni. Javna naročila morajo izvajati predvsem posredni in neposredni uporabniki državnega proračuna in lokalnih proračunov s ciljem najbolj gospodarno zadovoljiti svoje potrebe. Javna naročila pomenijo pomemben delež v odhodkih iz državnega proračuna. Občine tako javnim naročilom namenjajo okoli 20 % vseh odhodkov. Z vzpostavitvijo konkurence zagotavljajo učinkovito alokacijo resursov ter uvajajo dinamiko konkurence v relativno zaprte sisteme. Ustreznost javnega naročanja se kaže v povečanju učinkovitosti in gospodarnosti porabe javnih financ, zanesljivosti in učinkovitosti delovanja javnega sektorja.

Javna naročila so pomemben instrument države pri spodbujanju gospodarstva. Pravila o javnem naročanju naročnikom zapovedujejo, pod katerimi pogoji morajo oziroma smejo izbirati dobavitelje blaga in izvajalce storitev za potrebe javnega sektorja. Postopek javnega naročanja se prične z opredelitvijo potrebe po nakupu naročnika. Naročnik pripravi razpisno dokumentacijo in določi predmet in obseg naročila, pogoje, ki jih morajo dosegati ponudniki, ter merila po katerih naročnik izbere najugodnejšega ponudnika. Sledi še sklenitev pogodbe in njeno izvajanje.

Države članice Evropske unije urejajo področje javnih naročil zaradi zasledovanja ciljev, kot so: učinkovitost porabe javnih sredstev, zagotavljanje odprte in popolne konkurence, zaupanje javnosti, racionalizacija poslovanja, preprečevanje korupcije, zagotavljanje enakopravnosti in nediskriminacije. Predvsem z vidika Evropske skupnosti pa so javna naročila tudi obsežna finančna sredstva in instrument zagotavljanja štirih svoboščin, na katerih temelji skupni trg.

Mednarodna primerjava izbranih članic EU kaže, da so izbrane članice v svoji zakonodaji na področju javnih naročil upoštevale Direktivo 2004/18/ES in Direktivo 2004/17/ES. V okviru zakonodaje o javnih naročilih imajo izbrane članice predpisane postopke razpisov in izbire javnih naročil, ki jih morajo upoštevati glede na predpisane mejne vrednosti naročil. V Avstriji lahko naročniki prosto izbirajo med odprtim postopkom

in neodprtih postopkom po predhodni objavi. Na Madžarskem, Norveškem in Švedskem naročniki prosto izbirajo med odprtim postopkom in omejenim postopkom. Za uporabo drugih postopkov, kot so postopek s pogajanjem, konkurenčni dialog, okvirni sporazum in dinamični sistem, pa veljajo zakonski predpisi v posameznih članicah.

Vrste in uporaba postopkov javnega naročanja med izbranimi članicami zelo podobni, saj vse v svoji zakonodaji upoštevajo Direktive ES. Vsaka izbrana članica pa ima tudi svoje nacionalne posebnosti. Tako na Madžarskem razlikujejo med postopki razpisov in izbire javnih naročil z eno fazo in postopke z dvema fazama. V Nemčiji lahko naročnik prosto izbira med predpisanimi postopki, če je bil predhodno objavljen vseevropski razpis. V nasprotnem primeru mora uporabiti odprti postopek.

V okviru raziskave »Oddaja del zunanjim izvajalcem« smo proučili obseg in način izvajanja javnih naročil v slovenskih občinah z več kot 8.000 prebivalci v letih 2008 in 2009. Pri raziskavi v letu 2008 je sodelovalo 45 občin, v letu 2009 pa 25 občin. Obseg in način izvajanja javnih naročil se med občinami razlikujeta. V opazovanih občinah so v obeh proučevanih letih najpogosteje oddajali zunanjim izvajalcem storitve čiščenja in storitve vzdrževanja voznega parka, sledile so storitve fizičnega varovanja in informacijske storitve, redkeje pa so oddajali pravne storitve.

Od posameznega javnega naročila je odvisno, kakšen postopek razpisa in izbire bo občina uporabila. Za naročila male vrednosti imajo občine izvajanje javnih naročil večinoma določeno po svojih internih aktih. Novi Zakon o javnem naročanju ne opredeljuje pojma oddaja naročil male vrednosti in zaradi poenostavitve ter večje fleksibilnosti za nabavo blaga in storitev do vrednosti 10.000 evrov in za gradnje v vrednosti do 20.000 evrov ne predpisuje postopka naročanja. Za nabavo blaga in storitev v vrednosti od 20.000 do 40.000 evrov in gradnje v vrednosti od 40.000 do 80.000 evrov naročnik izvede postopek oddaje naročila male vrednosti ali katerikoli drug postopek. V letih 2008 in 2009 so največji delež oddaje malih naročil opravili z naročilnico, in sicer največ na področju storitev. Tudi na področju opravljanja javnih naročil s pogodbo so prevladovali storitve. Javna naročila za blago so najpogosteje sklepali z naročilnico, za gradnje pa s pogodbo.

Javna naročila velike vrednosti imajo zakonsko predpisane postopke zbiranja ponudb. Za javna naročila velike vrednosti, katerih vrednost je enaka ali večja od 40.000 evrov v primeru blaga in storitev oziroma 80.000 evrov v primeru gradenj, je značilno, da naročnik izvede javno naročanje

po enem izmed določenih postopkov: 1. odprti postopek, 2. postopek s predhodnim ugotavljanjem sposobnosti, 3. konkurenčni dialog, 4. postopek s pogajanjem brez predhodne objave, 5. postopek s pogajanjem po predhodni objavi. Naročniki prosto izbirajo le med odprtim postopkom in postopkom s predhodnim ugotavljanjem sposobnosti, druge postopke pa izvedejo le, če so za to izpolnjeni posebni pogoji, ki jih določa zakon. Opazovane občine so v letih 2008 in 2009 najpogosteje uporabljale odprti postopek, tako pri zbiranju ponudb za blago in storitve kot tudi pri gradnjah. V nekaterih občinah so redno ali pogosto uporabljali še postopke zbiranja ponudb po predhodni objavi, redkeje pa druge postopke.

Kot posledica dveh novih evropskih direktiv (Direktiva 2004/18/ES in Direktiva 2004/17/ES), katere sta sprejela Evropski parlament in Svet EU na koncu leta 2006, je nastala nova slovenska zakonodaja. Uporabljati se je pričela v začetku leta 2007. Novi Zakon o javnem naročanju je prinesel številne novosti v prakso javnega naročanja. Uvedel je nove postopke naročanja: dinamični sistem, elektronska dražba, konkurenčni dialog. To omogoča večjo fleksibilnost pri izvajanju javnega naročanja in uspešnejšo izvedbo javnih naročil. Vzporedno je bil sprejet tudi Zakon o javnem naročanju na vodnem, energetske, transportnem področju in področju poštnih storitev.

Nova zakonodaja je v začetku leta 2007 vpeljala portal javnih naročil Ministrstva za finance, katerega namen in prednost so predvsem zmanjšanje administrativnih ovir in posodobitev načina poslovanja pri javnem naročanju, dostopnost informacij na enem mestu, zmanjšanje stroškov za naročnike in možnost skrajšanja rokov. Z vzpostavitvijo portala je prišlo tudi do spremembe sporočanja statističnih podatkov na Ministrstvo za finance. Vzpostavljen je bil sistem za sprotni zajem statističnih podatkov o javnih naročilih, ki je začel veljati v začetku leta 2009. Za leto 2009 ni bilo več treba sporočati podatkov o javnih naročilih velike vrednosti, saj se zajemajo neposredno iz portala javnih naročil. Pri obveznosti sporočanja statističnih podatkov za mala naročila pa so bile občine izvzete že za leto 2008.

Zunanji nadzor nad postopki javnega naročanja izvajata Računsko sodišče in Državna revizijska komisija. Nadzor, ki ga pri javnih naročilih opravlja Računsko sodišče, je širši od revizije Državne revizijske komisije, saj le-ta ne ugotavlja gospodarnosti, namembnosti in učinkovitosti rabe sredstev za oddano javno naročilo. V opazovanih občinah so bila javna naročila najpogosteje predmet nadzora notranje revizijske službe in

komercialnih revizijskih hiš, ponekod pa tudi Računskega sodišča in Državne revizijske komisije. Pri večini opazovanih občinah kršitev pri javnih naročilih ni bilo ugotovljenih.

Pri izpolnjevanju vprašalnikov smo naleteli na dobre in slabe odzive občin. Nekatere občine imajo področje javnih naročil zelo dobro in sistematično urejeno, nekatere slabše. Zato bi bilo dobro, da se vzpostavi enoten program javnih naročil po občinah, kjer bi sprotno vnašali podatke po vrstah javnih naročil in vrednostih. Podobno bi lahko vzpostavili enotne standarde vodenja evidenc za lažje zbiranje podatkov in hkrati posledično tudi omogočili zainteresirani javnosti dostop do podatkov. Primer dobre prakse pri javnih naročilih je občina Laško. Njeno prakso in tudi dobre prakse drugih občin bi bilo treba prenesti na občine, kjer tega področja še nimajo dovolj dobro urejenega.



# **Municipalities and regions in locational competition – Relevant factors for success and political implications**

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Thomas Döring

Carinthia University of Applied Sciences, ISMA  
t.doering@fh-kaernten.at

Eithne Knappitsch

Carinthia University of Applied Sciences, School of Management  
e.knappitsch@fh-kaernten.at

Birgit Aigner

Carinthia University of Applied Sciences, School of Management  
b.aigner@fh-kaernten.at

## **ABSTRACT**

**Improving the business conditions of municipalities and regions, competitiveness concerning the location of new businesses and attraction of highly qualified labor are considered classical topics within regional economics and industrial location theory. Locational competition has intensified over recent years in the wake of the process of globalization, the general development towards a knowledge-based economy, and the dynamic of the international and the national division of labor. This analysis will be carried out in three steps. Firstly, traditional (e.g. industrial location theory) and newer economic approaches (e.g. new economic growth theory, innovative milieu approach etc.) will be outlined by means of discussing their insights and implications regarding the process of industrial location. This discussion shows that modern economies are increasingly developing into service and knowledge societies, in which factors formerly viewed as relevant within locational competition are becoming less important. Secondly, the paper analyzes the empirical evidence for these theoretical findings. According to existing empirical work, the evidence suggests that present studies mainly support the theoretically derived thesis of a shift in the classical ranking of locational factors. Finally, the paper seeks to explore conclusions concerning the design of local and regional economic policy at multiple governance levels.**

*Key words: local economic development, regional economic development, locational competition, hard location factors.*

*JEL: H7*

## **1. Locational competition - current trends and relevant questions**

Progressing globalization and structural adjustment, accompanied by an intensification of the international division of labor as well as changes to the global sourcing of goods, materials, services, and finance, has plunged developed nations into an increasingly complex, uncertain and competitive world. Regions are forced to find their own place in the European and global division of labor (Keating 2001); while the notion of competitiveness has essentially become something of an omnipresent given in terms of economic development theory and policy. In addition, new technologies have set the world on the path towards becoming an information economy of knowledge-based industries, with specific requirements for new types of highly mobile, highly skilled and flexible labor and management (see Stimson et al. 2006; Läßle 2001). These fundamental changes lead to a situation where municipalities and regions face increased exposure (both domestically and internationally) to heightened competition in attracting production and service providing businesses, as well as a complementary labor force.

The increasing intensity of local and regional locational competition goes hand in hand with an increased mobility and flexibility of businesses and highly skilled labor, which in turn impacts the importance of local and regional factors of location. Economic studies based on company surveys in European countries arrive at the conclusion that more than 25% of the questioned businesses in Western Europe have made locationally relevant decisions: moving production to foreign countries in the two years prior to the survey. Austria is one of the countries with the highest business mobility rates: some 47.7% of all businesses having relocated production to foreign sites in the years 2007 and 2008 (see Kinkel et al. 2007; Breinbauer et al. 2008). This points to a significant location dynamic in modern industrial countries, especially when considering all locationally relevant processes. Included in these are - in addition to the business relocations and startups of new businesses typically considered in this context - also a multitude of "hidden" locationally relevant processes like, for example, the expansion or shrinkage of existing locations (relative to other locations), the founding and dissolving of local branches, or also the decisions of companies to remain at a certain location (provided they are confronted with the alternative of a possible relocation).

Current economic tendencies, such as the internationalization of added value chains, the shortening of product cycles in the production and service sector, or the increasing importance of company internal real-estate management result in an even more significantly growing dynamic concerning the anticipation of future locationally relevant business decisions. As regards the locational competition of municipalities and regions, it is vital that the reasons for business-based location decisions are primarily of a local and regional nature and are thus location-dependent (see Blume 2006). This means that the specific advantages and disadvantages of the respective locations - in cities, municipalities, districts or regions - are, in the majority of cases, decisive for locational movement.

Against this background, an array of relevant questions concerning the appropriate behaviour of municipalities and regions in locational competition can be formulated. It is therefore interesting to consider how local and regional development processes in modern industrial countries must be constructed in order for municipalities to be able to maintain, and in future enhance, the position they have already attained. In the same right it is necessary to ask the question of which locational factors are currently important for the successful economic development of municipalities and regions and which will be important in the future. Finally, also of interest are the political recommendations that can be derived from newer theoretical analyses and empirical studies on the relevance of locational factors.

## **2. Locational competition and locational factors from a theoretical perspective**

### **2.1 The traditional view: Industrial location theory**

Traditional economic approaches to the analysis of locational competition have focused on the locational advantage or disadvantage in terms of the cost effectiveness of a locality or region. Explicitly spatial models of the processes by which firms choose where to locate their activities have been developed within (industrial) location theory. This theory addresses the question of why economic activities are unevenly distributed across space and also makes reference to the factors that firms consider in selecting a geographic location (see for classical texts on location theory Hoover 1948; Greenhunt 1956; Beckmann 1968; Smith 1971). Location theory has proposed that firms locate so as to

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

minimize costs and seek locations that maximize their opportunities to reach markets; thus to maximize profits. Much of the emphasis has been put on transport costs, labor costs, other production costs, scale of operation, and agglomeration economics (for a summary see Stimson et al. 2006; Edwards 2007).

The considerations embodied in location theory have contributed to the proposition that the sites in which businesses settled were deduced from spatially influenced production and distribution costs, which in turn influenced the prices of their products and ultimately their competitiveness. This explained to some extent the difference between urban and rural regions: strongly concentrated and lightly dispersed areas resulting from cost differences. In this context, the most important spatially relevant cost factors were considered to be acquisition and procurement costs, costs of distribution (marketing, selling, etc.) and costs of production. While procurement and distribution costs were deemed dependent on distance, production costs were seen as dependent on distance as well as on the degree of concentration of businesses (agglomeration benefits). The spatial distribution of economic activities can itself be subject to agglomeration effects because agglomeration benefits - mainly in the form of growing sales and procurement markets, which go hand in hand with cost reducing scale effects - can become greater with each increase in concentration. A lot of the work on agglomeration economies stems from the concept of the industrial district proposed by Alfred Marshall (1920), postulating that agglomerated factors constitute a theoretical link between the spatial structure of an economy and its growth dynamic (for an overview see Maier 2001; Feser 2001). Similarly, and in line with the traditional insights of location theory, so-called new economic geography indicates that agglomeration effects combined with transportation costs play an important role in local and regional development (see, for example, Krugman 1991; Ottaviano/Thisse 2003).

In view of the behaviour of a locality or region within a competitive setting, the implicit message of these traditional economic approaches is that municipalities and regional authorities can be successful when they offer a local environment for businesses that leads to a reduction of costs. Here, affordable access to raw material, quick accessibility to sales markets, low property prices or an agglomeration of businesses are considered conducive to lower costs. The focus of these approaches clearly lies on what are often referred to as hard locational factors like transportation infrastructure, local rate

of taxes and duties, municipal real-estate management and office availability, locationally relevant production conditions, or even the extent of subsidies provided. Accordingly, the following political recommendations for a successful and competition-oriented organization of local and regional economic development can be deduced: Municipalities and regions can maintain or even improve on their position in terms of locational competition by binding businesses to their locations via low municipal taxes and duties, the provision of subsidies, investments in local transportation infrastructure, or through successful industrial real-estate management.

## **2.2 New economic growth theory and modern regional economic approaches**

Classic location theory and the related political recommendations promising success for local and regional actors within locational competition has been called into question over recent years. On the one hand, mere experience has contributed to the conclusion that - contrary to what was postulated by location theory - the agglomeration of businesses in space and - connected to this - local as well as regional economic growth were at their highest where the cost of living and office costs were high; industrial real-estate reserves were low; subsidies were either minimal or not offered at all; and the burden of local taxes and duties was comparatively high. This experience can be explained by the fact that modern economies are increasingly developing into service and knowledge economies, in which factors formerly considered relevant - like raw material or sales market orientation of businesses - are becoming less and less important (see various articles in Moldaschl/Stehr 2009 as well as in Cooke/Piccaluga 2006).

On the other hand, insights from new economic growth and modern regional economic approaches have led to a change in the economic assessment of locational competition and relevant locational factors. From a growth theory perspective, being adequately equipped and provided with (cheap) capital and labor is not considered decisive for the successful development of a locality or region, especially within industrial countries. A significant economic growth rate, one which is enduring and innovation-based, is attributed to the production factors "technology" and "knowledge" (in the latter case, for example, in the form of the accumulation of human capital). New growth theory models developed by theorists such as Romer (1987), Barro (1990), Rebelo (1991)

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

Grossman and Helpman (1991) and Arthur (1994) allow for technological progress to be considered as an endogenous effect within the process of economic development. Furthermore, economists like Thomas (1975), Rees (1979) or Erickson (1994) have postulated that technology, innovation and knowledge are the primary drivers in local and regional economic development.

Against this background, the concept of innovative milieus was formulated in an effort to explain the emergence of a new technology generation: connecting the importance of agglomeration and localization economies, thus leading to the development of new industrial spaces (for more details see Scott 1988; Porter 1990 and 2000; Camagni 1991). In addition, some authors like Fukuyama (1995) and Blume and Sack (2008) have suggested that not only economic but also value and cultural factors (including social capital and trust) are important in the rise of knowledge based agglomerations. Furthermore collaboration among small and medium size enterprises through cooperative networks is believed to forge a powerful entrepreneurial business climate.

More specifically, these insights into a technology and knowledge based explanation of local economic development become the doctrine of agglomeration benefits through a regional economic reinterpretation. Agglomeration of businesses in space is first and foremost a factor that increases productivity. In contrast to what was emphasized in location theory, it is less the direct production and distribution costs that play a decisive role, but rather the positive scale effects brought about by “mutual learning” and “technology spillovers” (see among others Läpple 2001). Learning and innovation, the ability of businesses to create new products, new production procedures, and new forms of organization on the basis of knowledge and spatial knowledge-spillovers, become critical success factors for local and regional economic development.

With respect to the locational competition of municipalities and regions, this leads to two conclusions. Firstly, cost leadership is no longer (solely) decisive in competition processes; the realization of a knowledge-based local and regional development is of increased importance and relies on an ability to cope with ubiquitous change by means of enhancing company innovativeness. This goes hand in hand with an important shift away from the “hard” locational factors, deemed rather static (transportation infrastructure, local taxes and duties, etc.), towards factors characterized as dynamic - for example the improvement of knowledge transfer between companies and institutions of

Döring, Knappitsch, Aigner

**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

higher education or research institutions of a region, the creation of innovative milieus and cooperative networks, as well as the accrual of highly qualified and creative personnel (see among others Camagni 1992; Fritsch et al. 1998; Stimson et al. 2006).

An ever greater role is now accorded to so-called “soft” locational factors, which is important among other things for the service capability of companies with knowledge-oriented jobs (see, for example, Logan/Swanstrom 1990; Smilor/Wakelin 1990). Soft “locational” factors are viewed as determinants for the quality of a locality and as such influence the decision of where businesses settle and where qualified and creative personnel decide to offer their services. Soft locational factors are on the one hand company-based factors like effectiveness and efficiency of the local administration, the image of a city and region, or the economic climate at that location. On the other hand, they include quality of life related factors like living environment, local and regional environmental quality, recreational value and allure of city and region as well as the quantity and quality of cultural activities and social institutions. From this perspective, new opportunities and also new challenges result. Thus the traditional political instruments used within the context of local and regional promotion of economic development lose their effectiveness under the altered conditions. At the same time, as a result of the increasing plurality of locational factors, there is also a rise in the number of competition parameters, which municipalities and regions use to present themselves as attractive for businesses and highly qualified labor in competition with other locations.

### **3. Selected results from empirical research**

The previous considerations were largely of a theoretical nature and thus leave open the question of empirical evidence linked to the thesis of altered locational competition under the conditions of globalization and knowledge society and the related shift in the classical ranking of locational factors considered meaningful for the economic development of localities and regions. The following remarks aim to examine the interrelationship between empirical evidence and theoretical considerations. With this in mind studies addressing the relevance of knowledge, the spatial distribution of knowledge (knowledge-spillovers) as well as cooperative (innovation-oriented) networks for the economic development of municipalities

and regions will initially be at the center of investigation. Subsequently, reference will also be made to those studies examining the empirical significance of soft locational factors in contrast to hard ones.

### **3.1 The relevance of knowledge and knowledge spillovers**

The relevance of a knowledge-based local and regional development highlighted by new growth theory approaches and modern regional economics has led to an array of empirical studies in conjunction with knowledge, the spatial diffusion of knowledge (knowledge-spillovers) and economic development, as well as the innovation performance of businesses at individual locations (see among others Bode 1998; Griliches 1992). These studies have demonstrated that especially in metropolitan areas the geographical agglomeration of businesses that produce knowledge intensively contributes to positive economic growth rates and a higher per-capita value creation (see Kahnert 1998). These businesses are the ones that by means of innovative technologies create new markets as well as generate new value creation chains and employment opportunities. Here it has been found that the availability of highly qualified employees plays an essential role. It is, therefore, not surprising that the dynamic of economic development is empirically especially high at those locations considered among the classic technological locations, with universities and scientific research institutions in close proximity.

The finding that the economic use to which newly created knowledge is put and subsequently that the extent of so-called knowledge externalities are, as a rule, spatially restricted must be considered as of particular importance for local and regional economic policy (see Döring/Schnellenbach 2006). This is supported by empirical studies concerning the innovation performance of businesses in regions with major cities in the USA (see among others Audretsch/Mahmood 1994; Anselin et al. 1997; Varga 1998), by cross-country studies for selected regions in the European Union (see Botazzi/Peri 2003) as well as by studies for German labor market districts (see Niebuhr/Funke 2000; Franke 2002). For municipalities and regions alike this means that investments in a knowledge-based local and regional development appear to be profitable insofar as the possible profits of an economic promotion policy factoring in these elements primarily benefit the actors at the location.

In the context of a local economic policy such as that outlined above, empirical studies provide evidence of a positive correlation between how a region

Döring, Knappitsch, Aigner

**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

is equipped with universities and academic research institutions and the innovation activity of local businesses in knowledge-intensive producing branches. The study conducted by Jaffe (1989) can be mentioned here as exemplary. It traced a significantly positive correlation between academic research and the registration of patents as well as R&D expenditures of companies in 29 US states. Empirical studies conducted afterwards confirm this finding for the USA (see, for example, Acs et al. 1999; Audretsch/Stephans 1996) as well as for Germany (see Edler/Schmoch 2001; Blume/ Fromm 2000; Frisch/Schwirten 1998).

Direct evidence of the importance of innovative milieus and cooperative networks, in connection with the production factor knowledge, for the positive economic development of municipalities and regions has been demonstrated by Piore and Sabel (1984). Their study empirically identified the networking of local companies as playing a key role in the economic success of industrial clusters in Italy. An extensive number of studies on Italian industrial districts was later conducted and confirmed this finding (see Lazerson 1995; Gottardi 1996). Despite the fact that a multitude of institutional and organizational aspects of industrial clusters were examined, the factor "local and regional networking" was unanimously considered as central to the success characterizing all the industrial districts examined. A number of regional case studies concerning growth prominent industrial clusters in other countries have obtained the same result (see among others Saxenian 1994; Garnsey/Cannon-Brookes 1993; Maskell 1992). Irrespective of structural differences between the individual regions, the various studies suggest that when it comes to growth regions, regional networking is a key factor.

It can be concluded that networks of regionally clustered businesses and public institutions offer two broad opportunities: Firstly, formal exchanges of knowledge through market relationships, where proximity allows the establishment of closer ties; and secondly, the informal exchange of knowledge among social networks of individuals. A community's social life is considered to act as a knowledge multiplier, while the interconnection between social and economic networks within a community also contributes to a knowledge spillover (Falck and Heblich 2008). These considerations are consistent with empirical findings that cities better endowed with human capital have higher sustained growth rates (Glaeser et al. 1992). Municipalities or regions with skilled labor and high levels of specialized human capital are more likely to attract innovative networks compared with less endowed areas. This is confirmed by

a survey of 84 businesses in the north-eastern USA which finds that the availability of skilled labor is the most important factor in influencing business site selection decisions (see Karakaya/Canel 1998). Empirical explorations of social capital data for German regions by Blume and Sack (2008) show evidence that regions with a high performance concerning social capital, which provided the necessary basis for regional networking and knowledge exchange, are characterized by comparatively higher income per capita values and economic growth rates.

### **3.2 The importance of soft locational factors**

There has been little empirical testing of the theoretically developed thesis that soft locational factors have become increasingly important within the framework of a transition towards a service and knowledge-based society. One exception to this concerns the studies conducted by Florida (2005, 2002 and 2000), which were guided by the assumption that although in the age of globalization modern industries and businesses increasingly become geographically independent, questions of location take on greater importance in a new sense. Accordingly, growth and dynamic can be found where the highly qualified and creative establish themselves and where as a result complementary businesses settle ("the power of place"). Against this background, the question of which locational factors attract highly qualified top performers was examined in a survey involving data from 67 metropolitan regions in the USA.

Without claiming completeness or offering a systematic analysis, the results of the survey can be summarized as follows: The better the quality of life of individual locations, the greater the likelihood is of encountering industries with a large percentage of highly qualified employees. Locations with a well above average quality of life, which is expressed in a high living and recreational value, a positive social climate, an attractive inner city, a citizen-friendly administration, an adequate provision of social institutions, etc, provide for a distinct binding effect. Locations that do not exhibit any direct binding force upon enterprises or highly qualified employees, in contrast, do not carry the same attraction. These findings were confirmed in a study by Stolarick (2005) based on data from 61 urban regions in the USA, which examined the correlation between highly qualified employees and economic growth. Resultantly, those localities and regions competing for "creative minds" which increasingly emphasize the natural, social as well as cultural quality of life of a location and as a result focus more strongly on the implementation of soft locational factors

Döring, Knappitsch, Aigner

**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

proved to be especially successful. Looking at the question of culture specifically, one study carried out in Karlsruhe (Germany) analyzed the impact of cultural institutions on the competitiveness of enterprises located in this urban region. The study demonstrated that some 60% of the participating firms were of the opinion that cultural institutions have a favorable impact on the competitiveness of their economic activity (see Dziembowska-Kowalska and Funck 2000). It is perhaps of interest here that the region has included cultural activities in its urban development concept and regional growth promotion from the mid 1980s.

An empirical study carried out by Blume (2006) did not fundamentally challenge these findings, but relativized them in parts. By means of a survey of companies in 105 eastern German cities, Blume examined the influence of differently designed local economic policies on the local business climate as an indicator for the attractiveness of a municipality in locational competition. All municipalities exhibiting a positive business climate were found to have an efficient as well as speedy and flexible administration, modern governance structures (for example, new public management, city marketing, public-private partnership) and a well-functioning regional networking system (cooperation with Chambers of Commerce, regional academic research institutions, political decision-makers at regional and federal level, etc). By contrast, an intensive subsidization of businesses, comparatively high per-capita expenditures for cultural and social activities as well as shortfalls in the industrial real estate management of a municipality proved to have a negative influence on the local economic climate. Beyond this, there was evidence that neither the strategy of (extensive) privatization of public services nor a policy aimed to attract new businesses targeted at (existing) industrial clusters positively affect the business climate of municipalities.

Of further interest is a survey by Love/Crompton (1999) of 174 businesses in Colorado (USA). This survey aimed to identify the role of the quality of life in location decisions and asked key decision-makers to evaluate 50 specific elements regarding their level of importance within the decision process. On the one hand, the traditional factors "cost of office or plant", "business operating costs" and "access to transportation" reached the highest scores of 3.8, 3.7 and 3.6 on the 5-point-scale; but of relevance considering soft locational factors is the further distribution. Half of the 21 elements reaching scores above or equal to 3.0 related to soft locational factors such as "environmental quality", "local government cooperation", "state government support/cooperation", "natural

environment of the region”, “crime rate” or “ambiance of the region” – to mention but a few.

The former findings suggest the conclusion that the success of municipalities or regions in locational competition does not depend per se on hard or soft locational factors. Rather, companies seem to ask for business conditions that are partly in keeping with the theoretically formulated necessity of a knowledge-based local and regional development (for example, the setting up of cooperative networks, citizen-friendly administrative departments) and at the same time utilize the instruments of a traditionally oriented economic promotion policy (infrastructure policy or industrial real estate management). Hard and soft location factors can then be considered as crucially intertwined, with dynamic regions typically characterized by the existence of several location factors.

#### **4. Conclusion - some economic policy implications**

Bearing the theoretical and empirical analyses above in mind, it is possible to derive conclusions regarding how best to structure economic policy for municipalities and regions. It is possible to distinguish between recommendations for an economic policy *of* municipalities and regions and those recommendations aimed at superordinate governmental levels (EU level, federal level) and their economic policy *for* municipalities and regions. For both dimensions, improving a knowledge-based local and regional economic development in order to increase the endogenous innovation of businesses both already locally based as well as those new companies yet to be attracted to the area is at the core of the following recommendations.

##### **4.1 Implications for a policy of municipalities and regions**

The starting point for a practical structuring of local and regional economic policy has previously been outlined: in the age of globalization and of a shift towards a knowledge-based society, the critical competitive advantage that companies must have when competing with others no longer only consists of cost advantages, but rather the ability to settle in those locations where there

Döring, Knappitsch, Aigner

**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

is a sufficient amount of qualified personnel. This is necessary in order to successfully manage innovation and the changes which are required to meet the demands of new economic challenges. With regard to competition between municipalities and regions, locations endowed with a high potential for knowledge-based development on the one hand and locations displaying characteristics that are interesting for highly qualified and creative employees on the other hand, possess a competitive advantage in terms of their appeal for businesses and ability to bind them to the location.

As a consequence, it can be argued that conditions linked to a successfully structured local and regional economic policy are constituted by the promotion of knowledge transfer and the improvement of the local and regional qualifications structure. Without a doubt, all those municipalities and regions exhibiting spatial proximity to academic or educational institutions (mostly public or university-based), which on the basis of their research activities can be considered as knowledge providers for company-based innovation and can thus be classified as conducive to knowledge transfer, are at an advantage here. Hence, both the organizational and financial participation of a city or region in so-called knowledge transfer centers, which already exist at many universities and academic research institutions, as well as involvement in the promotion of new academic-based companies ("spin-offs") constitute a special form of knowledge transfer. For this, depending on the size and characteristics of a locations (metropolises, regions, middle-sized and small cities or municipalities), diverse strategies are needed to integrate individual municipalities into supra-regional networks based on their natural and socio-economic characteristics.

The sufficient availability of qualified labor at a particular location is one of the preconditions for the success of a knowledge-based local and regional development (see among others Franke 2002). Beyond mere faith in the "right" education and mobility performance of the private actors, a task of local and regional economic policy is the revealing, analysis and where possible the elimination of deficits in the local and regional qualifications structure. The education and training offered by further and advanced educational institutions available in a particular locality is also of importance here. In this context local and regional decision-makers should gear their policies for further education towards the existing locally relevant qualification demands via routine observations of the needs of the regional market (see Blume/Fromm 2000).

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

A further condition necessary for a successful knowledge-based local/regional economic policy is the promotion of local and regional innovation networks. Indeed the general character of regional networks and innovative milieu structures has already been repeatedly analyzed in economic studies (see, for example, Andersson/Persson 1993; Camagni 1993; Castells/Hall 1994; Fritsch 2002; Helsley/Strange 2002). However, the manifold of local and regional forms of such networks analyzed by these studies complicates rather than promotes their local use and predictability. A task of local/regional economic policy should thus be in creating a platform for the formation of innovative networks and milieu structures (see Smilor/Wakelin 1990). Experience would seem to indicate that a local or regional economic policy constructed as a "networking-policy" requires both patience and staying power and can hardly expect to anticipate success in the short term. Therefore, it makes sense to incorporate promotion of cooperative networks into a comprehensively constructed regional management strategy, which should also take into account locational marketing by public and private actors. This would outwardly convey the existing local and regional specialization pattern in a credible manner, which inwardly contributes to the creation of an intensified "location and regional awareness" with which the actors in a particular location can sufficiently identify. This sense of identification would ideally manifest itself in a common sense of belonging to a specific locality or region, thus sharing the aims and strategies of local marketing and regional management. This would in turn lead to a collective desire to enhance inner cooperation while at the same time improving the external competitiveness of a location.

Lastly, a further condition for a successful local/regional economic policy is seen in the use and awareness of soft locational factors in addition to a policy geared towards hard locational factors. This becomes increasingly significant as municipalities and regions in competition with each other can no longer generate enough competitive advantage simply through recourse to traditional instruments of economic promotion. A policy directed more strongly towards soft locational factors should be underpinned by a systematic examination of the existing necessity for the promotion of hard locational factors (i.e. investments in the physical infrastructure, availability and obtainment of industrial and office real estate) in order to subsequently free up necessary (financial) resources for the development and fostering of soft locational factors. As such, cities and towns should naturally concentrate on those soft factors which can most easily be shaped and designed at local and regional level (i.e. local administration, living environment, environmental quality). The fostering

and enhancing of soft locational factors is less important in terms of economic externalities than it is for developing intensive business communication with enterprises already existing in the locality. Measures implemented to bring about improvements in this area should thus be evaluated first and foremost according to what extent they strengthen the competitiveness of the location; in order to encourage identification and mobilization effects for the local companies and employees.

#### **4.2 Consequences for a policy for municipalities and regions**

While in recent years regional development policy has tended to be more decentralized - either to regional or local level - where the ability to facilitate horizontal integration is highest and knowledge of problems is greatest, there is still some indication of the need to examine the policy for local and regional government operated by the superordinate authority levels. Clear signs of a reorientation in the regional and local promotion of economic development are found at European level. In its guidelines for European regional policy, the European Commission (2001) criticized the current concentration on measures promoting regional developmental shortcomings in areas like energy or transportation infrastructure as no longer being in keeping with the times. The Commission states in reference to the "transition to a knowledge-based economy" that an adequate, institutional framework must be created in order to promote the primarily regionally bound process of creating and diffusing new knowledge as the basis of company-based innovation and economic growth.

Against this background, the European Union has revised the aims of its regional policy for the new promotion period 2007-2013. Instead of the former nine program aims there are now only three aims at the center of promotion policy. Firstly, there is the convergence aim concerning financial promotion of those European regions that lag most in economic development. The strengthening of the competitiveness and employment potential of regions is also at the fore as the second aim. Thirdly, European regional policy continues to turn attention to the improvement of transnational and interregional cooperative relationships and networks (see European Commission 2007). However, even more notable than the reformulation of the promotion aims is the fact that just under two-thirds of the available financial resources are earmarked for those measures exhibiting a relationship to a knowledge-based local and regional development (see European Commission 2004). The four

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

renewed pillars of the Lisbon Strategy are also significant in this context: a more attractive place to invest and work; knowledge and innovation for growth; creating more and better jobs; and a sustainable economic basis (see Heichlinger and Määttä 2006). The importance of local and regional actors as regards meeting these strategies is taken as a given.

Next to political measures at European level, there is also the question of a reorientation of economic policy at national level. Here, first of all, it is considered to be a matter of principle that governmental measures concerning the promotion of a knowledge-based local and regional development should be largely limited to supportive and stimulating tasks. Without discussing each measure in detail here, the general supposition is that the national political level should limit itself to providing an impulse in terms of the creation of an appropriate general framework for such developments. This can occur when national programs and financial appropriations provide incentives for local and regional actors to direct the attention of instruments of local and regional economic development to those measures which are of importance for a knowledge-based development strategy.

It must be said, however, that a national policy for municipalities and regions that accommodates the demands of the knowledge-based society should go hand in hand with a spatial concentration of appropriations. Thus a political interpretation of the new economic growth theory and modern regional economic approaches seems to lead to the conclusion that strengthening existing agglomeration benefits and the knowledge and innovation potentials connected with them, instead of working towards an equal distribution of such potentials in a spatial sense, is conducive to economy-wide growth. This is further supported by the fact that - according to the empirical findings - the intensity of the utilization of new knowledge especially in agglomeration and metropolitan areas is especially high. Accordingly, national appropriations concerning economic growth should be deployed where they generate the highest "return on investment" for the entire economy. Going against traditional economic approaches, the latter neither applies to knowledge-extensively producing old industrial regions nor to agglomeration-distant periphery areas. Instead of a regional equalization policy, preferential treatment is suggested for those regions and locations that can be classified as growth centers due to a spatial concentration of knowledge and knowledge-spillovers.

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

**Thomas Döring**

*Professor of Economics and Public Finance, Director of the Research Centre for Inter-regional Studies and International Management (ISMA), Carinthia University of Applied Sciences.*

**Eithne Knappitsch**

*Senior Lecturer and Scientific Researcher, Carinthia University of Applied Sciences, School of Management*

**Birgit Aigner**

*Scientific Researcher, Carinthia University of Applied Sciences, School of Management,*

Döring, Knappitsch, Aigner  
**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

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**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

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**Municipalities and regions in locational competition –  
Relevant factors for success and political implications**

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Relevant factors for success and political implications**

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Relevant factors for success and political implications**

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POVZETEK

## **OBČINE IN POKRAJINE V LOKALNI KONKURENCI – KLJUČNI DEJAVNIKI USPEHA IN POLITIČNE USMERITVE**

Članek obravnava teoretične vidike in rezultate empiričnih raziskav z vidika regionalnega razvoja. Upošteva tezo sprememb lokalne konkurence v pogojih globalizacije in poslovanja, temelječega na znanju, ter posledičnega premika v klasičnem rangiranju lokalnih dejavnikov, pomembnih za gospodarski razvoj mest in regij.

Analizo prikaže v treh korakih. Najprej povzame klasične teorije (teorijo industrijske lokacije) in novejšo ekonomsko teorijo (novo teorijo gospodarske rasti, pristop inovativnega okolja). Opiše njihove ugotovitve in priporočila glede industrijske lokacije. S to razpravo potrjuje, da se sodobno gospodarstvo vse bolj razvija v družbo storitev in znanja, v kateri postajajo vse manj pomembni tako imenovani trdi dejavniki (npr. nizki stroški poslovanja, vrednost industrijskih nepremičnin, nizki lokalni davki in pristojbine). Za gospodarsko rast so vse bolj odločilni mehki dejavniki. Za lokalni in regionalni gospodarski razvoj so pomembni učenje in inovacija, zmožnost podjetij za oblikovanje novih izdelkov, novih postopkov proizvodnje in novih oblik organizacije na temelju znanja in mreženja (prelivanja znanja). To je kakovost lokacije, ki zajema tudi kakovost življenja in okolja, in je odločilna v lokalni in regionalni konkurenci pri privabljanju investitorjev in delavcev s posebnimi znanji.

Nato članek analizira empirične dokaze za teoretične ugotovitve. Sedanji rezultati raziskav pretežno podpirajo tezo, da se ključni dejavniki lokalnega razvoja spreminjajo. Med najpomembnejšimi dejavniki uspeha so akumulacija znanja, prenos tega znanja med organizacijami, vrednost socialnega kapitala. Npr., empirična raziskava socialnega kapitala za pokrajine z visoko vrednostjo socialnega kapitala je pokazala sorazmerno višjo stopnjo dohodka na prebivalca in večjo gospodarsko rast.

Na temelju teh ugotovitev so predstavljena priporočila glede oblikovanja ekonomske politike občin in regij, pa tudi nacionalnih regionalnih politik in regionalne politike EU.



# **Job satisfaction, life orientation and perception of family role - Comparison between women employed in public sector and in economy**

UDK: 338.1:061.1EU(045)

Eva Boštjančič

University of Ljubljana, Faculty of Arts, Department of Psychology, Slovenia  
eva.bostjancic@ff.uni-lj.si

## ABSTRACT

**Our scope of interest in this article is employed women in Slovenia working in public sector (state administration, education and healthcare) and in economy. Working women's various roles today may lead to conflict or enrichment. This study seeks to determine the connection between their multiple roles, life orientation, and life satisfaction. The study was carried out through Internet questionnaires and surveyed 1,298 working women. Their average age was 35.6 years. A total of 43% of participants had at least college degree. The results show that working women are at least satisfied with their leisure time and most satisfied with their maternal role. The most satisfied women work in pharmaceuticals and healthcare, and the least satisfied work in the state administration sector. Women with multiple roles are more satisfied with their maternal role but less satisfied with their partners and leisure time. They are also more optimistic.**

*Key words: women, public sector, work, role, life orientation, life satisfaction*

*JEL: J0, J53, J59, J69*

## **1. Introduction**

The twenty-first century is presenting new challenges for working women and men alike. This paper mainly focuses on the role of working women engaged in various social and personal roles. The statistical data are

Eva Boštjančič  
**Job satisfaction, life orientation  
and perception of family role**

quite revealing. According to the Slovenian Statistical Office (Vertot, 2008) 61.8% of women were employed, which is above the EU (57.2%). The share of the population enrolled in tertiary-level education is increasing. Among those enrolled in two-year vocational colleges, three-year junior colleges, and undergraduate programs, a full 58.3% are women. In most EU countries parental leave is available for those who have worked for their current employer for certain period of time. In Slovenia a mother gets 100% paid maternity leave for 12 months and a father gets 11 days paid. There is also an official policy for part-time work for mothers with young children. The pre-school care is appropriately organized but not for free – parents pay contribution based on their average family's incomes. However, the position of women on the labor market does not reflect this: more men than women are employed, more women than men are unemployed, and women earn 15% less per hour than men and have more difficulties being promoted than men. As a result, the European Commission adopted the 2006–2010 Roadmap for Gender Equality, followed by the European Council's Pact for Gender Equality, both proof that the EU is actively pursuing genuine gender equality.

In Slovenia the public sector was introduced in 1990s and it has been growing since then. The employment share of all employees in Slovenia from 1999 to 2007 increased in public sector from 19,1 to 20,5%. Almost two-thirds of employees in this sector are women. In general, the public sector is characterized by relatively higher educated and professional qualifications as the other major sectors of the workforce (Malačič, 2009). Comparing it to the economy sector different rules, different goals and also different ways of motivation are present and that is the reason to include this population into our research.

*Women and employment.* Employed women are mentally healthier (Barnett & Baruch, 1985) and in comparison to unemployed women they less often develop psychopathological symptoms and increased blood pressure when faced with stressful events (cf. studies by Brown, Bhrolcrain, & Harris and by Hauenstein, Kasl, & Harburg, as cited in Baruch, Biener, & Barnett, 1987). Some studies have shown that employed women are less depressed than unemployed ones (cf. studies by Aneshensel and by Kandel, Davies, & Ravies, as cited in Barnett & Hyde, 2001).

*Women and career.* After examining literature from the past fifteen years, Stoltz-Loike (1992) identified four factors that influence women's careers: the husband's view of his wife's job, financial prospects, household work, and the

woman's character. During their careers, both men and women can climb the corporate ladder; higher positions offer more positive opportunities for women: promotion, a sense of responsibility, self-respect, and financial independence (Argyle, 1999; Crompton & Lyonette, 2004). At the same time, such positions positively affect women's roles in their social, economic, and private lives (Ufuk & Oezgen, 2001). Businesswomen often suffer due to conflicts arising from the different roles they play as professionals and within their families (Ufuk & Oezgen, 2001). If they have to choose between different roles, they more often spend time on their family and work, leaving less time for themselves and relaxation (Stevenson, 1988).

*Women and the family (partner, marriage, children).* Marriage is a great source of life satisfaction among adults (Argyle, 1999), and so divorce could worsen women's situation. Changes in professional roles exert a stronger influence on the mental health of women without a family (Barnett et al., 1992). Similarly, women with preschool children face less stress if they are employed (cf. a study by Kessler & McRae, as cited in Barnett & Hyde, 2001). Some studies (Schoon et al., 2005) point out that being a parent does not significantly correlate with life satisfaction. However, for divorced women, the combination of parenthood and employment correlates with low life satisfaction. Divorced women tend to be more satisfied when childless.

*Two theories' perspectives on the role of working women.* Most women play several roles in their adult lives. These roles mix with their private (mother, wife, and housewife) or professional (employee, manager, or director) lives. In the past, the relations between roles have mostly been studied through the prism of negative consequences (Barnett, 1998; Greenhaus & Parasuraman, 1999; Haas, 1999). Nevertheless, modern trends are establishing a different, positive take on this; more precisely, how a combination of different roles enriches women's development (Kirchmeyer, 1992; Rothbard, 2001), positively strengthens it (Crouter, 1984; Grzywacz, 2000; Sumer & Knight, 2001), stimulates it (Ruderman et al., 2002; Tiedje et al., 1990), and enables it (Frone, 2003; Tompson & Werner, 1997; Wayne, Musisca, & Fleesen, 2004).

Gove (1984) and Schoon, Hansson, and Salmela-Aro (2005) advocate the theory of stressful roles. They argue that the combination of having to raise children and work at the same time has negative repercussions on women's health and wellbeing. They claim that an individual simply cannot reconcile work and family (cf. a study by Farmer, as cited in Schoon et al., 2005). Divid-

Eva Boštjančič  
**Job satisfaction, life orientation  
and perception of family role**

ing time between children and work can lead to role conflict and put pressure on women, leading to disease and stress. Women that feel their roles are conflicting are more depressed and less satisfied with their parenting role (Tiedie et al., 1990). On the other hand, the accumulation theory argues that multiple roles generally have a positive influence on a person's life satisfaction, wellbeing, and health (cf. studies by Helson, Elliott, & Leigh, Lahelma, Arber, Kivelä, & Roos, and Sieber, as cited in Schoon et al., 2005). Researchers believe that the satisfaction obtained from different roles (worker, partner, and parent) outweighs potential stress. Paid work outside the home enables additional social contacts and professional challenges, and contributes to better self-esteem and financial independence. Reconciliation of parenthood with work helps a person find satisfaction in one area of life when there are problems in another (cf. a study by Fokkema, as cited in Schoon et al., 2005). The theory of role accumulation has been confirmed by several studies that have shown that men and women engaged in different social roles experience fewer physical and psychological problems connected to stress and report feeling better than individuals engaged in fewer roles (cf. studies by Barnett & Marshall, Crosby & Jaskar, and Thoits, as cited in Barnett & Hyde, 2001). Higher life satisfaction is linked to full-time employment (Schoon et al., 2005) and paid work (Argyle, 1999; War, 1999).

Based on numerous studies and interesting findings so far, three research hypothesis were formed regarding employed Slovenian women:

**H<sub>1</sub>: Women employed in public sector are less satisfied at the workplace than other employed women.**

**H<sub>2</sub>: Women's life orientation - optimism (Scheier, Carver and Bridges, 1994) is positively associated to their perception of career, children, and perception of partner's role.**

**H<sub>3</sub>: Positive association between the multiple roles women play and life orientation (optimism) and life satisfaction (Diener, Emmons, Larsen and Griffin, 1985).**

## **2. Method**

*Participants.* The study included 1,298 employed Slovene women, whose average age was 35.6 years ( $SD = 8$ ). The youngest participant was 19 and the oldest 64. On average, the participants had been employed for 12 years ( $SD = 7,6$ ). The majority was married (48%) or with a partner (35%), 12% were single, and 5% divorced or widowed. 43% had a two-year vocational college, three-year junior college, or undergraduate education, 16% had a post-undergraduate certificate, master's degree, or PhD, 23% had completed high school only and 18% primary school only. Regarding their area of employment, the sample was heterogeneous: 49% worked in economy and 51% in public sector (24% in state administration, 19% in education, 3% in healthcare, and 5% in other fields).

*Tools.* Demographic data on the participants were collected in the first part of the questionnaire. The second part starts with check-list of 20 different suggestions of roles that one woman could play in her life and continued with questions on satisfaction with various roles (motherhood, hobbies and leisure time, employment, and partners). A scale from 1 to 5 was used for self-assessment (1 = I am not satisfied at all, 5 = I am very satisfied).

The Scheier, Carver, and Bridges (1994) Revised Life Orientation Test (LOT-R) focused on and measured life orientation (optimism/pessimism). This test includes ten items describing optimism and pessimism, of which only six are later assessed (e.g., If something can go wrong for me, it will) while four are fillers. Participants rate items on a five-point scale (1 = strongly agree, 5 = strongly disagree). The test's internal reliability is 0.78 (Scheier, Carver, & Bridges, 1994) and 0.72 for the present study. The Satisfaction with Life Scale (SWLS) followed. This was developed by Diener, Emmons, Larsen, and Griffin (1985) to measure participants' global assessment of their quality of life according to personal criteria. The scale is comprised of five items (e.g., In most ways my life is close to my ideal). The participant answers on a seven-point scale (1 = strongly disagree, 7 = strongly agree). Cronbach's  $\alpha$  equals 0.88.

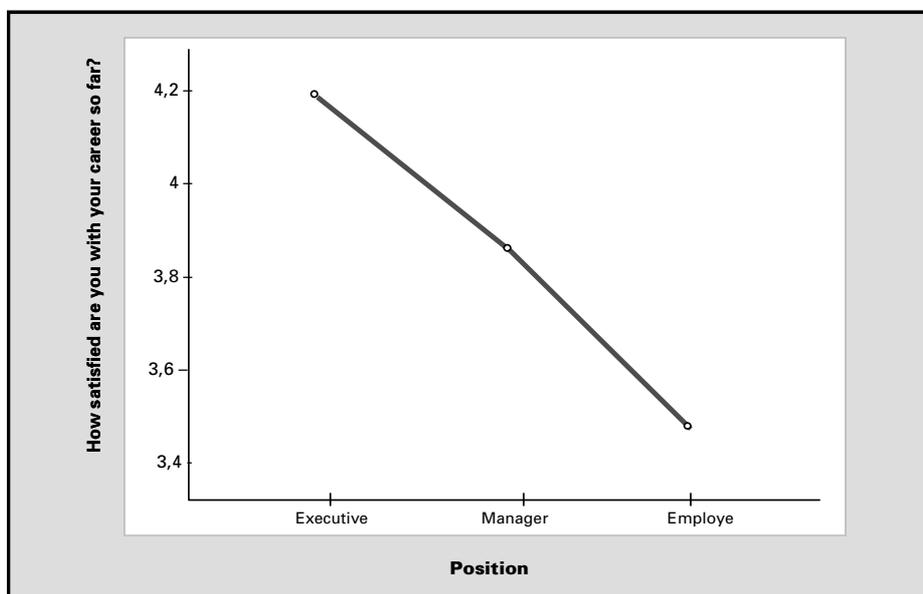
*Procedure.* Data collection for the study took place in July and August 2008. The questionnaire was available on-line and at the beginning distributed via e-mail to about 50 different e-mails of employed women in Slovenia, in business and in education. Participating women forwarded it further to others – friends, peers, relatives. Anyone could participate who has got that e-mail.

### 3. Results

*Satisfaction.* Women are most satisfied with their parental (maternal) role. On average, they rate their satisfaction as 4.3 (on a scale of 1 to 5). They are least satisfied with their leisure time, for which the average is 3.4. Career satisfaction was rated at 3.6 and partner satisfaction 4.2. Statistically significant differences were revealed only for career ( $F(4, 1258) = 3.62; p < 0.01$ ) by area of employment. Assessing work satisfaction the highest grade gave women employed in healthcare and pharmaceuticals ( $M = 3.89; SD = 0.98$ ), followed by women in education ( $M = 3.81; SD = 0.92$ ) and business ( $M = 3.58; SD = 0.98$ ). The least satisfied are women in state administration ( $M = 3.56; SD = 0.96$ ) and the Hypothesis 1 is only partly confirmed.

With regard to the different hierarchical positions of women in organizations, they chose between three positions currently held in the organization: executive, manager, or employee. The most satisfied women are executives (Figure 1), followed female managers, whereas the least satisfied are women in non-managerial jobs ( $F(2, 1279) = 31.15; p < 0.01$ ).

**Figure 1: Association between position and career satisfaction**



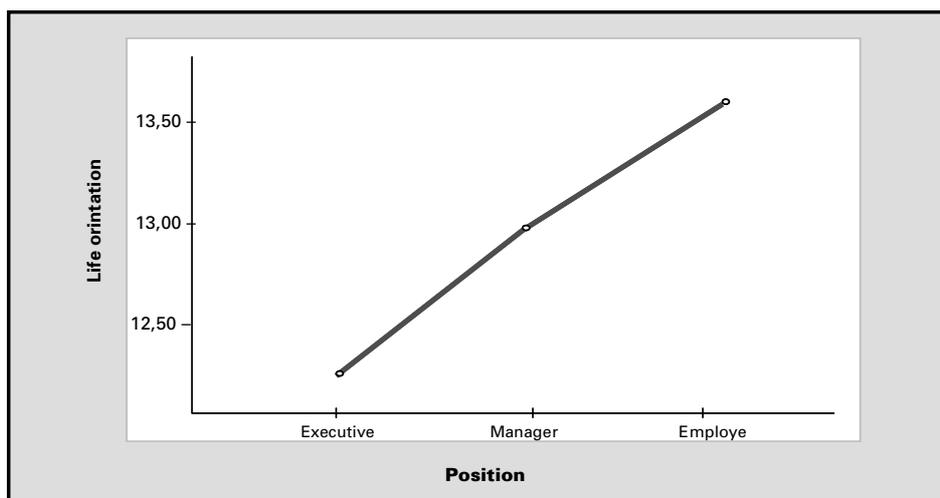
Compared with managers and employees are female executives also the most satisfied with their lives (Figure 2); the opposite is true for female employees ( $F(2, 1093) = 7.24; p < 0.01$ ).

**Figure 2: Association between position and life satisfaction**



Although the graph slope in Figure 3 is rising, it points out to a high level of optimism among executives, which diminishes with lower positions ( $F(2, 1080) = 4.75; p < 0.01$ ). This finding supports the first part of established hypothesis  $H_2$ .

**Figure 3: Association between position and life orientation**



**Table 1: Correlation between type of satisfaction and demographic variables**

	Type of satisfaction			
	Career	Parental	Leisure time	Partner
Age	•0.029	•0.086*	•0.091**	•0.259**
Seniority	•0.033	•0.084*	•0.080**	•0.239**
Education level	0.235**	0.039	0.059*	0.062*
Profession	0.028	0.043	•0.071*	0.003
Professional status	0.004	0.003	0.090**	0.090**

\* $p < 0.05$ . \*\* $p < 0.01$ .

As shown in Table 1 the correlations between types of satisfaction are statistically significant, but relatively low. Participants with the highest level of education are more satisfied with their careers ( $r = 0.23$ ;  $p < 0.01$ ). Higher age and seniority are linked to lower parental satisfaction, and lower satisfaction with partners and leisure-time quality. Women whose work entails more responsibility are more satisfied with their leisure time and partners.

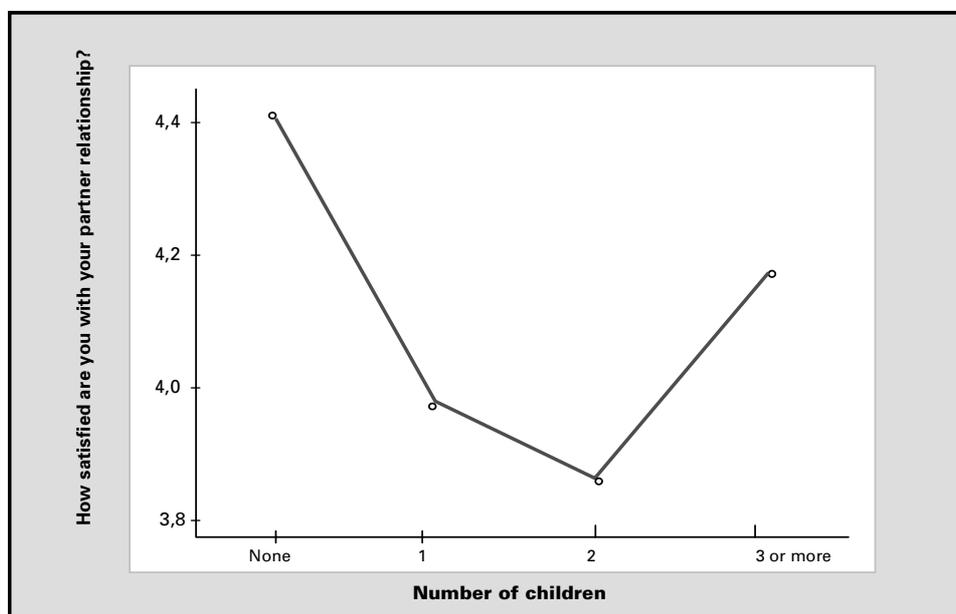
*Partner.* Women who currently have a partner (compared with single-divorced women group) are more satisfied with their lives ( $F(1, 1001) = 39.92$ ;  $p < 0.01$ ). 50.1% state they share household chores equally; 45.2% say they themselves do 70% of work, which leaves 30% for the partner. Single and divorced women find more satisfaction in balancing work and leisure time ( $F(1, 1177) = 14.71$ ;  $p < 0.01$ ). The satisfaction with this role is not statistically significant in relation to life orientation and decline part of hypothesis  $H_2$ .

*Parenthood.* The majority of women believe that the right time for motherhood is when they want to have children (65%) or up to age 30, when women are not yet in executive positions (28%). To the followed questions answered only women that already had experiences as a mother. The majority of women decided to become mothers prior to turning 30, when they were not yet in executive positions (51%). 25% had an unplanned pregnancy, 13% gave birth to their first child while they were college students, and 10% had children later, after they had accomplished

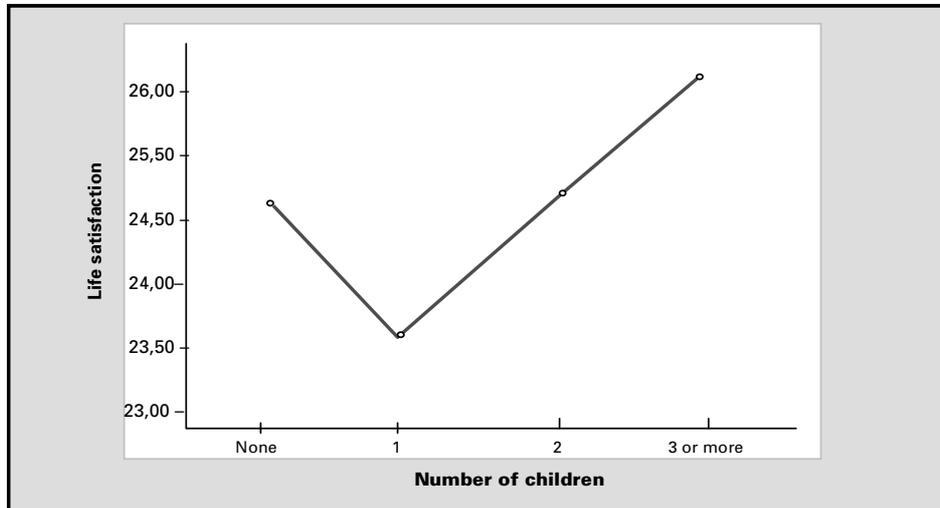
what they desired at work. The number of children affects women's lives and their way of thinking. Women that have more children have less time for themselves ( $\bar{d} = -0.21$ ;  $p < 0.01$ ). Such women also spend less time with their children (probably because their time is divided between several children) ( $\bar{d} = -0.59$ ;  $p < 0.01$ ). Women with more children are more pessimistic ( $\bar{d} = 0.08$ ;  $p < 0.01$ ) but there were any statistical significant connection between perception of motherhood role and life orientation of participants. This finding does not support part of hypothesis H<sub>2</sub>. On the other hand more happier women spend more time women spend with their children ( $\bar{d} = 0.12$ ;  $p < 0.01$ ).

Women without children are the most satisfied with their partners; the least satisfied in this regard are women with two children. Women with one child, or three or more, find themselves in the middle regarding partner satisfaction ( $F(3, 1008) = 19.99$ ;  $p < 0.01$ ). Women without children are the most satisfied with their leisure time, and women with children less so ( $F(3, 1184) = 17.91$ ;  $p < 0.01$ ). Women with three children are the most satisfied with life in general, followed by women without children and with two children. The least satisfied in this regard are women with only one child ( $F(3, 1092) = 4.44$ ;  $p < 0.01$ ).

**Figure 4: Association between number of children and partner relationship satisfaction**

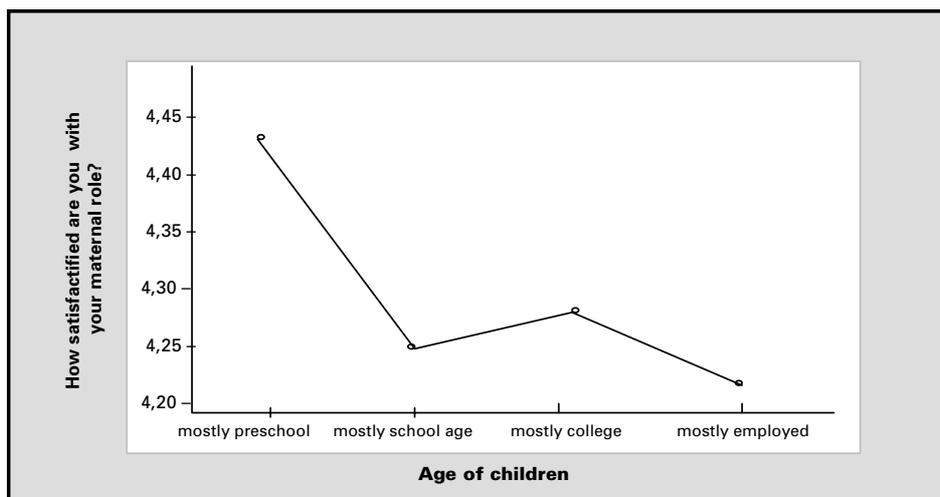


**Figure 5: Association between number of children and life satisfaction**

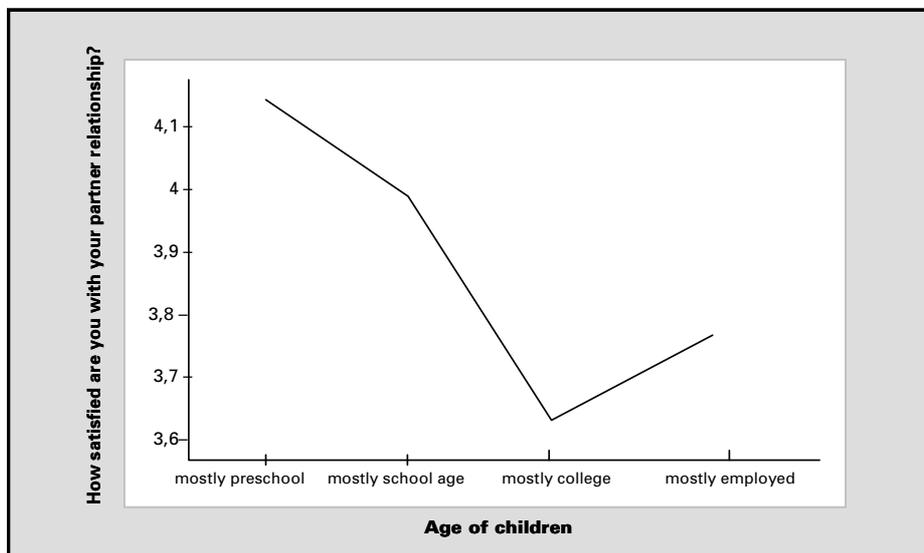


The age of children also plays an important role. The older children are, the more time women devote to household chores (probably because they have more time on their hands). With the age of children, both parental satisfaction ( $F(3, 814) = 3.33; p < 0.01$ ) and partner satisfaction ( $F(3, 750) = 6.90; p < 0.01$ ) decrease. However, once children find a job or perhaps leave home (after college), partner satisfaction increases again. Life satisfaction also decreases, but goes up again when children start to work ( $F(3, 748) = 10.93; p < 0.01$ ).

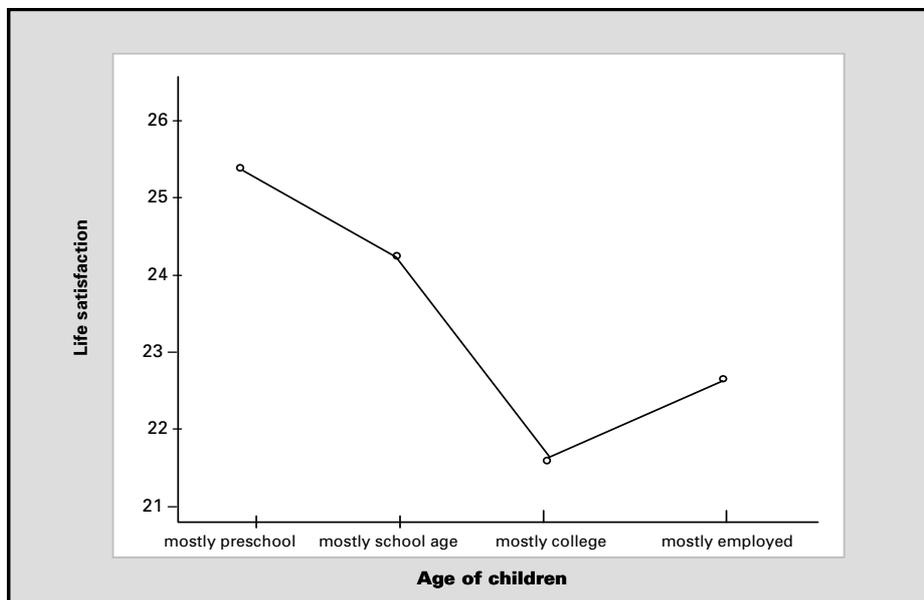
**Figure 6: Association between children's ages and satisfaction with maternal role**



**Figure 7: Association between children's ages and partner relationship satisfaction**



**Figure 8: Association between children's ages and life satisfaction.**



*Number of roles.* Finally, in order to establish which factors affect the number of roles employed women have, three sets of variables were included

in the hierarchical regression analysis. The first variables are education level and career satisfaction, both pertaining to job satisfaction. The second part includes variables linked to private life satisfaction, and the third includes two variables linked to individuals' general orientation: life satisfaction and life optimism or pessimism.

**Table 2: Hierarchical regression analysis model: influence of independent research variables on the number of roles employed women play**

Model		1	2	3
1	Level of education	0.13**	0.13**	0.12**
	Career satisfaction	0.01	0.02	0.01
2	Satisfaction with maternal role		0.08*	0.08
	Leisure-time satisfaction		•0.09*	•0.09*
	Partner relationship satisfaction		•0.03	•0.02
3	Life orientation			•0.09*
	Life satisfaction			•0.03
	$R^2$	0.02	0.03	0.03
	$F$	6.42**	3.99**	3.48**

\* $p < 0.05$ . \*\* $p < 0.01$ .

Table 2 shows that the number of roles women assumes in their lives is primarily influenced by their education and partially by satisfaction with their maternal role. Optimism also positively correlates with the number of roles women identify as their own and partly support hypothesis H<sub>3</sub>.

#### 4. Discussion

In modern society, women are caught between several roles. The society or women's immediate surroundings expect them to perform each role successfully. This study seeks to answer the following question: How are the roles of working women linked to their personal characteristics and other

demographic factors? Another question arises as well: Is there a conflict in women balancing family and work?

It is interesting that a great number of the questionnaires distributed online were completed and returned. This is a good indicator and can forecast the future orientation of psychological research – in areas that allow such methods, of course. Such an approach makes possible broader and international studies. According to Davis (1999), the use of the Internet enables access to a greater sample of participants, who then participate in data collection; in turn, this is faster and guarantees complete anonymity. Anonymity can have a positive influence on the tendency to give socially desirable answers. At the same time, as confirmed in the study on filling out personality questionnaires via the Internet (Kveton et al., 2007), such a method is a reliable one and will be useful in the future.

The first question is how life orientation, whether optimism or pessimism, influences working women's views. Optimists expect positive things to happen. They have faith in themselves and put a lot of effort into the work they do. In the research it was established that the most optimistic participants were female executives. Descending the hierarchical ladder decreases optimism; this is perhaps linked to lower income, unfulfilled wishes, or problems encountered at the outset or during the career. Because optimism is a relatively stable personality trait, career counseling should caution people in advance on the advantages, challenges, and disadvantages of a particular job as well as which personal traits are expected given the nature of work.

Does work influence satisfaction? As early as 1983, a study by Freudiger revealed that there are small differences between life satisfaction among women that used to be employed, were employed at the time, and had never been employed. Employed Japanese women with more children perceived themselves as effective parents and reported greater life satisfaction (Holloway, 2006). Such parallels are perhaps difficult to transpose into the Slovenian or European context; however it can be stated with great certainty that satisfaction at work is linked to different external and internal factors. In this study, the most common answers to the question "What does being employed mean to you?" were personal fulfillment ( $n = 893$ ), social security ( $n = 866$ ), and, on the other hand, burden and stress ( $n = 190$ ), giving up many things ( $n = 116$ ), and being a woman in a man's world ( $n = 92$ ).

According to DeFour and Brown (2006), good care for the household and work satisfaction influence private life satisfaction and age predicts career

Eva Boštjančič  
**Job satisfaction, life orientation  
and perception of family role**

satisfaction. As demonstrated, women in Slovenia are most satisfied with their maternal role and partners, and less satisfied with their career and the quality of their leisure time. Motherhood and the partner relationship can be combined under the common denominator of a factor that women can directly influence. On the other hand, career and leisure time are influenced by several external factors, such as relations at work, opportunities for promotion, and physical working conditions. Satisfaction with the partner relationship increases with age, in contrast to satisfaction with the parental role and leisure time. Education level is often an important demographic variable. This study has shown that a higher level of education is linked to career satisfaction; nevertheless, it negatively influences leisure time spent away from work. This connection makes sense because higher education enables more rapid promotion followed by higher and more responsible positions, which in return leaves less time for quality leisure. At the same time, career satisfaction strongly correlates with life satisfaction ( $r = 0.41$ ;  $p < 0.01$ ), which illustrates the mutual influence of these two variables. In practice, this can be seen as all-round care for employees as a workforce and as individuals that live their family and professional lives in parallel. Satisfaction at work will be reflected in general satisfaction; at the same time, the order of private life will be reflected in career satisfaction (i.e., job satisfaction).

Women give birth regardless of the differences and similarities between genders. The experiences and recommendations of the 1,298 women that participated in this study show that it is best and easiest to have children up to age 30 or prior to assuming an executive position. Optimism increases with the number of children (with the first optimism plummets, but then increases again). DeFour and Brown (2006) came to a similar conclusion when they established that mothers that see their children as the greatest joy in life report higher family satisfaction. The women in this study connect their role as mothers with personal fulfillment ( $n = 744$ ), giving up many things ( $n = 396$ ), and being a woman ( $n = 365$ ).

The results presented here should be summarized for the particular group of women employed at different hierarchical levels in an organization. Leading managers, such as directors, businesswomen, and board members, are (as expected) satisfied with their careers and the successes they have achieved in their professional lives. This agrees with the findings of Crompton and Lyonette (2004), who say that higher positions offer more positive opportunities: promotion, a sense of responsibility, self-respect, financial independence,

and so on. As established earlier, such satisfaction correlates with life satisfaction; however, women in this group are characterized by only moderate optimism. The reasons for such a world view can be found in the fact that they bear great responsibilities and are well informed and familiar with the current economic and political situation. Leisure-time satisfaction is high as well, which correlates with better financial opportunities, making possible quality and more expensive activities and help with the household. All of this leaves time for hobbies and various forms of relaxation. On the other hand, these women are dissatisfied with their maternal role, for which they probably lack time and energy. A 1987 study (Pietromonaco, Manis, & Markus) revealed that career-oriented women with full-time employment are more satisfied with themselves and their lives than women that only work part-time or are unemployed. When describing themselves, these women list numerous characteristics in connection with their positions.

Female managers are usually bound directly to the organization, at the same time being responsible for their subordinates' results as well as the performance of all tasks assigned by their superiors. These are women that have already advanced in their careers; nevertheless, their further promotion depends on them alone – their management, motivation, and delegation skills, focus on results and achievements, and so on. This study shows that this group of women is fairly satisfied with their career and life, but sees life least optimistically. Having to prove oneself at work leaves little time for household chores and relaxing hobbies. Such women are primarily fulfilled by the great satisfaction found in motherhood and in their partners. In practice, the findings primarily reveal a need for greater attention to this group. Women in this group need more relaxation, earned leisure time, and perhaps greater concern for their private lives on the part of their superiors. One suggestion is clearer career planning, allowing them to see the reward (i.e., promotion) for achieving the goals set. Small tokens of appreciation from an employer can help increase effectiveness at work and, indirectly, career and life satisfaction.

The final group of women is as important as the rest and includes female employees without managerial authority, who are pessimistic but satisfied with their lives. What are the reasons for this combination? These are mostly employees without high ambitions, who like to do routine everyday work and do not seek greater authority or responsibility. Hence, they remain in their positions; however, lower positions entail less pay. Less money also means lower material security. These women are less satisfied with their careers,

Eva Boštjančič  
**Job satisfaction, life orientation  
and perception of family role**

their partners, and the quality of their leisure time. Limited leisure time may again be linked to lower income.

Going back to the theories of multiple roles, it has been established that women that assume several roles are slightly more optimistic ( $r = -0.067$ ;  $p < 0.05$ ). Multiple roles correlate positively with parental satisfaction ( $r = 0.07$ ;  $p < 0.05$ ) and negatively with partner relationship ( $r = -0.10$ ;  $p < 0.05$ ) and the quality of leisure time ( $r = -0.16$ ;  $p < 0.01$ ). The correlations are low, not making it possible to confirm the stress role theory or the theory of role accumulation.

What next? What are the opportunities for women's development? Newspaper articles and studies in this area (Avberšek, 2006) currently show that the share of female managers is between 3% and 20% in any particular organization. There are several reasons for this low percentage (Kanjuro Mrčela, 1996): it can be seen as an underestimation of women's management style, the unbreakable glass ceiling, a lack of role models, sexual harassment, family obligations, frequently limited geographical mobility, traditional prejudices, including emotional instability and absenteeism, and so on. On the other hand, this is an area that is being increasingly discussed, studied, and written about. There is a gradual process of awareness-raising taking place; slowly, but steadily, facts are being brought to light, and numbers are dispelling myths, discrimination, and false beliefs. All these observations are present in all sectors – public, economic, healthcare etc. The same challenges and same obstacles motivate women in Slovenia to research, to write and to discuss about the topics mentioned above.

This study has continually raised new questions that could provide valuable answers for understanding the lives of working women and at the same time possibly improving social and economic policies in employment:

- Which factors influence women's decisions to choose a professional or management career?
- What are the advantages of employment in public sector? Is there a work motivation different?
- What is the influence of women's immediate and extended family and family patterns on career planning?
- And last but not the least: Are findings in this research unique to women or whether they characterize men, too?

Eva Boštjančič  
**Job satisfaction, life orientation and  
perception of family role**

*Eva Boštjančič* je asistentka na Oddelku za psihologijo Filozofske fakultete Univerze v Ljubljani. S področja psihologije potrošnika je diplomirala leta 1996, nato pa jo je delovno mesto svetovalke za področje kadrov usmerilo k raziskovanju procesa vodenja in čustvene inteligentnosti. Leta 2002 je magistrirala z nalogo Osebnostne značilnosti uspešnih managerjev, 2008 pa si je z dizertacijo Vpliv vedenja in motivov vodje na pripadnost, delovno učinkovitost, motivacijo in delovno zadovoljstvo zaposlenih pridobila naziv doktorice znanosti. Leta 2003 je pridobila naziv asistentke za predmet Psihologija dela in organizacije na ljubljanski Filozofski fakulteti in od februarja 2004 vodi vaje iz tega predmeta. Leta 2007 je ponovno izvoljena za to funkcijo. V zadnjem obdobju skrbi tudi za koordinacijo Vzporedno si je nabrala tudi številne izkušnje kot svetovalka na področju kadrovskega svetovanja, ki vključuje direktno iskanje in selekcijo vodilnih in visoko strokovnih kadrov, izvaja analize delovnega zadovoljstva, psihološko svetovanje managerjem, merjenje organizacijske klime in kulture, uvajanje letnih razgovorov, učinkovito vodenje kadrovske funkcije v podjetju, pomoč pri konfliktnih/kriznih situacijah in svetuje na področju razvoja kadrov.

Eva Boštjančič  
**Job satisfaction, life orientation  
and perception of family role**

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Eva Boštjančič  
**Job satisfaction, life orientation and  
perception of family role**

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POVZETEK

**DELOVNO ZADOVOLJSTVO, ŽIVLJENJSKA  
USMERJENOST IN ZAZNAVANJE DRUŽINSKE  
VLOGE – PRIMERJAVA MED ŽENSKAMI  
ZAPOSLENIMI V JAVNI UPRAVI IN  
GOSPODARSTVU**

V raziskavi smo se usmerili k vlogam zaposlene ženske, ki je vpeta v različne socialne, družbene in intimne vloge. Statistični podatki kažejo, da je v Sloveniji zaposlenih 61,8% žensk, kar je več kot v povprečju v EU, kjer je zaposlenost žensk 57,2%. V javnem sektorju je delež žensk večji od dveh tretjin. Veča se tudi delež prebivalstva vpisanega na študij na terciarni ravni, pri čemer je med vpisanimi v višješolske, visokošolske in univerzitetne programe kar 58,3% žensk. Tudi med diplomiranci na terciarni ravni leta 2006 je bilo pri nas 61,9% žensk. Položaj žensk na trgu delovne sile kljub temu ni enakovreden - zaposlenih je več moških kot žensk, več žensk kot moških je brezposelnih, ženske tudi zaslužijo na uro približno 15 % manj kakor moški, pri doseganju visokih položajev pa imajo več težav kakor moški.

Pretekle raziskave kažejo, da so zaposlene ženske manj depresivne, bolj duševno zdrave in ob pojavu stresnih dogodkov redkeje razvijejo psihopatološko simptomatiko kot nezaposlene ženske. Napredovanje na višja delovna mesta nudijo ženskam več pozitivnih priložnosti - napredovanje, občutek odgovornosti, samospoštovanje, finančno neodvisnost, hkrati tudi pozitivno vplivajo na njihove vloge v socialnem, ekonomskem in zasebnem življenju. Če se morajo odločati med različnimi vlogami, pogosteje posvečajo čas družini in službi, redkeje si ga vzamejo zase in za sprotitev. Spremembe v poklicnih vlogah imajo večji vpliv na duševno zdravje žensk brez družine. Prav tako so ženske s predšolskimi otroki manj pod stresom, če hodijo v službo.

Večina žensk igra v obdobju odraslosti več vlog, ki se povezujejo z njenim privatnim (mati, žena, hči, gospodinja) ali službenim življenjem (zaposlena, vodja, usmerjevalka). Odnos med vlogami so v preteklosti raziskovalci obdelovali predvsem z vidika negativnih posledic, konflikta med vlogami (teorija stresnih vlog; Schoon, Hansson in Salmela-Aro, 2005), sodobni trendi pa narekujejo pogled s pozitivne strani, oz. kako preplet

različnih vlog bogati, pozitivno krepi, vzpodbuja in omogoča razvoj posameznice (teorija akumulacije vlog; v Schoon in dr., 2005).

V raziskavi smo si postavili tri hipoteze:

**H<sub>1</sub>: Ženske zaposlene v javnem sektorju dosegajo nižje delovno zadovoljstvo kot ženske zaposlene v gospodarstvu.**

**H<sub>2</sub>: Življenjska usmerjenost (optimizem – pesimizem) žensk se pozitivno povezuje z njenim pogledom na kariero, otroke in zaznano vlogo partnerja.**

**H<sub>3</sub>: Obstaja pozitivna povezanost med multiplimi vlogami ženske, optimizmom in njenim življenjskim zadovoljstvom.**

Zbiranje podatkov za raziskavo je potekalo poleti 2008. Vprašalnik, ki je vseboval vprašanja o demografskih podatkih, zadovoljstvu z različnimi vlogami (materinstvo, konjički in prosti čas, zaposlitev, partnerstvo), zadovoljstvu z življenjem (SWLS) in vprašalnik optimizma (LOT-R) je bil dostopen na internetu in distribuiran preko elektronske pošte. V raziskavi je sodelovalo 1298 zaposlenih žensk, katerih povprečna starost je bila 35,6 let. Večina udeleženk je bila poročena (48%) ali v partnerskem odnosu (35%). Največ udeleženk je imelo višjo, visoko ali univerzitetno izobrazbo (43%). 49% jih je bilo zaposlenih v gospodarstvu, 51% v javnem sektorju.

Rezultati so pokazali, da so najbolj zadovoljne ženske zaposlene na področju zdravstva in v farmacevtski panogi, nato sledijo zaposlene v šolstvu in gospodarstvu, najbolj nezadovoljne pa so zaposlene v državni upravi.

Najbolj so optimistične vodilne na vodilnih položajih. S spuščanjem po hierarhični lestvici navzdol pa se optimizem manjša, kar je morda povezano z nižjimi dohodki, z neizpolnjenimi željami, s težavami, ki jih lahko ženska srečuje na začetku ali tekom kariere poti.

Na vprašanje Kaj vam pomeni biti zaposlena ženska? so udeleženske raziskave najpogosteje navajale odgovore: osebno izpopolnitev (N = 893), socialno varnost (N = 866), na drugi strani pa breme in stres (N = 190), veliko odrekanja (N = 116) in biti ženska v svetu moških (N = 92).

Ugotovili smo, da so ženske v Sloveniji najbolj zadovoljne s svojo materinsko vlogo in partnerjem, manj zadovoljne pa so s kariero in s kvaliteto preživljanja prostega časa. S starostjo zadovoljstvo z odnosom, ki ga imata partnerja med seboj, narašča, na drugi strani pa upada zadovoljstvo

s starševsko vlogo in preživljanjem prostega časa. Stopnja izobrazbe pogosto igra pomembno demografsko spremenljivko. V naši raziskavi se je pokazalo, da se višja stopnja izobrazbe povezuje z zadovoljstvom s kariero in negativno s prostim časom, ki ga preživljamo izven službe. Hkrati pa se zadovoljstvo s kariero pomembno pozitivno povezuje z zadovoljstvom z življenjem, kar nam lahko govori o medsebojnem vplivanju teh dveh spremenljivk.

Glede na izkušnje udeleženk raziskave in njihova priporočila, je najbolje in najlažje imeti otroke do 30. leta, oz. ko še nisi na vodilnem delovnem mestu. S številom otrok optimizem narašča (pri prvem otroku optimizem drastično upade, nato pa narašča), zanimiva pa je ugotovitev, da zadovoljstvo s partnerskim odnosom upade z rojstvom prvega otroka, pri drugem se stvari še poslabšajo, medtem ko tretji otrok morda prinese večjo tolerantnost ali morda večje sodelovanje ter razumevanje med partnerjema in s tem višje partnersko zadovoljstvo. Ženske v naši raziskavi svojo vlogo matere najpogosteje povezujejo z osebno izpopolnitvijo, veliko odrekanja in biti ženska.

Povzemimo predstavljene rezultate še za posamezno skupino žensk zaposlenih na različnih hierarhičnih nivojih v organizaciji. Vodilne menedžerke so dokaj pričakovano zadovoljne s svojo kariero in uspehi, ki so (si) jih uspele dokazati v svojem profesionalnem življenju. Pri njih opazimo tudi visoko stopnjo zadovoljstva s preživljanjem prostega časa, na drugi strani pa so nezadovoljne z materinsko vlogo, za katero jim verjetno zmanjkuje časa in energije.

Ženska na vodstvenem delovnem mestu, ki je v organizacijo ponavadi vpeta zelo direktno, hkrati pa odgovorna za rezultate svojih podrejenih in odgovorna za izvedene naloge, ki ji jih dodeli njen nadrejeni ali nadrejena. V pričujoči raziskavi je ta skupina žensk dokaj zadovoljna s kariero in življenjem in na življenje gleda najmanj optimistično. Zaradi dokazovanja na delovnem mestu ima manj časa za gospodinjska opravila in hobije, ki bi ji omogočali sprostitev. Izpopolnjuje jo predvsem visoko zadovoljstvo z materinstvom in partnerjem.

In še zadnja skupina žensk, ki pa ni najmanj pomembna. Ženske brez vodstvenih pooblastil, zaposlene, so pesimistične, a zadovoljne z življenjem. Kje so razlogi za takšno kombinacijo? Veliko je zaposlenih, ki nima visokih ambicij, ki rade opravljajo vsakodnevna rutinska opravila in si ne žele večjih pristojnosti in odgovornosti. Tako vztrajajo na svojih položajih, hkrati pa so na nižjih delovnih mestih tudi slabše plačani. Manj denarja

pomeni tudi nižjo materialno varnost. So bolj nezadovoljne s kariero, partnerjem in kvaliteto preživljanja prostega časa.

Vrnimo se nazaj k teorijam o prepletu različnih vlog. Ugotovili smo, da ženska, ki v življenju igra več vlog hkrati, je malo bolj optimistična, drugače pa se multiplost vlog pozitivno povezuje s starševskim zadovoljstvom ter negativno s partnerskim odnosom in s kvaliteto preživljanja prostega časa. Korelacije so nizke, tako, da ne moremo potrditi ne teorije stresnih vlog in ne teorije akumulacije vlog.



# Izboljševanje kakovosti regulacije – razvoj v Sloveniji

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Gregor Virant

Univerza v Ljubljani, Fakulteta za upravo  
gregor.virant@fu.uni-lj.si

## IZVLEČEK

**Programi izboljševanja kakovosti regulacije v EU so rezultat različnih procesov (procesa uvajanja upravljanja celovite kakovosti v državno upravo, težnje po izboljšanju konkurenčnosti gospodarstva, želje po približanju institucij državljanom).**

**Kakovost predpisov obsega več elementov: presojo učinkov, sodelovanje javnosti, sodelovanje izvajalcev, odpravo administrativnih ovir, nomotehnično, jezikovno in stilistično korektnost.**

**Za resničen dvig kakovosti so potrebni jasni standardi, iskrena predanost vlade temu cilju, kompetentni pripravljavci predpisov in ustrezna porazdelitev odgovornosti med predlagatelje in nadzornike. Slovenska državna uprava je na tem področju po letu 2000 naredila velike korake, med katerimi velja izpostaviti spremembe Poslovnika vlade v letu 2006. Tudi resolucija o normativni dejavnosti iz leta 2009 je korak v pravo smer.**

**Ostaja pa še maneverski prostor za nadgradnjo procesov izboljšave predpisov – vpeljava standarda sodelovanja izvajalcev predpisov pri njihovi pripravi, sprejem zavezujoče metodologije za doseganje posameznih elementov kakovosti regulacije, razvoj in zagon stalnega modula usposabljanja.**

*Ključne besede: kakovost predpisov, boljša regulacija, odprava administrativnih ovir, presoja učinkov regulacije*

JEL: H83

## **1. Izboljševanje kakovosti regulacije – rezultat različnih (konvergenčnih) procesov**

Izdajanje predpisov (oblastnih splošnih pravnih aktov)<sup>1</sup> je ena temeljnih dejavnosti oblasti in eden temeljnih mehanizmov urejanja družbenih razmerij, predpisi pa eden najpomembnejših »produktov« procesov javnega upravljanja. Pri tem niso mišljeni samo zakoni, ampak tudi podzakonski predpisi, ki niso zgolj instrument uporabe prava ali interpretacije zakonov, ampak instrument oblikovanja politike in s tem urejanja družbenih razmerij.

Proces izboljševanja kakovosti predpisov je postopoma prodiral v »zavest« institucij Evropske unije in nacionalnih vlad in javnih uprav. Razmišljanje o izboljšanju kakovosti predpisov se je na agendi Evropske unije in njenih držav članic pojavilo v 90. letih prejšnjega stoletja, ko je edinburški vrh (1992) pod britanskim predsedstvom izrazil zaskrbljenost nad kakovostjo in količino predpisov, ki prihajajo iz Bruslja. Vendar na podlagi te ugotovitve v 90. letih ni prišlo – z izjemo Velike Britanije - do vzpostavitve koherentne politike z jasno določenimi cilji in vidnimi uspehi (Radaelli, 2007). Pomemben mejnik na ravni Evropske unije predstavlja Mandelkernovo poročilo (2001), ki ga je pripravila skupina strokovnjakov po nalogu ministrov za javno upravo v kontekstu uvažanja določil Lisbonske strategije o izboljšanju regulatornega okolja za podjetja (glej Radaelli in DeFrancesco, 2007). Bela knjiga o dobrem javnem upravljanju (*White Paper on Good Governance*, COM(2001)428 je istega leta posvetila posebno pozornost kakovosti regulacije in njen rezultat so bili nekateri konkretni predlogi – npr. predlog za sprejem minimalnih standardov posvetovanja z javnostjo in zaveza za pripravo akcijskega načrta za »boljšo regulacijo«. Leta 2002 je Komisija sprejela minimalne standarde za posvetovanje z javnostjo in pričela s sistematično uporabo presoje učinkov regulacije (kasneje, leta 2006, je bil za ta namen ustanovljen poseben odbor za presojo učinkov<sup>2</sup>).

Ideja, da je treba kakovost predpisov v številnih pogledih izboljšati oziroma sprožiti proces izboljšav, je v Evropski uniji (in tudi v Sloveniji) dozorela kot rezultat več procesov:

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**1** V tem prispevku za izdajanje predpisov (oblastnih splošnih pravnih aktov, torej pravnih aktov, ki vsebujejo oblastne splošne pravne norme) uporabljamo izraz »regulacija«, ki se je tudi sicer prijel v slovenski teoriji – glej monografijo *Presoja učinkov regulacije v Sloveniji* (2009, urednica Polona Kovač).

**2** Odbor je sestavljen iz visokih uradnikov direktorats, ki so najbolj neposredno povezani s tremi stebri presoje učinkov predpisov (okolje, sociala, gospodarstvo) .

- procesa priprave in uvajanja Lizbonske strategije za dvig konkurenčnosti evropskega gospodarstva<sup>3</sup>,
- procesa približevanja države in njenih institucij državljanom in
- procesa uvajanja upravljanja celovite kakovosti (*total quality management*).

a) Kakšna je zveza med izboljševanjem predpisov in izboljševanjem konkurenčnosti gospodarstva? Slabi predpisi, torej predpisi, ki so pripravljani in sprejeti brez sodelovanja zainteresirane javnosti, brez realne ocene učinkov in brez čiščenja administrativnih ovir, povečujejo stroške poslovanja gospodarskih subjektov. Optimizacija predpisov za gospodarske subjekte pomeni optimizacijo regulatornega oziroma administrativnega okolja, v katerem poslujejo. Seveda je poleg kakovostnega procesa sprejemanja in kakovostne vsebine predpisov pomembno tudi učinkovito uvajanje. V prvih letih je bil poudarek v okviru projektov »boljše regulacije« predvsem na presoji učinkov regulacije in posvetovanju z zainteresirano in strokovno javnostjo. V kasnejših letih, zlasti v obdobju Barrosove komisije, pa je bilo vse bolj poudarjeno področje odprave administrativnih bremen (Meuwese, 2009, str. 97). Leta 2004 je Svet za konkurenčnost pozval Evropsko komisijo in države članice, naj ocenijo kumulativni učinek obstoječe zakonodaje na konkurenčnost industrije in specifičnih industrijskih sektorjev in naj razvijejo metodo za merjenje administrativnih bremen (Svet, 2004). Svet EU je marca leta 2007 sprejel sklep, da se morajo administrativna bremena, izhajajoča iz zakonodaje EU, do leta 2012 znižati za 25 odstotkov. Hkrati je povabil tudi države članice EU, da na nacionalni ravni postavijo »enako ambiciozne cilje«.

b) Tudi zveza med izboljševanjem regulacije in približevanjem institucij države državljanom je na dlani. Regulacija je za državljanke, ne proti njim. Čeprav regulacija pomeni prisilno urejanje družbenih razmerij pod grožnjo sankcij, mora biti v službi državljanov. Zmanjševanje prepada med državo in državljanom, tako imenovanega demokratičnega deficita, se v veliki meri lahko ublaži prav s kakovostno politiko reguliranja – zlasti ko gre za pravila sodelovanja javnosti v procesih priprave in sprejemanja predpisov.

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<sup>3</sup> Evropska komisija je sprožila ambiciozen paket reform pod oznako »Better Regulation«, ki poteka od leta 2002. Gre za program poenostavitve zakonodaje, program za zmanjšanje administrativnih bremen za 25% do leta 2012 (sprejet leta 2005) in uporabo presoje učinkov regulacije (primarno na ravni Evropske komisije, z ambicijo, da se razširi tudi na Svet in na Evropski parlament) – glej Meuwese (2009), str. 93 do 96.

c) In kakšno povezavo ima proces uvajanja upravljanja celovite kakovosti z izboljševanjem predpisov? Ugotovili smo, da so predpisi eden najpomembnejših »produktov« javne uprave in je proces priprave in sprejemanja predpisov eden najpomembnejših procesov v javni upravi. Glede na to je logično, da sta standardizacija in optimizacija tega procesa nujni sestavni del upravljanja celovite kakovosti v javni upravi. Vlada, ki želi uvajati kakovost v svoje poslovanje in v poslovanje svojih ministrstev, mora razviti politiko kakovostne regulacije (*regulatory policy*), ki sledi načelom upravljanja kakovosti.

Uvajanje upravljanja celovite kakovosti je pomemben korak k izboljšavam v javni upravi. V Sloveniji so organi javne uprave v zgodnjih devetdesetih letih prejšnjega stoletja začeli z uvajanjem standardov ISO 9001, nadaljevali pa z uporabo ocenjevalnega orodja CAF (skupni ocenjevalni okvir za organizacije v javnem sektorju) in s sodelovanjem v tekmovanju za priznanje Republike Slovenije za poslovno odličnost. V te procese so se – s podporo pristojnega ministrstva – vključevale skoraj izključno organizacije, ki predpise izvajajo (upravne enote, organi v sestavi ministrstev), čeprav bi bilo izboljševanje kakovosti poslovanja na ravni ministrstev še kako pomembno. Uvajanje orodij upravljanja kakovosti bi povzročilo skrbnejši pristop k poslovnim procesom, tudi k procesu priprave in sprejemanja predpisov. Seveda pa politike reguliranja ne more razviti vsako ministrstvo posebej, temveč mora biti to enotna vladna politika pod taktirko ministrstva, zadolženega za javno upravo. Razvoj politike reguliranja, ki smo mu priča v zadnjih letih, se sicer ne odvija v formalnih okvirih modelov upravljanja kakovosti, dejansko pa pomeni pomemben element upravljanja kakovosti. Lahko rečemo, da so spremembe na tem področju v sozvočju z načeli upravljanja kakovosti in da brez upoštevanja teh načel spremembe ne bodo učinkovite. Gre za naslednja načela upravljanja kakovosti:

- procesi priprave in sprejemanja predpisov morajo biti skrbno standardizirani (seveda ob upoštevanju potrebne fleksibilnosti),
- vzpostavljena mora biti tesna vez z »odjemalci« (predvsem adresati predpisov, kot bomo videli kasneje, pa tudi izvajalci predpisov),
- v politiko reguliranja mora biti vgrajen princip stalnih izboljšav (to politiko je treba sproti preverjati in po potrebi spreminjati),
- vodstvo (v tem primeru gre za predsednika vlade in ministre, za njimi pa vrhni menedžment na ministrstvih) mora biti s pomenom teh procesov seznanjeno in iskreno predano ciljem kakovosti<sup>4</sup>.

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<sup>4</sup> Glej načela upravljanja kakovosti po standardu ISO 9000 ([www.iso.org](http://www.iso.org)).

## **2. Elementi kakovosti regulacije**

S povezavo med upravljanjem celovite kakovosti in izboljševanjem regulacije smo prišli do spoznanja, da je kakovost definirana z načeli (glej tudi Radaelli, DeFrancesco, str. 32). Mednarodne organizacije in nacionalne vlade so postavile vrsto načel dobre regulacije. Mandelkernovo poročilo (2002, str. 9 in 10) jih navaja sedem: nujnost, sorazmernost, subsidiarnost, transparentnost, odgovornost, dostopnost in enostavnost. Za primerjavo - slovenska Resolucija o normativni dejavnosti govori o načelu potrebnosti pravnega urejanja, samoomejevanju, sorazmernosti, odgovornosti, dostopnosti, poenostavitvah in transparentnosti. Primerjava pokaže, da gre praktično za isti seznam načel, le da je namesto načela subsidiarnosti (ki je izraz specifikve Evropske unije kot nadnacionalne organizacije, čeprav je res, da se na ravni držav članic lahko uporablja za odnos med centralno vlado in lokalno samoupravo), uporabljala pojem samoomejevanja, ki pa se v veliki meri prekriva z načelom potrebnosti pravnega urejanja.

Načela se konkretizirajo v natančnejših standardih kakovosti regulacije, ki so zajeti v regulatornih politikah Evropske unije in držav članic. Standardi kakovosti regulacije so določeni v različnih pravnih oblikah – praviloma gre za interno zavezujočo regulacijo organov Evropske unije (npr. smernice za presojo učinkov predpisov) in nacionalnih vlad, v številnih primerih pa tudi za »mehke« standarde, sprejete v obliki priporočil, priročnikov ipd. Pravila, ki regulirajo regulacijo, avtorji pogosto označujejo kot metaregulacijo (Morgan, 2003, str. 57; Meuwese, 2008, str. 14).

Nabor standardov kakovosti regulacije je širok in odprt. Standardi se nanašajo predvsem na:

- a) presojo učinkov regulacije,
- b) sodelovanje zainteresirane javnosti,
- c) odpravljanje administrativnih ovir,
- d) (medresorsko) koherentnost,
- e) tehnično (predvsem pravno in jezikovno) korektnost,
- f) dostopnost predpisov (ustrezna objava) in
- g) stalno evalvacijo kakovosti skozi izvajanje v praksi ter proces izboljševanja.

a) Presoja učinkov regulacije (*regulatory impact assesment*) pomeni, da morajo biti ob pripravi predpisa, ob njegovem obravnavanju in ob odločanju o njegovem sprejetju skrbno analizirani in prikazani njegovi učinki na javnofinančnem, makroekonomskem, mikroekonomskem, administrativnem, socialnem in okoljskem področju (presoja učinkov regulacije ali presoja učinkov vpliva na kakovost predpisa predvsem zato, ker odločevalcem daje jasno sliko o tem, kaj bo predpis v praksi povzročil. Tako olajšuje izbiro med političnimi alternativi (zato je pogosto koristno, če je presoja opravljena za več variantnih odločitev). Skrbna presoja učinkov omogoča reguliranje družbenih razmerij po načelu odločanja na podlagi realnih dejstev (v nasprotju z odločanjem »na pamet«, po intuiciji oziroma »na srečo«). Metode presoje učinkov se razvijajo z uporabo instrumentarija ekonomske, upravne, okoljske stroke in drugih strok.

Celovita in korektna presoja učinkov krepi tudi možnost kritike predpisov medijev, civilne družbe, opozicije itd., oziroma krepi moč institucij neformalnega in formalnega političnega nadzora. Izboljšuje tudi pogoje za sodelovanje javnosti v procesih priprave in sprejemanja predpisa. Zainteresirana javnost namreč nima na voljo kadrovskih virov za izvajanje takšnih presoj, poleg tega pa lahko strokovno neoporečna, argumentirana in prepričljiva presoja vplivov odvrne kakšno kritiko in nasprotovanje, ki izhaja iz strahu ali nerazumevanja. Presoja učinkov regulacije na opisani način znatno pripomore k zmanjšanju demokratičnega deficita ter pozitivno vpliva na legitimnost regulacije.

b) V pripravo in obravnavanje predpisa mora biti vključena zainteresirana javnost. Sodelovanje javnosti v procesih priprave in sprejemanja predpisov (*public consultation* ali *public participation*)<sup>5</sup> ima večplasten pomen. Predvsem pozitivno vpliva na kakovost predpisa. Vključitev strokovne javnosti (strokovnjakov z univerze, raziskovalnih zavodov, iz gospodarstva...) in javnosti, na katero bo predpis vplival (t.i. zainteresirane javnosti) omogoči pripravljavcu boljši vpogled v relevantne informacije o dejanskem stanju. Organizacije in posamezniki, ki so zainteresirani za vsebino predpisa, ker bo vplivala nanje, so pomemben vir informacij o dejanskem stanju<sup>6</sup>. Sodelovanje javnosti omogoči pripravljavcu tudi pravočasno zaznavanje potencialnih konfliktov in nasprotovanj in pretehtano odločanje o tem, ali koristi sporne odločitve odtehtajo negativne posledice konflikta. Konfliktnost interesov je seveda v naravi političnega odločanja in redko

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<sup>5</sup> O stopnjah vpliva javnosti glej MJU (2008), str. 10. Priročnik loči naslednje stopnje (po naraščajočem vplivu): informiranje, posvetovanje, vključevanje, sodelovanje, pooblašanje.

<sup>6</sup> Seveda je treba biti pri uporabi teh informacij pozoren in previden, ker je lahko njihovo podajanje interesno pogojeno in posledično izkrivljeno.

katera politična odločitev bo všeč vsem<sup>7</sup>, toda marsikateremu konfliktu se je mogoče izogniti brez stranskih posledic. Sodelovanje zainteresirane javnosti pomeni tudi ohranitev partnerskega odnosa med vlado in upravo na eni strani ter civilno družbo na drugi strani. To partnerstvo in medsebojno spoštovanje blagodejno vpliva tudi na izvajanje predpisa. Adresati predpisu priznavajo višjo stopnjo legitimnosti, če so lahko sodelovali pri njegovem nastajanju – tudi če jim ni uspelo uveljaviti vseh pripomb.

Sodelovanje javnosti pa ima seveda tudi velik pomen na področju demokratičnosti procesov javnega upravljanja, saj zmanjšuje tako imenovani demokratični deficit – pomanjkanje široke demokratične razprave ob sprejemanju političnih odločitev. Problem demokratičnega deficita je imanenten predstavniški demokraciji – državljani svojo politično odločitev izrečejo na volitvah, nato pa prepustijo odločanje o javnih zadevah svojim izvoljenim predstavnikom in imenovanim ministrom ter uradnikom. V tem času jim je odločanje v precejšnji meri odtujeno; ta pojav je neizogibna posledica narave predstavniške demokracije. Demokratični deficit je toliko bolj prisoten, kolikor bolj so institucije odločanja odmaknjene, oddaljene od državljanov – še posebej je torej prisoten pri sprejemanju podzakonskih predpisov, kjer razprava in odločanje ostaneta v krogu izvršilne oblasti. Sodelovanje javnosti torej krepi demokratično naravo družbe.

c) V procesu priprave je treba predpis »očistiti« vseh administrativnih ovir – bremen, ki ne prispevajo k cilju predpisa ali pa niso sorazmerna s tem ciljem. Predpisi, očiščeni administrativnih ovir, so za adresate racionalni, zato je večja tudi njihova legitimnost.

d) Element kakovosti predpisa je tudi njegova horizontalna medresorska usklajenost. Vladne politike morajo biti usklajene in koherentne. V procesu medresorskega usklajevanja se predpis, ki sodi v delovno področje enega od ministrstev, osvetli z vidika drugih resorjev. Predpis, ki je uravnotežen z vidika raznovrstnih javni interesov in ne zasleduje javnega interesa le na enem področju, pridobi na legitimnosti.

e) Novejša strokovna besedila s področja boljših predpisov redko omenjajo nekatere »trde« elemente kakovosti, ki so tradicionalno zasidrani v javnih upravah. Gre za nomotehnično kakovost, usklajenost s pravnim sistemom (s

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<sup>7</sup> Portugalski rek pravi, da ne moreš vladati tako, da bi bil vsem všeč.

prirejenimi in nadrejenimi predpisi) in jezikovno ter stilistično kakovost. Jezikovno ali nomotehnično pomanjkljiv predpis in predpis, ki na primer ni v skladu z ustavo ali direktivami EU, pač ni kakovosten predpis.

f) Za pravne subjekte je pomembna tudi dostopnost predpisa, torej možnost, da se lahko seznanijo z njegovo vsebino. Primerna metoda za doseganje tega standarda je brezplačna dostopnost na spletu. Pri tem je pomembno, da je objava pregledna – da so objavljena prečiščena besedila, da so spletne strani opremljene z uporabniku prijaznimi iskalniki, da so poleg zakonov objavljeni tudi podzakonski predpisi, izdani na njihovi podlagi, da so »pri roki« tudi pripadajoči interni akti z eksterno vsebino (navodila, okrožnice, pravna mnenja) in relevantna upravna in sodna praksa. Vse to namreč vpliva na interpretacijo in uveljavljanje predpisa in mora biti uporabniku dostopno, da bi se lahko v celoti seznanil z vsebino predpisa in s svojim pravnim položajem.

g) Ob navedenih standardih kakovosti predpisov, ki so se uveljavili v teoretičnih pogledih na boljšo regulacijo in v praksah nacionalnih javnih uprav, bi veljalo posebno pozornost posvetiti tudi sodelovanju izvajalcev predpisov. Pomembno vlogo pri pripravi predpisa bi morali vedno imeti tudi njegovi praktični izvajalci - torej strokovnjaki iz javne uprave, ki so oziroma bodo zadolženi za uporabo predpisa v praksi (inšpektorji, uradne osebe upravnih enot, organov v sestavi ministrstev, nosilcev javnih pooblastil, občinskih uprav). Ti strokovnjaki imajo najbolj neposredne in popolne informacije o učinkih določene regulacije, ki je že v veljavi, in tudi odličen vpogled v stanje »na terenu«, ki je zelo koristen pri presoji možnih učinkov nove regulacije. Z vključitvijo teh strokovnjakov v pripravo predpisa lahko zagotovimo višjo kakovost pa tudi približamo predpis realnemu življenju in uporabnikom in na ta način zagotovimo višjo stopnjo kakovosti in legitimnosti predpisa. Smiselno bi bilo, da se standard »sodelovanja izvajalcev predpisa« vnese v nabor obveznih standardov v vseh aktih, ki te standarde predpisujejo ali priporočajo.

### **3. Razvoj ideje o izboljševanju regulacije v Sloveniji**

V Sloveniji so nekateri tradicionalni elementi kakovosti regulacije vgrajeni v sistem priprave in sprejemanja predpisov vse od osamosvojitve naprej (izhajajoč iz tradicije izpred leta 1991): gre predvsem za presojo skladnosti s pravnim redom, nomotehnično korektnost, presojo javnofinančnih učinkov in medresorsko usklajenost (koherentnost). Nadzor nad nomotehnično in siceršno pravno korektnostjo je izvajala (in še izvaja) služba za zakonodajo, presojo finančnih posledic je vedno dosledno zahtevalo ministrstvo za finance, za medresorsko usklajenost pa je (poleg predlagateljev) skrbel in še skrbi generalni sekretariat. Ti elementi so bili ustrezno poudarjeni v vseh vladnih poslovnikih po osamosvojitvi. Druge, recimo jim modernejšee, sestavine kakovosti regulacije pa so v sistemsko ureditev in v prakso prodirale počasi. Pomanjkljivo je bilo stanje na področju presoje učinkov (razen – kot že omenjeno - javnofinančnih), sodelovanja zainteresirane javnosti in odpravljanja administrativnih ovir. Prvi element boljše regulacije, ideja o poenostavljanju administrativnih postopkov, se je na vladni ravni pojavil leta 2000 s tako imenovanim »antibirokratskim programom«. Vendar poslovnik vlade<sup>8</sup> iz leta 2001 ni vseboval določb, ki bi od predlagatelja gradiva zahtevale presojo učinkov, sodelovanje z javnostjo ali »čiščenje« administrativnih ovir. Izboljšave so prinesle spremembe in dopolnitve poslovnika vlade v letu 2006<sup>9</sup>, ko je bil bistveno spremenjen in dopolnjen 8. člen. Tretji odstavek 8. člena poslovnika vlade je določil, da mora gradivo, poslano v vladno obravnavo, vsebovati »zagotovilo predlagatelja, da je opravil presojo učinkov predlaganih odločitev vlade in je izvedel potrebno medresorsko usklajevanje ter posvetovanje s predstavniki civilne družbe. Presoja učinkov se opravi na področju javnih finančnih sredstev, usklajenosti s pravnim redom Evropske unije, odprave administrativnih ovir in javne uprave, pravosodnih organov, gospodarstva, okolja in socialnega položaja posameznikov. Za pravilnost zagotovila odgovarja predlagatelj gradiva. Posamezna ministrstva in vladne službe morajo spremljati ustreznost tistega dela zagotovila, ki sodi v njihovo pristojnost.«

V četrtem odstavku 8. člena pa je bilo določeno: »Jedro gradiva mora vsebovati obrazložitev predlaganih sklepov, ki vključuje tudi obrazložitev učinkov

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<sup>8</sup> Uradni list RS, št. 43/2001, 54/2003, 103/2003, 114/2004, 26/2006 in 21/2007

<sup>9</sup> Uradni list RS, št. 26/2006

predlaganih ukrepov in druge podatke, potrebne za kakovostno odločanje vlade, ki jih določi generalni sekretar vlade. Če bo gradivo poslano v obravnavo državnemu zboru, mora vsebovati vse sestavine, ki jih predpisuje poslovnik državnega zbora.«

S citiranimi poslovnimi zahtevami so bili določeni »trdi« (zavezujoči) standardi kakovosti regulacije. Navedeni so bili vsi ključni elementi kakovosti (presoja učinkov, odprava administrativnih ovir, sodelovanje z zainteresirano javnostjo, medresorsko usklajevanje). Temu lahko dodamo še zahtevo po medresorskem usklajevanju (8.a člen poslovnika) in zahtevo, da mora predlagatelj predložiti gradivo »jezikovno in stilistično urejeno«, kar je določal prvi odstavek istega člena poslovnika.

Podrobnejša navodila za predlagatelje gradiv je izdal generalni sekretar vlade. Navodila<sup>10</sup> med drugim vsebujejo obrazec, ki določa obvezno vsebino izjav predlagateljev gradiv glede usklajenosti z nevladnimi organizacijami in glede odprave administrativnih ovir. V segmentu odprave administrativnih ovir je obrazec zahteven in podroben in terja od predlagatelja natančno analizo. Predlagatelj mora na primer navesti razloge, zakaj je postopek ali druga administrativna obveznost nujno potrebna, in javni interes, ki se s tem dosega. Navesti mora dokaze, da javnega interesa ni mogoče doseči na drug, za stranke enostavnejši način. Predlagatelj mora zagotoviti in opisati način izvajanja načela "vse na enem mestu" (načelo, da stranki ni treba opravljati zadev, ki se nanašajo na en življenjski oziroma poslovni dogodek, na več mestih). Navesti mora tudi podatke, potrebne za izvedbo postopka, ki jih bo pristojni organ pridobil sam iz uradnih evidenc, in način pridobivanja teh podatkov. V segmentu sodelovanja javnosti na primer navodila določajo, da mora poročilo predlagatelja vsebovati izjavo, da je bilo gradivo predhodno objavljeno na spletni strani predlagatelja in so bile v razpravo vključene nevladne organizacije oziroma predstavniki zainteresirane javnosti. Navesti je treba datum objave in seznam vključenih organizacij oziroma predstavnikov zainteresirane javnosti ter seznam tistih, ki so podali svoje mnenje. Poročati je treba tudi o tem, ali so bili prejeti pripombe in predlogi in ali so bili v celoti upoštevani. Če se z gradivom predlaga sprejetje predpisa, je treba negativne odgovore obrazložiti (ni pa v navodilih določeno, kako).

S podrobnimi »izhodnimi« zahtevami glede odprave administrativnih ovir (zahtevami, ki se nanašajo na dokončno obliko gradiva, ki ga predlagatelj posreduje vladi) so bili predlagatelji v tem segmentu usmerjeni v pripravo kako-

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<sup>10</sup> Glej navodilo za izvajanje poslovnika vlade št. 10.

vostnega gradiva. Poslovniški standard je nedvomno postopoma spreminjal tudi način razmišljanja oziroma pristop pri pripravi predpisov. Naj spomnimo, da je bilo določeno, da za posamezne elemente kakovosti primarno odgovarja predlagatelj, posamezna ministrstva in vladne službe pa morajo spremljati (torej nadzirati) ustreznost tistega dela zagotovila, ki sodi v njihovo pristojnost – za odpravo administrativnih ovir in sodelovanje javnosti je zadolženo ministrstvo za javno upravo, za javnofinančne učinke ministrstvo za finance, za učinke na gospodarstvo ministrstvo za gospodarstvo itd. S spremembami in dopolnitvami poslovnika vlade v letu 2006 so bili tako v Sloveniji v postopek vladnega odločanja vsaj na osnovni ravni (v nekaterih segmentih pa tudi na višji ravni) uvedeni standardi »boljše regulacije«. Znatno napredek na področju regulatornega upravljanja (*regulatory management*) v Sloveniji je zaznala tudi SIGMA v svojem poročilu iz leta 2007<sup>11</sup>.

Junija 2008 je ministrstvo za javno upravo izdalo Priročnik za načrtovanje, vodenje in vrednotenje procesov sodelovanja javnosti. Priročnik vsebuje splošna pojasnila o pojmi in o pomenu vključevanja javnosti, pa tudi konkretna priporočila. Uporaba priročnika ni obvezna, dokument ima naravo delovnega pripomočka oziroma priporočil.

V letu 2009 je bil storjen nov korak na področju boljše regulacije. Državni zbor je sprejel »resolucijo o normativni dejavnosti« (Uradni list RS, št. 95/2009). Tako so bila načela dobre regulacije deklarativno postavljena na visoko politično raven, saj je resolucijo sprejel najvišji organ odločanja, zakonodajalec. Tako ima resolucija predvsem politični pomen, saj politično zavezuje vlado. Ne pa tudi pravno – nobenega predpisa ni mogoče izpodbijati pred ustavnim ali kakim drugim sodiščem zaradi neskladnosti z resolucijo. Prav tako resolucija nima operativne vrednosti; v operativnem smislu imajo določbe poslovnika vlade večji pomen, saj neposredno usmerjajo pripravljavce oziroma predlagatelje gradiv za vladno obravnavo. Kljub temu velja sprejem resolucije kot političnega akta zakonodajnega telesa pozdraviti kot pomembno politično gesto.

Predlagatelj bi sicer lahko v naslovu resolucije uporabil ustrežnejši in modernejši, evropsko primerljiv termin (npr. resolucija o izboljševanju kakovosti regulacije ali resolucija o izboljševanju kakovosti predpisov), odločil pa se je za

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**11** SIGMA (2007), str. 15: There is a Programme of Measures for Reduction of Administrative Burdens which aims to reduce administrative barriers, ensure that public administration is friendly, effective, open and transparent, and provide impetus for the rapid development of e-government. All ministries are preparing work plans for the 2007-2008 period to reduce administrative burdens. The establishment in 2006 of a special group to oversee Better Regulation was a significant move towards the development of a comprehensive Better Regulation policy.

uporabo tradicionalne, pravne terminologije (»normativna dejavnost«). V resoluciji so določena načela oblikovanja in priprave predpisov: načelo potrebnosti pravnega urejanja, načelo samoomejevanja, načelo sorazmernosti, načelo odgovornosti, načelo dostopnosti, načelo poenostavitve in načelo transparentnosti<sup>12</sup>.

Na področju presoje učinkov resolucija ne vsebuje konkretnih metodoloških orodij, temveč le splošen opis namena presoje, temeljne korake in splošna načela. Na področju sodelovanja javnosti je v resoluciji določenih nekaj »minimalnih priporočil«:

- sodelovanje javnosti pri pripravi predpisov naj traja praviloma od 30 do 60 dni; izjema so predlogi predpisov, pri katerih sodelovanje po naravi stvari ni mogoče (na primer: nujni postopki, državni proračun);
- pripravi naj se ustrezno gradivo, ki vsebuje povzetek vsebine s strokovnimi podlagami, ključna vprašanja in cilje;
- po končanem postopku sodelovanja naj se pripravi poročilo o sodelovanju s predstavitvijo vpliva na rešitve v predlogu predpisa;
- poziv k sodelovanju naj se izvede na način, ki bo zagotovil odziv ciljnih skupin in strokovnih javnosti ter obveščenost najširše javnosti.

V letu 2010 je bil ponovno spremenjen in dopolnjen poslovnik vlade, ki po novem ločeno obravnava standarde za zakone, podzakonske predpise in druge akte vlade. V novem 8.b členu je glede zakonov določeno, da »uvod predloga zakona vsebuje sestavine, določene s poslovníkom državnega zbora, in presojo posledic na posamezna področja ter povzetek o sodelovanju javnosti pri pripravi predloga zakona. Presoja posledic obsega vsaj:

- presojo finančnih posledic za državni proračun in druga javno finančna sredstva z načinom zagotovitve,
- presojo administrativnih posledic,
- presojo posledic na gospodarstvo, posebej na mala in srednja podjetja ter konkurenčnost podjetij,

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<sup>12</sup> Za primerjavo: v poročilu projektne skupine za boljše predpise (*Task Force for Better Regulation*) britanskemu predsedniku vlade o naštetih naslednjih načelih kakovostne regulacije: sorazmernost, odgovornost, konsistentnost, transparentnost in ciljna usmerjenost. Zlasti slednje načelo pogrešamo v naši resoluciji. Načelo ciljne usmerjenosti pomeni, da naj se predpis osredotoča na problem, ki ga je treba rešiti, in minimizira stranske učinke. Administrativne ovire so pogosto nastajale prav kot stranski učinki zasledovanja legitimnih javnih interesov zaradi nespoštovanja tega načela.

- presojo posledic na okolje, ki vključuje tudi prostorske in varstvene vidike,
- presojo posledic na socialnem področju,
- presojo posledic glede na dokumente razvojnega načrtovanja.

Glede presoje posledic so izjema zakoni, ki se sprejemajo po nujnem postopku, in zakoni o ratifikaciji mednarodnih pogodb. Za zakone, sprejete po nujnem postopku, se o presoji posledic na posameznih področjih pripravi poročilo po dvoletnem izvajanju, ki se po obravnavi na vladi posreduje državnemu zboru v vednost in objavi na spletnih straneh.

Glede podzakonskih predpisov poslovnik vlade v 8.c členu določa, da njihova obrazložitev vsebuje predstavitev pravne podlage, vsebinsko obrazložitev predlaganih rešitev in presojo posledic (analogno kot za zakon), vendar je presoja posledic potrebna le, če te niso mogle biti celovito predstavljene v predlogu zakona (8.c).

Sodelovanje javnosti urejata 9. in 9.a člen poslovnika vlade. V 9. členu je določeno, da se predlogi in mnenja, ki jih strokovna in druga javnost naslavlja na vlado, pristojno ministrstvo ali vladno službo, proučijo in po možnosti upoštevajo ob naslednji pripravi predpisa. Ob pripravi predpisa mora predlagatelj povabiti strokovno in drugo javnost k sodelovanju pri pripravi predpisa s splošnim vabilom, kateremu je priložen osnutek predpisa, na spletnih straneh<sup>13</sup>. Predlagatelj predpisa lahko tudi izpostavi posamezna vprašanja, ki jih z vabilom k sodelovanju, kateremu je priložen osnutek predpisa, naslovi na konkretno organizacijo, civilno-društveno osebo ali posameznega strokovnjaka. Rok za odziv javnosti, ki ga določi predlagatelj, je 30 do 60 dni od objave na spletnih straneh oziroma v skladu z dogovorom za sodelovanje po prejšnjem odstavku. Predlagatelj predpisa pisno seznaniti strokovno ali drugo javnost iz drugega odstavka tega člena o bistvenih predlogih ali mnenjih, ki niso bili upoštevani, z obrazložitvijo razlogov v 15 dneh od sprejema predpisa ali od posredovanja predloga predpisa v nadaljnji postopek. Javnosti se ne povabi k sodelovanju pri

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**13** Gradivo, ki se objavi na spletnih straneh, vsebuje:

- osnutek predpisa,
- povzetek vsebine s strokovnimi podlagami, ključna vprašanja in cilje,
- čas trajanja javne predstavitve, v katerem je mogoče posredovati stališča, predloge, mnenja in pripombe,
- datum in kraj morebitne javne obravnave ali druge oblike sodelovanja in
- uradni elektronski naslov in telefon predlagatelja.

pripravi predlogov predpisov v primerih, ko po naravi stvari to ni mogoče (ukrepi, ki se sprejemajo po nujnem postopku, ukrepi, ki morajo biti sprejeti in uveljavljeni nemudoma, z določenim začetkom veljavnosti brez predhodne seznanitve javnosti). Javnost se tudi ne povabi k sodelovanju pri pripravi predloga državnega proračuna, predloga rebalansa državnega proračuna, predloga sprememb državnega proračuna, predloga zakona o izvrševanju državnega proračuna in podzakonskih predpisov na njegovi podlagi, predloga zaključnega računa državnega proračuna, predloga poslovnika vlade, predloga odloka, predloga resolucije z izjemo predloga resolucije o nacionalnem programu na posameznem področju, predloga dokumentov razvojnega načrtovanja in izvajanja razvojnih politik, predloga deklaracije, predloga aktov o ratifikaciji mednarodnih pogodb in predloga sklepa. Novo besedilo relevantnih določb poslovnika vlade ohranja in nadgrajuje standarde, ki jih je prinesla novelacija poslovnika vlade iz leta 2006. Na področju presoje učinkov bistvenih sprememb ni (le da so ločeno urejene sestavine predloga zakona, predloga podzakonskega predpisa in drugih gradiv, terminološko pa je »presojo učinkov« nadomestila »presoja posledic«<sup>14</sup>), na področju sodelovanja javnosti pa so pravila podrobnejša in bolj zavezujoča kot v starem besedilu.

Še en pomemben dokument, ki je trenutno v fazi delovnega gradiva, je priročnik za izvajanje presoje posledic predpisov in politik, ki ga je pripravilo ministrstvo za javno upravo. Priročnik vsebuje dokaj podrobne standarde glede presoje učinkov (s pomožnimi vprašanji in navedbo mogočih področij, na katera regulacija vpliva), medresorskega usklajevanja in vključevanja javnosti v pripravo in sprejemanje predpisov ter drugih političnih aktov. Ministrstvo za javno upravo je pričelo tudi z usposabljanjem javnih uslužbencev na področju boljše regulacije, program usposabljanja je bil izveden trikrat – v marcu, aprilu in maju 2010.

Ugotovimo lahko, da slovenska državna uprava sledi razvoju na področju boljše regulacije. Od prvih zametkov sodobnih pristopov, ki so nastali na temelju tradicionalnih pogledov na postopek sprejemanja predpisov, je minilo približno deset let in v tem času je prišlo do pospešenega razvoja modernejše »metaregulacije« (spremembe in dopolnitve poslovnika vlade leta 2006), do priprave »mehkih« standardov (t.i. *soft law*) v obliki priročnikov, sprejema parlamentarne resolucije in prvih kakovostnih programov usposabljanja.

Kje so še možnosti za izboljšave? Standardi, vsebovani v priročnikih, ki jih je pripravilo ministrstvo za javno upravo, bi morali postati zavezujoči za predlagatelje

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<sup>14</sup> To glede vsebine ne spremeni ničesar, je pa bil termin »učinki« bolj skladen z angleškim terminom »*impact*«.

gradiv. Vlada bi jih morala – morda nekoliko modificirane - sprejeti kot zavezujočo metodologijo<sup>15</sup>. Tako bi dobili zaokrožen sistem metaregulacije, ki bi (vsaj na normativni ravni) zagotavljala vse elemente kakovosti. Druga smer je krepitev zavesti in kompetenc, zlasti znanj s področja kakovostne regulacije. Postopno bi morali oblikovati kompetenčni profil delovnega mesta »regulatorja« - pripravljavca predpisov. Predvsem pa je izjemnega pomena podpora vlade kot političnega vodstva državne uprave. Projekt izboljševanja predpisov lahko tako kot vsak drug projekt na področju upravljanja kakovosti uspe samo ob podpori najvišjega vodstva. V primeru kakovosti regulacije gre seveda za vrh državne uprave na čelu s predsednikom vlade in ministri. Samo če bo kritično število članov vlade (predvsem pa predsednik vlade) razumelo prizadevanja za izboljšanje kakovosti predpisov in bodo politiki boljši regulaciji tudi iskreno predani, so lahko rezultati pozitivni. »Čuvajki« posameznih elementov kakovosti regulacije lahko do neke mere z ustreznim ukrepanjem nevtralizirajo pomanjkljivosti v resorjih, vendar to ni celovita in dokončna rešitev. Boljša regulacija mora postati filozofija celotne državne uprave in to je v resnici mogoče le ob predanosti najvišjega vrha.

Treba je tudi dalje razvijati sistem nadzora nad upoštevanjem standardov kakovosti priprave in sprejemanja predpisov. Odgovornost za vse elemente kakovosti predpisa je v prvi vrsti na predlagatelju. Ta mora v celoti obvladovati proces priprave predpisa in si v primeru, da mu za posamezne elemente tega procesa manjka kadrovske ali informacijske vire, priskrbeti zunanjo pomoč. Na primer: izračun makroekonomskih učinkov predpisa lahko ministrstvo, ki ne razpolaga z ustreznimi znanji, prepusti vladnemu uradu za makroekonomske analize in razvoj. Za vsak element kakovosti predpisa je treba zagotoviti ustrezno strokovno pomoč in ustrezen nadzor usposobljene institucije. V državni upravi imamo institucije, ki so sposobne poskrbeti za ta nadzor. Nadzor nad področjem odprave administrativnih ovir in sodelovanjem javnosti naj še naprej izvaja ministrstvo za javno upravo, nadzor nad presojo makroekonomskih učinkov urad za makroekonomske analize in razvoj, nadzor nad okoljskimi učinki ministrstvo za okolje, nadzor nad javnofinančnimi učinki ministrstvo za finance (ta nadzor ima v naših vladnih postopkih, kot smo že omenili, močno tradicijo), nadzor nad nomotehnično korektnostjo služba za zakonodajo. Primarna odgovornost ostaja na predlagateljih, nadzorniki pa nosijo sekundarno odgovornost za kakovost predpisov. Končna (politična) odgovornost za kakovost predpisov pa je seveda na vladi. Glede nabora standardov kakovosti bi kazalo razmisliti o

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<sup>15</sup> Lahko bi ločili obvezni del, ki bi bil krajši in preciznejši, in priporočila oziroma priročnik.

obveznem vključevanju izvajalcev predpisov v njegovo pripravo. Inšpektorji, uradniki upravnih enot in drugih organov, ki neposredno izvajajo predpise v praksi, poznajo težave pri uvajanju in lahko izboljšajo presojo učinkov ter pripomorejo k boljšim odločitvam. Poslovnik vlade bi tako lahko med obvezne sestavine predloga vnesel tudi izjavo o sodelovanju z izvajalci predpisa.

#### **4. Sklep**

Procesi izboljševanja kakovosti regulacije so se v Sloveniji po letu 2000 dobro razvijali. Največji napredek je pomenila sprememba 8. člena poslovnika vlade z zahtevo po presoji učinkov, ki vključuje tudi standard sodelovanja zainteresirane javnosti v procesu priprave in sprejemanja predpisov in »čiščenje« administrativnih ovir. Resolucija o normativni dejavnosti je na simbolni ravni dvignila področje boljše regulacije na višjo politično raven. Priročniki, ki jih je pripravilo ministrstvo za javno upravo, so kakovosten metodološki pripomoček, začeli pa so se tudi programi usposabljanja javnih uslužbencev. Obstaja pa še velik manevrski prostor za izboljšave: metodologija za sodelovanje javnosti in presojo učinkov bi morala postati zavezujoč vladni dokument. Izdelati bo treba tudi kompetenčni model za delovna mesta pripravljavcev predpisov in razviti ustrezen stalen program usposabljanja. Razmisliti velja tudi o razvoju novega standarda kakovosti regulacije, ki bi bil v evropskem merilu nekoliko inovativen: vključevanja izvajalcev predpisov v njihovo pripravo in sprejemanje.

*Dr. Gregor Virant se je po diplomski na Pravni fakulteti Univerze v Ljubljani zaposlil na Fakulteti za upravo kot asistent. Leta 1995 je na Pravni fakulteti zaključil magistrski študij, leta 1998 pa je doktoriral s področja pravnih znanosti (naslov disertacije: Razlastitev in omejitve lastninske pravice v javno korist). Od leta 1995 do 1999 je delal tudi kot svetovalec Ustavnega sodišča za področje referendumov, volitev in javne uprave. Od junija leta 2000 do avgusta 2004 je opravljal funkcijo državnega sekretarja na Ministrstvu za notranje zadeve. Leta 2004 je postal minister za javno upravo. V času svojega mandata je vodil temeljito modernizacijo javne uprave s poudarkom na poenostavljanju postopkov, izboljševanju kakovosti storitev za stranke in e-upravi. S podpisom kolektivnih pogodb je zaključil tudi šest let trajajočo reformo plačnega sistema v javnem sektorju. Od marca 2010 je zopet zaposlen na Fakulteti za upravo kot docent za področje upravnega prava in prava javne uprave.*

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Gregor Virant

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SUMMARY

**IMPROVING THE QUALITY OF REGULATION -  
DEVELOPMENT IN SLOVENIA**

The importance of the process of improving the quality of regulation has been gradually entering the "consciousness" of the EU institutions and national governments and public administrations. The idea of improving the quality of the regulation occurred on the agenda of the European Union and its Member States in the 90th years of the last century, when the Edinburgh Summit (1992) under the British Presidency expressed its concern over the quality and quantity of regulations coming from Brussels. However, on the basis of these findings in the 90th years - with the exception of the U.K. - a coherent policy with clearly defined goals and visible success has not been developed. An important milestone in the European Union was the Mandelkern Report (2001), prepared by the Expert Group in the context of the implementation of the Lisbon Strategy with the aim to improve the regulatory environment for business. The same year, the White Paper on Good Governance (COM 2001, 428) paid particular attention to the quality of regulation and its results have been some concrete proposals – a proposal to adopt minimum standards of public consultation and a commitment to prepare an action plan for "better regulation". In 2002 the Commission adopted minimum standards for consultation with the public and began the systematic use of regulatory impact assessments.

The idea that a process of improvements has to be initiated in the field of regulation has developed in EU and also in Slovenia as a result of several processes:

- a) the process of preparation and implementation of the Lisbon strategy to increase competitiveness of the European economies,
- b) the process of orienting the state and its institutions towards the citizens, and
- c) the process of introducing total quality management (TQM).

Quality of regulation is defined by principles. International organizations and national governments have set a series of principles of good regulation. Mandelkern report (2002, p. 9 and 10) defines seven principles of good

regulation: necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity.

The principles are concretised by quality standards which are included in the regulatory policies of the European Union and the Member States. Quality standards are set out in various legal forms - as binding internal rules of the EU institutions (e.g. guidelines for assessing the impact of regulations) and national governments, or as "soft" standards adopted in the form of recommendations, manuals, etc. . The rules governing regulation are often referred to as meta-regulation.

A set of quality standards and regulation is wide open. The standards are based primarily on:

- a) assessing the impact of regulation,
- b) participation of the interested public,
- c) elimination of administrative barriers,
- d) (interdepartmental) coordination and coherence,
- e) technical (primarily legal and linguistic) correctness
- f) accessibility of regulations (appropriate publication) and
- g) continuous (ex post) evaluation of impact.

In Slovenia, some traditional elements of the quality of regulation had been built into the system of drafting and adopting regulations even before gaining independence (derived from the tradition of pre-1991): control of accordance with the legal order, nomotechnical correctness, the assessment of financial impact and inter-ministerial coordination (coherence). These elements have been appropriately highlighted in the Rules of Procedure of the Government.

The »modern« components of the quality of regulation penetrated into practice quite slowly. The main deficiencies were in the areas of regulatory impact assessment (except for financial impact), public participation and removal of administrative burden. The first element of better regulation, the idea of simplifying administrative procedures, appeared at the governmental level in 2000 with the so-called "anti-bureaucratic program." However, the Rules of Procedure of the Government from 2001 did not contain provisions that would require a thorough impact assessment, public participation or removal of administrative burden.

Improvements were introduced with amendments to the Rules of Procedure of the Government in 2006. The Rules have determined that the material sent to a government procedure, shall include "a statement of the proposing ministry that an impact assessment of the proposed decision and the necessary inter-ministerial coordination and consultation with representatives of civil society had been made."

In 2009 a new step in the field of better regulation was made. The National Assembly adopted a "Resolution of the rule-making activity" (Official Gazette, No. 95/2009). Thus, the principles of good regulation were declaratively confirmed on the highest political level. The resolution doesn't bring any legal obligations, but is politically binding for the Government.

The Resolution also has no practical or operational value – in this sense, the Rules of Procedure of the Government have greater importance because they bring concrete operative rules for preparation of the proposals to the Government. However, the adoption of the Resolution was an important political gesture.

In 2010 the Rules of Procedure of the Government were amended again. The new wording of the relevant provisions of the Rules of Procedure of the Government maintains and upgrades the standards brought by the 2006 amendments. Regarding the impact assessment no significant changes were made. On the other hand, in the field of public participation the rules are more detailed and more prescriptive than the old text.

Another important document that is currently under preparation is the Manual for the implementation of impact assessment of regulations and policies, prepared by the Ministry of Public Administration. The draft Manual contains fairly detailed standards for the assessment of the impacts (with auxiliary questions and an indication of possible areas in which the regulation could have impact), inter-ministerial coordination and public participation in the preparation and adoption of regulations and other political acts. Ministry of Public Administration has also begun the training of public servants in the field of better regulation.

We can conclude that the Slovenian Public Administration is following the developments in the field of better regulation. We have been witnessing a development of modern "meta-regulation" (amendments to the Rules of Procedure of the Government). Soft standards in the form of manuals were also prepared and a parliamentary Resolution was adopted.

Significant progress in regulatory governance (Regulatory Management) in Slovenia was recognised by the SIGMA report in 2007.

But there is still place for improvements. The standards contained in the »soft law« (manuals prepared by the Ministry of Public Administration) should become binding for the ministries. The Government should accept them - perhaps in a slightly modified version - as a binding methodology. This would lead to a unified system of meta-regulation that would (at least at the regulatory level) provide all the elements of quality.

The system of ensuring compliance with quality standards should also be further developed. Responsibility for all elements of quality regulation is primarily on the proposing authority. The proposing ministry should fully manage the process of preparing new regulations, and in case of lack of human resources or information aid from outside should be provided. For example: to calculate the macroeconomic effects of regulation, the Ministry may not have the relevant skills, so this exercise can be left to the Government Office of Macroeconomic Analysis and Development.

Regarding the set of quality standards, it would be useful to consider the compulsory involvement of those civil servants who are responsible for the implementation of the regulation. Inspectors, officials of administrative units and other agencies directly implementing the rules in practice, familiar with the problems of the implementation and with the impacts of the regulation in practice, can contribute to better decisions.

There is also a need to raise awareness and skills, particularly in the field of quality control. The Government should gradually develop a competency profile for the posts of civil servants responsible for the preparation of regulations. A culture of better regulation is necessary. "Watchdogs" of individual elements of the quality of regulation can to some extent neutralize deficiencies in departments, but this is not a complete and definitive solution. Better regulation must become a philosophy of the whole public administration.

And above all, political leadership and support is needed. The project of improving the quality of regulation, like any other project in the field of quality management, can only be successful if there is support from the leadership of the organization. Only if a critical number of members of the Government (particularly the Prime Minister) understand the importance of improving the quality of regulation and are sincerely committed to better regulation, the results may be positive.

## Navodila avtorjem

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

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

### Uredniški postopek:

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

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

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

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

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### 1 Članke razvrščamo po tipologiji COBISS:

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

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

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

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

### **Oblikovanje članka:**

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

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

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

Članek naj bo napisan v urejevalniku besedil Word (\*.doc, \*.docx) v enojnem razmiku, brez posebnih ali poudarjenih črk. Ne uporabljajte zamika pri odstavkih. Razdelki od Uvoda do Sklepnih ugotovitev naj bodo naslovljeni in oštevilčeni z arabskimi številkami.

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

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

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

#### **Članek v reviji:**

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

#### **Knjiga:**

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

#### **Knjiga z urednikom:**

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

**Prispevek na konferenci:**

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

**Internetni vir:**

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

**Uradna publikacija, poročilo:**

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

**Disertacija:**

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

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

Članku dodajte kratek življenjepis avtorja/avtorjev (do 8 vrstic).

Ko je članek dokončno urejen in pripravljen za tisk, ga prejme avtor v dokončni pregled in potrditev.

Članek imenujte po priimku prvega avtorja (Novak.doc) in ga pošljite po elektronski pošti na naslov:

[revija.uprava@fu.uni-lj.si](mailto:revija.uprava@fu.uni-lj.si).

En izvod članka, natisnjene na papirju, pošljite na naslov:

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Uredništvo revije Uprava,  
Gosarjeva ulica 5, 1000 Ljubljana.

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The *Uprava* (Administration) journal publishes articles dealing with theoretical and practical issues relating to the development and function of public administration.

Academic texts are published in Slovene and English, and exceptionally in German and French. Other articles are published in Slovene, English, German or French, with an extended summary either in English or in Slovene.

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All articles are peer-reviewed and classified (1.01 Original scientific article; 1.02 Review article; 1.04 Professional article; 1.08 Published scientific conference contribution). The author and reviewer are not named during the peer review process.

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The article's title should be followed by: the full name of the author/authors; the name of the institution/institutions and email address(es). The article 1.04 must also include:

- an **abstract** describing the content of the contribution and research results achieved in 8 to 10 lines;
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- if published in Slovene, German or French, the article classified under 1.03 must also have a **summary in English**, 3 pages in length (the summary should translate the title and keywords and present the content of the article (define the argument and findings)); Translation of the summary of foreign authors will be provided by the editor.
- a **short CV** of the author/authors to the article (up to 8 lines).

An article must be supplied in the MS Word (\*.doc, \*.docx) with single spacing, without special or highlighted characters. Do not indent paragraphs. Sections from the introduction to the conclusion should be titled and numbered with Arabic numerals.

Figures and tables mentioned in the article should be included in the text. They should be titled and numbered with Arabic numerals. The journal is printed in black and white, that is why figures and graphs in colour as original are not suitable. If the figures or tables of other authors are used in the article, give the reference below the figure or table or as a footnote. Equations should be numbered in brackets to the right of the equation.

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

**Book:**

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

**Book with editor:**

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

**Conference contribution:**

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

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**Official publication, report:**

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

**Dissertation:**

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

If a publication has more than four authors, state only the first author, e.g. Novak et al. If citing two works or more by the same author, indicate the year, e.g. 2005a, 2005b, etc. We recommend the use of the automatic literature citation, which is supported by Word 2007 (APA citation).

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